2007

SENATE
FINANCE COMMITTEE

MINUTES

MEMBERSHIP LIST
SENATE FINANCE COMMITTEE
2007-2008

Senator Daniel G. Clodfelter, Cochair
Room 408, LOB 715-8331
LA: Wanda Joyner

Senator David W. Hoyle, Cochair
Room 300 A, LOB 733-5734
LA: Penny Williams

Senator John H. Kerr, III, Cochair
Room 526, LOB 733-5621
LA: Evelyn Hartsell

Senator Fletcher Hartsell, Vice Chair
Room 518, LOB 733-7223
LA: Gerry Johnson

Senator Larry Shaw, Vice Chair
Room 621, LOB 733-9349
LA: Barbara Lee

Senator Charles W. Albertson
Room 525, LOB 733-5705
LA: Cindy Davis

Senator Austin M. Allran
Room 516, LOB 733-5876
LA: Carole Walker

Senator Thomas M. Apodaca
Room 1127, LB 733-5745
LA:

Senator Bob Atwater
Room 522, LOB 715-3036
LA: Carol Resar

Senator Philip E. Berger
Room 1026, LB 733-5708
LA: Barbara Eldridge

Senator Harris Blake
Room 517, LOB 733-4809
LA: Anna Kidd

Senator Julia Boseman
Room 309, LOB 715-2525
LA: Dot Waugaman

Senator Andrew C. Brock
Room 1119, LB 715-0690
LA: Tabatha Walker

Senator Harry Brown
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LA:

Senator Pete Brunstetter
Room 1117, LB 733-7850
LA:

Senator Janet Cowell
Room 1028, LB 715-6400
LA: Cindy Garrison

Senator Walter H. Dalton
Room 523, LOB 715-3038
LA:

Senator Charlie S. Dannelly
Room 2010, LB 733-5955
LA: Dee Hodge

Senator Linda D. Garrou
Room 627, LOB 733-5620
LA:

Senator Eddie Goodall
Room 1414, LB 733-7659
LA: Elizabeth Slocum

Senator Steve Goss
Room 1118, LB 733-5742
LA: Nancy Pulley

Senator Kay Hagan
Room 411, LOB 733-5856
LA: Harriett Smith

Sen. Neal Hunt
Room 1102, LB 733-5850
LA: Kathy Davis

Senator Clark Jenkins
Room 308, LOB 715-3040
LA: Carolyn Gooden

Senator Eleanor G. Kinnaird
Room 2115, LB 733-5804
LA: Kathie Young

Senator Martin L. Nesbitt, Jr.
Room 300B, LOB 715-3001
LA: Jan Lee

Senator Jean Preston
Room 733-5706
LA: Suzanne Castleberry

Senator Joe Sam Queen
Room 1121, LB 733-3460
LA:

Senator Fred Smith
Room 520, LOB 733-5748
LA: Blair Keen

Senator Richard Y. Stevens
Room 406, LOB 733-5653
LA: Kleist Rhodes

Senator Jerry W. Tillman
Room 628, LOB 733-5870
LA: Yvonne Hall

Senator Floyd McKissick
Room 621, LOB 733-4599
LA: Bernie David-Yerumo

Senator Robert Pittenger
Room 521, LOB 733-5655
LA:

Senator William R. Purcell
Room 625, LOB 733-5953
LA: Lorraine Blake

Senator Tony Rand
Room 300C, LOB 733-9892
LA: Evelyn Costello

Senator R.C. Soles, Jr.
Room 2022, LB 733-5963
LA: Joan Leatherman, Janet Blalock

Senator A.B. Swindell
Room 629, LOB 715-3030
LA: Mo Hudson

Senator David F. Weinstein
Room 2108, LB 733-5651
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May 1, 2007

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Senator David F. Weinstein
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February 14, 2007

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H0538	Almond	REGULATION OF GOLF CARTS BY VARIOUS TOWNS.	*SR	Ch. SL 2007-72	04-18-07	06-06-07
H0541	Saunders	CHARLOTTE AND MECKLENBURG FINANCE AUTHORITY.	*S	Ref To Com On Finance	04-23-07	
H0546=	Ross	GEN. STAT. COMM. TECHNICAL CORRECTIONS - ARTS.	S	Re-ref Com On Pensions, Retirement & Aging	04-02-07	07-27-07
H0555=	Insko	CARRBORO/ROANOKE RAPIDS ASSESSMENTS.	*SR	Ch. SL 2007-266	04-26-07	07-18-07
H0562=	T. Harrell	MORRISVILLE ANNEXATIONS.	SR	Ch. SL 2007-324	04-02-07	07-27-07
H0568	Avila	GARNER, HOLLY SPRINGS, ROLESVILLE, MV TAX.	SR	Ch. SL 2007-73	04-02-07	06-06-07
H0578	Jeffus	GREENSBORO DEANNEXATION.	S	Ref To Com On Finance	04-10-07	
H0589	Hill	POULTRY PRODUCTS INSPECTION ACT PENALTIES.-AB	*SR	Ch. SL 2007-361	06-19-07	07-16-07
H0621	Frye	BEECH MOUNTAIN DEANNEXATION.	*SR	Ch. SL 2007-74	05-02-07	06-06-07
H0628=	Insko	UNIFORM GRADUATED CO-PAYMT MH/DD/SA SVCS.	*SR	Ch. SL 2007-410	07-25-07	07-27-07
H0649	Gibson	INCREASE FEES/ LANDSCAPE CONTRACTORS.	*SR	Ch. SL 2007-426	03-29-07	07-18-07
H0666	Killian	BUILDING PERMIT REDUCTIONS/REBATES	*S	Ref To Com On Finance	05-24-07	
H0679=	Cole	SAFETY/EMISSION INSPECTION CHANGES.-AB	*SR	Ch. SL 2007-503	07-28-07	08-01-07
H0685	Faison	DAYCARE CENTER PROPERTY TAX EXCLUSION.	*S	Ref To Com On Finance	08-02-07	
H0705	Crawford	SCHOOL FOOD SERVICE EQUIPMENT/LEASE-PURCHASE.	SR	Ch. SL 2007-519	03-28-07	07-18-07
H0726=	Jeffus	AMEND ELECTROLYSIS PRACTICE ACT/FEES.AB	*SR	Ch. SL 2007-489	08-01-07	08-02-07
H0734	Daughtry	URBAN AREA REVITALIZATION MADE UNIFORM.	S	Ref To Com On Finance	07-31-07	
H0769	Allen	UNIFIED CARRIER REGISTRATION/CDL CHANGES.	*SR	Ch. SL 2007-492	07-28-07	08-01-07
H0792	Wray	NORTHAMPTON COUNTY OCCUPANCY TAX.	SR	Ch. SL 2007-223	06-07-07	06-27-07
H0820=	Allen	AMEND INTERBASIN TRANSFER LAW.	*SR	Ch. SL 2007-518	07-24-07	07-26-07
H0825=	Goodwin	CHILD SUPPORT COLLECTION FEE/NON-TANF FAMILY.-AB	SR	Ch. SL 2007-460	04-30-07	07-26-07
H0842=	Barnhart	KANNAPOLIS SATELLITE ANNEXATIONS.	*SR	Ch. SL 2007-344	07-28-07	07-28-07
H0849=	T. Harrell	REGULATION OF GOLF CARTS IN MORRISVILLE.	*SR	Ch. SL 2007-336	07-27-07	07-30-07

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H0859=	Gibson	NUTRIENT OFFSET PROGRAM TRANSITION.	*SR	Ch. SL 2007-438	07-26-07	07-27-07
H0862=	Hill	AMEND PLANT PROTECTION AND CONSERVATION ACT.-AB	*SR	Ch. SL 2007-456	06-19-07	07-25-07
H0885	T. Harrell	TOWNS OF APEX AND MORRISVILLE MOTOR VEHICLE TAX.	*SR	Ch. SL 2007-108	04-25-07	06-20-07
H0898=	Bordsen	EXPUNGE NONVIOLENT FELONY/YOUTHFUL OFFENDER.	*S	Ref To Com On Finance	07-27-07	
H0942	Stiller	OAK ISLAND BEACH NOURISHMENT PROJECTS.	*SR	Ch. SL 2007-161	05-02-07	06-20-07
H0944	Lewis	HARNETT/SUBDIVISION RECREATION FACILITIES.	*S	Ref To Com On Finance	06-07-07	
H0986=	Crawford	BUTNER INCORPORATION.	*SR	Ch. SL 2007-269	07-11-07	07-18-07
H1005=	Cole	VARIOUS TRANSPORTATION CHANGES/STUDY.	*SR	Ch. SL 2007-551	07-28-07	08-01-07
H1013	Rapp	HAYWOOD COUNTY OCCUPANCY TAX.	SR	Ch. SL 2007-337	07-28-07	07-30-07
$ H1016=	**Dickson**	**STATE MEDICAID SWAP.**	***S**	**Ref To Com On Finance**	**05-01-07**	**07-10-07**
H1027	Holmes	YADKIN COUNTY/ JONESVILLE/ YADKINVILLE OCC. TAX.	*SR	Ch. SL 2007-340	06-28-07	07-28-07
H1036	Haire	AMEND ALLOCATION OF TVA PAYMENT.	*S	Re-ref Com On Appropriations/ Base Budget	07-24-07	08-01-07
H1041	Moore	EARL ANNEXATIONS.	*SR	Ch. SL 2007-53	04-26-07	05-16-07
H1089	Allen	FRANKLINTON CHARTER/ LAKE ROYALE POLICE.	*SR	Ch. SL 2007-138	04-23-07	06-20-07
H1097=	Insko	LOCAL ENERGY EFFICIENCY INCENTIVES.	*SR	Ch. SL 2007-241	05-02-07	07-11-07
H1112	Gulley	ADJUST MATTHEWS MOTOR VEHICLE TAX.	*SR	Ch. SL 2007-109	04-23-07	06-20-07
H1132	Barnhart	PUBLIC HEALTH AUTHORITY CHANGES.	*SR	Ch. SL 2007-229	05-24-07	06-27-07
H1144	Owens	COLUMBIA ANNEXATION.	SR	Ch. SL 2007-140	05-31-07	06-27-07
H1153	Stiller	SUNSET BEACH ANNEXATION.	*SR	Ch. SL 2007-141	05-21-07	06-20-07
H1163	Steen	LANDIS ANNEXATION.	*SR	Ch. SL 2007-139	05-15-07	06-21-07
H1166	Wiley	HIGH POINT/JAMESTOWN BOUNDARY ADJUSTMENT.	SR	Ch. SL 2007-75	04-26-07	06-06-07
H1191	Glazier	INCORPORATE EASTOVER.	*SR	Ch. SL 2007-267	07-11-07	07-19-07
H1193	Hurley	RAMSEUR ANNEXATION OF TOWN PROPERTY.	SR	Ch. SL 2007-110	05-02-07	06-20-07
H1207	Goforth	GREATER ASHEVILLE AIRPORT AUTHORITY ACT.	*S	Ref To Com On Finance	06-07-07	
H1213	Weiss	CARY MULTIFAMILY DEVELOPMT/ RECREATIONAL LAND.	*SR	Ch. SL 2007-321	06-07-07	07-26-07
H1217	Stiller	NAVASSA ANNEXATION AGREEMENT.	*SR	Ch. SL 2007-314	07-19-07	07-26-07
H1228	Gibson	STOP LIGHT CAMERAS IN CERTAIN	*SR	Ch. SL 2007-341	07-30-07	08-01-07

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		MUNICIPALITIES.				
H1231	Gibson	CERTAIN LAW OFFICERS/ WAIVE HANDGUN PERMIT.	*SR	Ch. SL 2007-427	07-23-07	07-26-07
H1250	Hall	DURHAM SATELLITE ANNEXATIONS.	SR	Ch. SL 2007-225	05-16-07	07-11-07
H1259	Howard	HISTORIC REHABILITATION TAX CREDIT.	SR	Ch. SL 2007-461	07-11-07	07-27-07
H1321	Clary	WEIGHT AND SIZE EXEMPTION FOR FIRE RESPONSE.	*SR	Ch. SL 2007-290	07-11-07	07-18-07
H1322	Clary	FIRE CHIEFS/EMS DIRECTOR: CRIM. REQUESTS.	*SR	Ch. SL 2007-479	07-03-07	07-26-07
H1372	Folwell	ORGAN AND TISSUE DONATION/THE HEART PREVAILS.	*SR	Ch. SL 2007-538	07-23-07	07-24-07
H1381	Tolson	RESP. CARE BD./BD. OF MED. LICENSE FEES.	*SR	Ch. SL 2007-418	07-27-07	07-30-07
H1395	Cole	ELECTRIC SUPPLIERS/ ELECTRICITIES ASSIGNMENT.	*SR	Ch. SL 2007-419	08-01-07	08-01-07
H1460	Cole	QTRLY ESCROW DEPOSITS/ AFFILIATED DEALERS.	*SR	Ch. SL 2007-435	05-23-07	07-30-07
$ H1473	**Michaux**	**2007 APPROPRIATIONS ACT.**	***SR**	**Ch. SL 2007-323**	**05-29-07**	**05-29-07**
H1488	Goodwin	AMEND PSYCHOLOGY PRACTICE ACT.	*SR	Ch. SL 2007-468	06-20-07	07-18-07
H1492	England	ANESTHESIOLOGIST ASSISTANTS LICENSURE.	*SR	Ch. SL 2007-146	06-06-07	06-20-07
H1499	Martin	PROPERTY TAX AND PUV CHANGES AND STUDIES.	*SR	Ch. SL 2007-497	06-21-07	07-30-07
H1529	Crawford	ACTUARIAL VALUATION/ RETIREE HEALTH BENEFITS.	*SR	Ch. SL 2007-467	05-01-07	07-18-07
H1531	Holliman	CLARIFY SMALL BUSINESS HEALTH INSURANCE CRDT.	S	Ref To Com On Finance	06-14-07	
H1577	England	AMEND HEARING AID DEALERS/FITTERS LAWS/ FEES.	*S	Re-ref Com On Finance	07-25-07	
H1595	Gibson	ECONOMIC DEVELOPMENT MODIFICATIONS.	*SR	Ch. SL 2007-515	07-31-07	08-01-07
H1598=	Gibson	EXTEND QUALIFIED BUSINESS VENTURE TAX CREDIT.	*SR	Ch. SL 2007-422	06-14-07	07-18-07
H1646=	Allen	INCREASE PENALTIES FOR AIR POLLUTION.	*SR	Ch. SL 2007-296	06-12-07	07-11-07
H1652	Justice	SPECIAL PLATE FOR E-911 TELECOMMUNICATORS.	*SR	Ch. SL 2007-470	07-27-07	07-30-07
H1659	Fisher	CRIMINAL HISTORY CHECKS/DPI EMPLOYEES.	*SR	Ch. SL 2007-516	07-24-07	07-26-07
H1688	Folwell	AMEND COMBINED MV REGISTRATION AND PT SYSTEM.	*SR	Ch. SL 2007-471	07-31-07	08-01-07
H1755	Saunders	COORDINATE STATEWIDE	*SR	Ch. SL 2007-383	06-07-07	07-19-07

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		ENHANCED 911 SYSTEM.				
H1770	McComas	FEES/FUTURE CONVEYANCE/CONSERV. AGREEMENTS.	*S	Ref To Com On Finance	05-24-07	
H1780	Gibson	RADIATION PROTECTION PROGRAM FEE AMENDMENTS.	*S	Ref To Com On Finance	07-30-07	
H1785	Insko	FIRE-SAFE CIGARETTE ACT.	*SR	Ch. SL 2007-451	07-18-07	08-01-07
H1786	Bordsen	REGULATE MIXED MARTIAL ARTS/FEES.	*SR	Ch. SL 2007-490	07-30-07	07-31-07
H1829	Harrison	MANUFACT. HOUSING BD/ ALT. METHODS/CRIM CHECKS.	SR	Ch. SL 2007-416	06-18-07	08-01-07
H1889	Harrison	PRESENT-USE VALUE SYSTEM MODIFICATIONS.	*S	Ref To Com On Finance	08-02-07	
H1895	Saunders	TAX ON HEAVY EQUIPMENT RENTAL AGREEMENTS.	*S	Ref To Com On Finance	07-30-07	
H1980	Howard	TAXATION OF NONQUALIFIED PATRONAGE BY COOP.	S	Ref To Com On Finance	08-01-07	
$ H2044	**Luebke**	**2007 CONTINUING BUDGET AUTHORITY.**	***SR**	**Ch. SL 2007-145**	**06-28-07**	**06-28-07**
S0003	Charles W. Alber	PROMOTE RENEWABLE ENERGY/BASELOAD GENERATION	*SR	Ch. SL 2007-397	06-26-07	06-27-07
S0007	David W. Hoyle	REWARDING WORK TAX CREDIT.	S	Ref to Finance. If fav, re-ref to Appropriations/ Base Budget	02-12-07	
S0016=	Walter H. Dalton	WHEEL LOCKS/BOILING SPRINGS.	*SR	Ch. SL 2007-330	03-13-07	03-21-07
S0018	William R. Purce	MODIFY MCDOWELL COUNTY OCCUPANCY TAX	*SR	Ch. SL 2007-315	02-12-07	06-27-07
S0019	A. B Swindell	NASH-ROCKY MOUNT/ EDGECOMBE BOUNDARY CORR.	*SR	Ch. SL 2007-316	07-09-07	07-18-07
S0062	James Forrester	LINCOLN COUNTY TAX FOR SCHOOL CONSTRUCTION.	S	Ref To Com On Finance	02-12-07	
S0063	James Forrester	IREDELL COUNTY TAX FOR SCHOOL CONSTRUCTION.	S	Ref To Com On Finance	02-12-07	
S0078	James Forrester	GASTON COUNTY TAX FOR SCHOOL CONSTRUCTION.	S	Ref To Com On Finance	02-12-07	
S0091=	Jim Jacumin	ENDANGERED MANUFACTURING AND JOBS ACT.	*S	Re-ref Com On Finance	02-12-07	07-30-07
S0103	W. Edward (Eddie	VARIOUS SPECIAL LICENSE PLATES	*SR	Ch. SL 2007-483	02-12-07	04-23-07
S0104	W. Edward (Eddie	REPEAL ESTATE AND GIFT TAXES.	S	Ref To Com On Finance	02-12-07	
S0133	W. Edward (Eddie	35TH SENATORIAL DISTRICT LOCAL ACT-1.	S	Re-ref Com On Finance	07-19-07	
S0150=	Clark Jenkins	OUTDOOR ADV.	*S	Ref to the Com on	06-14-07	07-19-07

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		VEGETATION REMOVAL CHANGES.		Commerce, Small Business, and Entrepreneurship and, if favorable, to the Com on Finance		
S0154	David W. Hoyle	DALLAS OCCUPANCY TAX.	*SR	Ch. SL 2007-317	07-09-07	07-11-07
S0158	Bob Atwater	GOLD STAR SPECIAL PLATE CHANGE.	S	Ref To Com On Finance	02-14-07	
S0169	Andrew C. Brock	ACCELERATED YADKIN RIVER BRIDGE REPLACEMENT.	S	Ref To Com On Finance	02-14-07	
S0181	Fred Smith	CLAYTON ORDINANCE VIOLATORS/ANNEX AREAS.	*SR	Ch. SL 2007-327	07-05-07	07-18-07
S0183	David W. Hoyle	LEA SALES TAX REFUND AND EXEMPTION.	S	Ref To Com On Finance	02-15-07	
$ S0208	**Walter H. Dalton**	**CLEAN WATER ACT OF 2007.**	**S**	**Ref To Com On Finance**	**02-20-07**	
S0210	Harry Brown	ONSLOW COUNTY LOCAL ACT.	S	Re-ref Com On Finance	04-02-07	
S0220=	Ed Jones	VARIOUS CITIES ANNEXATIONS	*SR	Ch. SL 2007-311	02-21-07	03-14-07
S0224	R. C. Soles, Jr.	BEACH TOWNS/CANAL DREDGING	*S	Re-ref Com On Finance	02-21-07	03-22-07
S0237=	John H. Kerr III	PITT COUNTY LOCAL OPTION SALES TAX.	S	Ref To Com On Finance	02-21-07	
S0238=	John H. Kerr III	MODIFY TAX ON PROPERTY COVERAGE CONTRACT.	*SR	Ch. SL 2007-250	02-21-07	06-06-07
S0239=	John H. Kerr III	STREAMLINED SALES TAX CHANGES.	S	Ref To Com On Finance	02-21-07	
S0240=	Daniel G. Clodfe	IRC UPDATE.	S	Ref To Com On Finance	02-21-07	
S0241=	Daniel G. Clodfe	CONSERVATION TAX CREDIT MODIFICATIONS.	S	Ref To Com On Finance	02-21-07	
S0242	Daniel G. Clodfe	REFORM TAX APPEALS	*SR	Ch. SL 2007-491	02-21-07	06-21-07
S0244	David W. Hoyle	MODERNIZE CORPORATE INCOME TAX FILING.	S	Ref To Com On Finance	02-21-07	
S0245	David W. Hoyle	SALES TAX REFUND FOR TDAS.	S	Ref To Com On Finance	02-21-07	
$ S0251	**William R. Purce**	**SMART START FUNDS.**	**S**	**Re-ref Com On Appropriations/ Base Budget**	**02-21-07**	**03-01-07**
S0255	Tom Apodaca	POLK ANNEXATIONS.	*S	Re-ref Com On Finance	04-19-07	
S0281=	Bob Atwater	EXEMPTION FOR BAKED GOODS.	S	Ref To Com On Finance	02-22-07	
S0282	Bob Atwater	AMEND CHATHAM OCCUPANCY TAX	*SR	Ch. SL 2007-318	06-26-07	07-12-07
S0284=	Bob Atwater	SANFORD ANNEXATIONS.	*SR	Ch. SL 2007-43	02-22-07	03-14-07
S0284=	Bob Atwater	SANFORD ANNEXATIONS.	*SR	Ch. SL 2007-43	04-26-07	05-09-07
S0289=	Kay R. Hagan	SPECIAL PLATE FOR JUVENILE DIABETES RESEARCH.	S	Ref To Com On Finance	02-22-07	
S0336=	John Snow	OCCUPANCY TAX MODIFICATIONS FOR	*SR	Ch. SL 2007-23	02-27-07	03-15-07

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		SWAIN COUNTY.				
S0340	Jim Jacumin	SPORTS CLUBS IN BURKE COUNTY.	S	Re-ref Com On Finance	05-08-07	
S0355	Julia Boseman	REENACT AND EXPAND LONG-TERM CARE CREDIT.	S	Ref To Com On Finance	02-27-07	
S0357	Fred Smith	CORPORATE INCOME TAX EXEMPTION.	S	Ref To Com On Finance	02-27-07	
S0358=	Fred Smith	BENTONVILLE HISTORIC SITE.	*S	Ref To Com On Appropriations	07-19-07	07-26-07
S0382	R. C. Soles, Jr.	SUNSET BEACH/DALLAS ANNEXATION	*SR	Ch. SL 2007-160	02-28-07	03-21-07
S0384	Doug Berger	GRANVILLE COUNTY OCCUPANCY TAX MODIFICATIONS.	*SR	Ch. SL 2007-331	02-28-07	06-20-07
S0398=	William R. Purce	UNION CO. BD. COMM. DISTRICTS	*SR	Ch. SL 2007-328	02-28-07	03-14-07
S0412=	Harry Brown	HOMESTEAD EXCLUSION MODIFICATIONS.	S	Ref To Com On Finance	03-01-07	
S0416	Steve Goss	ALEXANDER COUNTY LOCAL OPTION SALES TAX.	S	Ref To Com On Finance	03-01-07	
S0417	Steve Goss	WILKESBORO FORCE ACCOUNT LABOR.	*SR	Ch. SL 2007-44	03-01-07	04-19-07
S0432	Kay R. Hagan	GREENSBORO DEANNEXATION.	SR	Ch. SL 2007-256	03-01-07	03-14-07
S0438=	Charles W. Alber	SAMPSON COUNTY LOCAL OPTION SALES TAX.	S	Ref To Com On Finance	03-01-07	
S0439=	Charles W. Alber	EXTEND MAGNOLIA ETJ.	S	Ref to the Com on Local Government I and, if favorable, to the Com on Finance	03-01-07	03-14-07
S0442	Tony Foriest	CASWELL CO./ YANCEYVILLE OCCUPANCY TAX	*SR	Ch. SL 2007-224	03-01-07	03-14-07
S0443	Tony Foriest	YANCEYVILLE ANNEXATION.	S	Ref to the Com on Local Government II and, if favorable, to the Com on Finance	03-01-07	03-14-07
S0446	R. C. Soles, Jr.	LELAND ANNEXATION.	S	Ref To Com On Finance	03-05-07	
S0451=	David F. Weinste	HOKE COUNTY LOCAL OPTION SALES TAX.	S	Ref To Com On Finance	03-05-07	
S0463=	Harry Brown	TAX CERTIFICATION - JONES COUNTY.	S	Ref To Com On Finance	03-05-07	
S0465	Jean Preston	AMEND CARTERET COUNTY OCCUPANCY TAX.	*SR	Ch. SL 2007-112	03-05-07	03-15-07
S0465	Jean Preston	AMEND CARTERET COUNTY OCCUPANCY TAX.	*SR	Ch. SL 2007-112	06-07-07	06-11-07
S0471	Larry Shaw	TAXATION OF OUT-OF-STATE MILITARY PAY.	S	Ref To Com On Finance	03-05-07	
S0479	Andrew C. Brock	MANDATORY WATER / SEWER CONNECTION.	S	Ref To Com On Finance	03-05-07	
S0489	David F. Weinste	MODIFY CITY OF LUMBERTON OCCUPANCY	*SR	Ch. SL 2007-332	03-06-07	04-19-07

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		TAX.				
S0491=	Janet Cowell	MORRISVILLE ANNEXATIONS.	S	Ref to the Com on Local Government I and, if favorable, to the Com on Finance	03-06-07	03-14-07
S0496	Ed Jones	PERQUIMANS COUNTY OCCUPANCY TAX.	SR	Ch. SL 2007-19	03-06-07	03-14-07
S0505=	A. B Swindell	INCOME TAX CREDIT - ENERGY EFFICIENT HOMES.	S	Ref To Com On Finance	03-06-07	
S0509	Harry Brown	MOTOR VEHICLE INSPECTION FAILURE/ REINSPECTION.	*SR	Ch. SL 2007-364	03-06-07	05-10-07
S0509	Harry Brown	MOTOR VEHICLE INSPECTION FAILURE/ REINSPECTION.	*SR	Ch. SL 2007-364	05-16-07	05-23-07
S0510	Harry Brown	EMISSION INSPECTION/ MILITARY EXCEPTION.	S	Ref To Com On Finance	03-06-07	
S0516=	Larry Shaw	SUDAN (DARFUR) DIVESTMENT ACT.	S	Re-ref Com On Finance	05-09-07	
S0517	Tony Rand	CHANGE GOLD STAR PLATE REQUIREMENTS.	S	Ref To Com On Finance	03-06-07	
S0524	William R. Purce	TAX FORM DONATION - BREAST CANCER SCREENINGS.	S	Ref To Com On Finance	03-06-07	
S0531=	Janet Cowell	REGULATION OF GOLF CARTS IN MORRISVILLE.	S	Ref to the Com on Local Government II and, if favorable, to the Com on Finance	04-25-07	05-16-07
S0533	Charlie S. Danne	OMEGA PSI PHI SPECIAL PLATE FUNDS TRANSFER.	S	Ref To Com On Finance	03-07-07	
S0539=	Eleanor Kinnaird	CHAPEL HILL ENERGY EFFICIENCY INCENTIVES.	S	Ref To Com On Finance	03-07-07	
S0540=	Fletcher L. Hart	REVENUE LAWS & MOTOR FUELS TAX TECH. CHANGES.	*SR	Ch. SL 2007-527	03-07-07	06-28-07
S0544=	Fletcher L. Hart	CABARRUS HOSPITAL CHARTER.	*SR	Ch. SL 2007-113	04-24-07	05-09-07
S0545=	Fletcher L. Hart	CABARRUS QUICK TAKE.	S	Ref To Com On Finance	03-07-07	05-09-07
S0546=	Fletcher L. Hart	MT. PLEASANT SATELLITE ANNEXATION	*SR	Ch. SL 2007-342	03-07-07	05-09-07
S0551	Doug Berger	GRANVILLE LAND TRANSFER TAX.	S	Ref To Com On Finance	03-07-07	
S0552=	Linda Garrou	MANUFACTURERS ENERGY TAX EXEMPTIONS.	S	Ref To Com On Finance	03-07-07	
$ S0562	**Clark Jenkins**	**FUNDS/COPS FOR VIPER.**	**S**	**Ref to Finance. If fav, re-ref to Appropriations/ Base Budget**	**03-07-07**	
S0563	Clark Jenkins	ONE-CENT LOCAL OPTION SALES TAX.	S	Ref To Com On Finance	03-07-07	
S0568	Bob Atwater	LEE COUNTY LOCAL OPTION SALES TAX.	S	Ref To Com On Finance	03-07-07	

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S0569	Fletcher L. Hart	WILDLIFE CONSERVATION PROPERTY TAX RELIEF.	S	Ref To Com On Finance	03-07-07	
S0570	R. C. Soles, Jr.	CRAMERTON/WATHA SATELLITE ANNEXATIONS.	*SR	Ch. SL 2007-62	03-07-07	03-21-07
S0572	David F. Weinste	HOKE COUNTY MORATORIUM.	S	Re-ref Com On Finance	05-16-07	
S0573	Robert Pittenger	RESTRICT CONTRACTS & BENEFITS/ILLEGAL ALIENS.	S	Ref To Com On Finance	03-07-07	
S0580=	Daniel G. Clodfe	STATE TREASURER/LOCAL OPEB INVESTMENTS.	*SR	Ch. SL 2007-384	03-07-07	05-10-07
S0588=	Eleanor Kinnaird	CARRBORO/SPECIAL ASSESSMENTS.	S	Ref To Com On Finance	03-12-07	
S0604=	Philip E. Berger	WENTWORTH TAX CAP.	*SR	Ch. SL 2007-338	03-12-07	05-09-07
S0609	Bob Atwater	CHATHAM RECREATION EXACTION FEE.	*SR	Ch. SL 2007-339	03-12-07	07-26-07
S0610	Janet Cowell	WAKE COUNTY REVENUE OPTIONS.	S	Ref To Com On Finance	03-12-07	
S0612=	David F. Weinste	HOKE LAND TRANSFER TAX.	S	Ref To Com On Finance	03-12-07	
S0614=	Fletcher L. Hart	GEN. STAT. COMM. TECHNICAL CORRECTIONS - ARTS.	S	Ref to Finance. If fav, re-ref to Pensions, Retirement & Aging	03-12-07	
S0616=	Jean Preston	RIVER BEND ANNEXATIONS/ETJ.	*SR	Ch. SL 2007-334	03-12-07	03-22-07
S0618	W. Edward (Eddie	UNION ETJ RESCISSION NOTICE.	S	Ref To Com On Finance	03-12-07	
S0620	Ed Jones	INTERLOCAL LOAN AGREEMENTS TO FED. GOVT.	*SR	Ch. SL 2007-91	03-12-07	05-08-07
S0621	**Ed Jones**	**SMALL TOWNS PROSPERITY PROGRAM/ FUNDS.**	**S**	**Re-ref Com On Appropriations/ Base Budget**	**03-12-07**	**03-20-07**
S0624	Ed Jones	GATES/DELINQUENT TAX - DENY BUILDING PERMIT.	SR	Ch. SL 2007-58	03-12-07	03-21-07
S0627=	Joe Sam Queen	HAYWOOD COUNTY SALES TAX.	S	Ref To Com On Finance	03-12-07	
S0631	Martin L. Nesbit	ASHEVILLE/WOODFIN ANNEXATION BOUNDARY.	S	Ref To Com On Finance	03-12-07	
S0636=	Doug Berger	GRANVILLE COUNTY IMPACT FEES.	S	Ref To Com On Finance	03-12-07	
S0642	David W. Hoyle	CRAMERTON/MCADENVILLE BOUNDARY ADJUSTMENT.	*SR	Ch. SL 2007-34	03-12-07	04-11-07
S0645=	Charles W. Alber	SAMPSON COUNTY OCCUPANCY TAX.	SR	Ch. SL 2007-63	03-12-07	03-21-07
S0646=	Charles W. Alber	ENACT WASC RECOMMENDATIONS	*SR	Ch. SL 2007-485	07-23-07	07-26-07
S0658	Tony Rand	AMEND BANK AND TRUST COMPANY ASSESSMENTS.	SR	Ch. SL 2007-55	03-22-07	04-04-07
S0667	Linda Garrou	TOBACCO TAX - AFFILIATED DEALERS.	*S	Ref To Com On Finance	03-12-07	05-10-07
S0677=	Doug Berger	EXPUNGE NONVIOLENT FELONY/YOUTHFUL OFFENDER.	*S	Re-ref Com On Finance	04-25-07	
S0684	Eleanor Kinnaird	SPAY/NEUTER FUNDING.	*SR	Ch. SL 2007-487	03-13-07	07-26-07

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S0702=	W. Edward (Eddie	TAX CREDIT - NONPUBLIC SCHOOL STUDENTS.	S	Ref To Com On Finance	03-14-07	
S0703=	W. Edward (Eddie	TAX FAIRNESS IN EDUCATION.	S	Ref To Com On Finance	03-14-07	
$ S0708=	**William R. Purce**	**HOSPICE/LICENSE FEES, INSPECTIONS, FUNDS.**	**S**	**Ref to Finance. If fav, re-ref to Appropriations/ Base Budget**	**03-14-07**	
S0716=	Charles W. Alber	SOLID WASTE MANAGEMENT AMENDS. 2007	*S	Re-ref Com On Finance	04-03-07	05-16-07
S0726	Daniel G. Clodfe	SALES TAX EXEMPTION FOR SCHOOLS.	S	Ref To Com On Finance	03-14-07	
S0730=	Fletcher L. Hart	INCREASE FEE/MEDICAL RECORDS COPYING.	S	Ref To Com On Finance	03-14-07	
S0738	A. B Swindell	REGISTRATION AND LENGTH EXEMPTIONS	*SR	Ch. SL 2007-194	03-14-07	05-08-07
S0745=	Tony Rand	CHILD SUPPORT COLLECTION FEE/NON-TANF FAMILY.-AB	S	Ref To Com On Finance	03-14-07	
S0758	John H. Kerr III	LIMITED DRIVING PRIVILEGE - DWLR.	*SR	Ch. SL 2007-293	04-02-07	05-08-07
S0761	David W. Hoyle	SALES TAX EXEMPTION FOR BAKED GOODS.	S	Ref To Com On Finance	03-14-07	
S0762=	David W. Hoyle	EXTEND QUALIFIED BUSINESS VENTURE TAX CREDIT.	S	Ref To Com On Finance	03-14-07	
S0768	Fletcher L. Hart	TEMP. DHHS EXEMPT/ RECREATION THERAPY ACT	*SR	Ch. SL 2007-389	03-15-07	05-17-07
S0772	Janet Cowell	SCHOOL FINANCE OFFICER FIDELITY BONDS.	*SR	Ch. SL 2007-85	03-15-07	05-23-07
S0778=	W. Edward (Eddie	ADJUST INDIVIDUAL INCOME TAX BRACKETS.	S	Ref To Com On Finance	03-15-07	
S0808	Robert Pittenger	LEA SALES TAX REFUND AND EXEMPTION.	S	Ref To Com On Finance	03-15-07	
S0831	David W. Hoyle	WIRELESS TELECOMMUNICATIONS FACILITIES.	*SR	Ch. SL 2007-526	06-05-07	07-19-07
S0838	Stan Bingham	ABC LAW CHANGES.-AB	*S	Re-ref Com On Finance	07-11-07	
S0841=	Charles W. Alber	INCOME TAX CREDIT FOR WILDLIFE LAND.-AB	S	Ref To Com On Finance	03-19-07	
S0854	John Snow	AMEND PRIVATE PROTECTIVE SERVICES ACT.	*SR	Ch. SL 2007-511	06-25-07	07-19-07
S0857=	John Snow	HOSPICE CARE IN NC SPECIAL PLATE.	S	Ref To Com On Finance	03-19-07	
S0864=	William R. Purce	AMEND CHIROPRACTIC PRACTICE ACT.	*SR	Ch. SL 2007-525	07-11-07	07-26-07
S0869=	Julia Boseman	SEX OFFENDER/REGISTER E-MAIL ADDRESS.-AB	*S	Ref to the Com on Judiciary I and, if favorable, to the Com on Appropriations	05-08-07	07-12-07

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S0875=	Janet Cowell	RESEARCH AND DEVELOPMENT CREDIT ENHANCEMENT.	S	Ref To Com On Finance	03-19-07	
S0881	Doug Berger	DEFINE RESIDENCY REQUIREMENTS/BAIL BONDSMEN	*SR	Ch. SL 2007-228	04-25-07	05-07-07
S0895	Harry Brown	ELIMINATE PROPERTY TAXES FOR QUALIFYING VETS.	S	Ref To Com On Finance	03-19-07	
S0897=	Andrew C. Brock	CHOOSE LIFE SPECIAL REGISTRATION PLATE.	S	Ref To Com On Finance	03-19-07	
S0915	Martin L. Nesbit	ASSISTED LIVING FACILITY AMENDMENTS.	*S	Ref To Com On Finance	07-26-07	07-30-07
$ S0927=	**Linda Garrou**	**GREEN SCHOOL CONSTRUCTION LOAN FUND/PROGRAM.**	**S**	**Ref to Finance. If fav, re-ref to Appropriations/ Base Budget**	**03-20-07**	
S0955	Daniel G. Clodfe	EARNED INCOME TAX CREDIT.	S	Ref To Com On Finance	03-20-07	
S0960	Daniel G. Clodfe	EXPAND ACCESS TO THE COURTS.	S	Re-ref Com On Appropriations/ Base Budget	03-20-07	04-26-07
S0966=	Janet Cowell	BONDS-EXPAND SPECIAL PURPOSE PROJECTS	*SR	Ch. SL 2007-128	03-20-07	05-10-07
S1000	Tony Rand	INDUSTRIAL REVENUE BONDS - RESEARCH FACILITY.	S	Ref To Com On Finance	03-21-07	
S1007	Tony Rand	EXPAND FUEL TAX REFUND.	S	Ref To Com On Finance	03-21-07	
S1012	Robert Pittenger	REDUCE TAX/CUT GOVERNMENT SPENDING.	S	Ref To Com On Finance	03-21-07	
S1024	Fletcher L. Hart	HISTORIC REHABILITATION TAX CREDIT.	S	Ref To Com On Finance	03-21-07	
S1031=	Daniel G. Clodfe	RAILROAD INCENTIVES.	S	Ref To Com On Finance	03-21-07	
S1036	Joe Sam Queen	BLUE RIDGE PARKWAY MOTORCYCLE PLATE & OTHERS	*SR	Ch. SL 2007-400	03-21-07	06-27-07
S1040=	Tony Rand	REVISE 529 PLAN DEDUCTION.	S	Ref To Com On Finance	03-21-07	
S1041=	Tony Rand	JDIG AMENDMENTS.	S	Ref To Com On Finance	03-21-07	
S1047	Fletcher L. Hart	SALES TAX REFUND - RESEARCH SUPPLIES.	S	Ref To Com On Finance	03-21-07	
S1051	Steve Goss	EQUITABLE RESIDENTIAL PROPERTY TAX RELIEF.	S	Ref To Com On Finance	03-21-07	
S1070	A. B Swindell	INTEREST RATES FOR SCHOLARSHIP LOAN PROGRAMS.	S	Ref To Com On Finance	03-21-07	
$ S1073=	**A. B Swindell**	**TAX CREDIT - WHEELCHAIR PATIENT EXAM TABLES.**	**S**	**Ref To Com On Finance**	**03-21-07**	
S1081	David F. Weinste	EXPUNGE NONVIOLENT CRIMES.	*S	Ref To Com On Finance	07-18-07	07-30-07
S1095	Andrew C. Brock	FRIENDS OF THE NRA	S	Ref To Com On	03-21-07	

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		SPECIAL PLATE.		Finance		
S1106	Julia Boseman	WAIVE CAMA PERMIT FEES/EMERGENCY REPAIRS.	S	Ref To Com On Finance	03-22-07	
S1111	Jean Preston	HIGHWAY USE TAX EXEMPT - HANDICAPPED VEHICLES.	S	Ref To Com On Finance	03-22-07	
S1112	Robert Pittenger	REPEAL INCENTIVES - LOWER CORPORATE TAX RATE.	S	Ref To Com On Finance	03-22-07	
S1121	Peter S. Brunste	CENTER FOR MOTORCYCLE SAFETY AND CRASH PREV.	S	Ref to Finance. If fav, re-ref to Appropriations/ Base Budget	03-22-07	
S1125=	Daniel G. Clodfe	SALES TAX ADJUSTMENT FACTOR CORRECTION.	S	Ref To Com On Finance	03-22-07	
S1133	Daniel G. Clodfe	COUNTY/CITY SOLID WASTE COLLECTION.	S	Ref To Com On Finance	03-22-07	
S1134	Daniel G. Clodfe	COURT COSTS AMENDMENTS.	S	Re-ref Com On Appropriations/ Base Budget	03-22-07	04-26-07
S1139	Daniel G. Clodfe	HISTORIC DISTRICT INFILL TAX CREDIT.	S	Ref To Com On Finance	03-22-07	
S1140=	Daniel G. Clodfe	RENEWABLE ENERGY CREDIT - 501(C)(3).	S	Ref To Com On Finance	03-22-07	
S1141=	David W. Hoyle	SECTION 529 PLAN - TAX DEDUCTION.	S	Ref To Com On Finance	03-22-07	
$ S1144	**David W. Hoyle**	**PUBLIC SCHOOL BUILDING BOND ACT OF 2007.**	**S**	**Ref To Com On Finance**	**03-22-07**	
S1145=	David W. Hoyle	WORK OPPORTUNITY TAX CREDIT.	S	Ref To Com On Finance	03-22-07	
S1152	David W. Hoyle	INTEREST ON ILLEGALLY LEVIED EXACTIONS.	*SR	Ch. SL 2007-371	03-22-07	07-27-07
S1153=	David W. Hoyle	SALES TAX REFUND - AIRCRAFT MANUFACTURERS.	S	Ref To Com On Finance	03-22-07	
S1160=	David W. Hoyle	NEW MARKET TAX CREDITS.	S	Ref To Com On Finance	03-22-07	
S1171=	Janet Cowell	PRIVILEGE TAX FOR INFO. TECH. & SERV. COMPANY.	S	Ref To Com On Finance	03-22-07	
S1174=	Janet Cowell	FOUNDERS' STOCK TAX INCENTIVES.	S	Ref To Com On Finance	03-22-07	
S1176=	Charles W. Alber	DOMESTIC PROPANE GAS RELIEF.	S	Ref To Com On Finance	03-22-07	
S1180	Walter H. Dalton	NO MONETARY EXACTION FOR DEVELOPMENT.	S	Ref To Com On Finance	03-22-07	07-27-07
S1196	Daniel G. Clodfe	MODIFICATIONS TO PROJECT DEV. FINANCING ACT.	*SR	Ch. SL 2007-395	03-26-07	04-04-07
S1197	Daniel G. Clodfe	LOCAL BONDS FOR OTHER POST-EMPLOY. BENEFITS.	S	Ref To Com On Finance	03-26-07	
S1199	Daniel G. Clodfe	ECONOMIC DEVELOPMENT MODIFICATIONS.	*S	Re-ref Com On Finance	03-26-07	04-19-07
S1201	Daniel G. Clodfe	FINANCING CAPITAL	S	Ref To Com On	03-26-07	

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		PROJECTS.		Finance		
S1203	Martin L. Nesbit	PRESENT-USE VALUE CHANGES.	S	Ref To Com On Finance	03-26-07	
S1204	Martin L. Nesbit	NEW CIVIL PENALTIES FOR EMISSIONS VIOLATIONS.	S	Re-ref Com On Finance	05-17-07	
S1208=	Tony Rand	CIGARETTE TAX - CANCER HOSPITAL.	S	Ref to Finance. If fav, re-ref to Appropriations/ Base Budget	03-26-07	
S1214	Tony Rand	AMEND INTERSTATE COMPACT/ADULT OFFENDERS.-AB	*S	Ref To Com On Finance	06-14-07	07-27-07
S1240	John H. Kerr III	SALES TAX EXEMPTION FOR BAKED GOODS.	*SR	Ch. SL 2007-368	03-26-07	06-06-07
S1241	John H. Kerr III	UNC NON-APPROPRIATED CAPITAL PROJECTS.	*SR	Ch. SL 2007-394	03-26-07	07-19-07
S1268	Julia Boseman	TAX ON DRUG DISTRIBUTIONS.	S	Ref To Com On Finance	03-26-07	
S1269	Julia Boseman	WAIVE FEES FOR CAMA EMERGENCY PERMITS.	S	Ref To Com On Finance	03-26-07	
S1273	John Snow	EXCISE TAX REDUCTION FOR BIODIESEL.	S	Ref To Com On Finance	03-26-07	
S1278	John Snow	ETHANOL TAX EXEMPTION.	S	Ref To Com On Finance	03-26-07	
S1280	John Snow	JUDICIAL FACILITIES FUNDING AND PURCHASE.-AB	S	Ref to Finance. If fav, re-ref to Appropriations/ Base Budget	03-26-07	
S1293	A. B Swindell	WILDLIFE RESOURCES COMM. FEES/LICENSES.	S	Ref To Com On Finance	03-26-07	
S1300	A. B Swindell	EXPAND AFFORDABILITY OF HIGHER EDUCATION.	S	Ref To Com On Finance	03-26-07	
S1303	Joe Sam Queen	MOUNTAIN HERITAGE TROUT WATERS PROGRAM	*SR	Ch. SL 2007-408	03-26-07	05-16-07
S1305	Joe Sam Queen	PRESENT-USE VALUE EASEMENT TAX CREDIT.	S	Ref To Com On Finance	03-26-07	
S1308	Daniel G. Clodfe	REPEAL ESTATE AND GIFT TAXES.	S	Ref To Com On Finance	03-26-07	
S1309	Daniel G. Clodfe	FAIRNESS IN PT VALUES/ LIEN ON MOBILE HOME	*S	Ref To Com On Finance	03-26-07	07-30-07
S1314=	Janet Cowell	AMEND MASSAGE & BODYWORK THERAPY ACT.	*S	Ref To Com On Finance	07-11-07	07-26-07
$ S1316=	**Doug Berger**	**BUTNER INCORPORATION.**	**S**	**Ref To Com On Finance**	**03-26-07**	
S1317	Philip E. Berger	CHILD HEALTH INSURANCE TAX CREDIT.	S	Ref To Com On Finance	03-26-07	
S1318	Philip E. Berger	HEALTH INSURANCE TAX DEDUCTION.	S	Ref To Com On Finance	03-26-07	
$ S1321	**Philip E. Berger**	**REPEAL SUNSET ON GAS TAX CAP.**	**S**	**Ref To Com On Finance**	**03-26-07**	
S1324	Philip E. Berger	NO CREDIT FOR OBSCENE FILMS.	S	Ref To Com On Finance	03-26-07	
S1325	Philip E. Berger	REPEAL FILM TAX INCENTIVES.	S	Ref To Com On Finance	03-26-07	
$ S1329=	**David F. Weinste**	**VEHICLE PROTECTION**	**S**	**Re-ref Com On**	**07-03-07**	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
		PRODUCT ACT.		Finance		
S1330	David W. Hoyle	SALES OF DOGS AND CATS AT SPECIALTY MARKETS	*S	Re-ref Com On Finance	05-10-07	
S1332	William R. Purce	RAISE FEE CEIL'G/ AMEND HEAR. AID DEALER LAWS.	*SR	Ch. SL 2007-406	06-20-07	07-18-07
S1340	Clark Jenkins	SALE OF BLOCKS OF TEN-DAY CRFLS.	*S	Re-ref Com On Environment and Natural Resources	05-21-07	06-27-07
S1344	Larry Shaw	INCREASE FINES FOR SPEEDING.	S	Ref To Com On Finance	03-26-07	
S1348	Malcolm Graham	LOW-INCOME HOUSING PROPERTY TAX.	S	Ref To Com On Finance	03-26-07	
S1352	David W. Hoyle	GAP FUNDING FOR TURNPIKE AUTHORITY	*S	Passed 2nd & 3rd Reading	03-26-07	07-27-07
S1362=	Daniel G. Clodfe	AMEND DRY-CLEANING SOLVENT CLEANUP ACT.	*SR	Ch. SL 2007-530	05-15-07	06-28-07
S1366	Kay R. Hagan	DATACENTER SALES TAX BILL.	S	Ref To Com On Finance	03-26-07	
S1367	Larry Shaw	REDUCE UNDERAGE DRINKING.	S	Ref to Finance. If fav, re-ref to Appropriations/ Base Budget	03-26-07	
S1384	Ed Jones	ARTICLE 3J TIER STATUS.	S	Ref To Com On Finance	03-26-07	
S1388	Harry Brown	FOR HIRE BLANKET CRFL LICENSE FEE.	S	Ref To Com On Finance	03-26-07	
S1391	Harry Brown	SALES TAX RELIEF FOR SCHOOL SUPPLIES.	S	Ref To Com On Finance	03-26-07	
S1392	Harry Brown	SALES TAX RELIEF FOR CERTAIN TEXTBOOKS.	S	Ref To Com On Finance	03-26-07	
S1393	Steve Goss	REDUCE AND PREVENT UNDERAGE DRINKING.	S	Ref To Com On Finance	03-26-07	
S1398=	Charlie S. Danne	PREPAID WIRELESS/ SERVICE CHARGES.	S	Ref To Com On Finance	03-26-07	
S1407=	Fletcher L. Hart	RESALE OF TICKETS VIA INTERNET.	*S	Re-ref Com On Finance	05-17-07	
S1410	Fletcher L. Hart	PEDORTHIST LICENSURE.	S	Ref To Com On Finance	03-26-07	
S1411=	Fletcher L. Hart	RESTORE CIGARETTE TAX STAMPS.	S	Ref To Com On Finance	03-26-07	
S1412	Fletcher L. Hart	TIF DISTRICTS - UP ZONES.	S	Ref To Com On Finance	03-26-07	
S1418	W. Edward (Eddie	LIFT DEDUCTION.	S	Ref To Com On Finance	03-26-07	
S1421	Joe Sam Queen	AMEND INTERBASIN TRANSFER LAWS.	*S	Re-ref Com On Finance	07-24-07	
S1422	Joe Sam Queen	INCOME TAX - TITLE 32 NATIONAL GUARD EXEMPT.	S	Ref To Com On Finance	03-26-07	
S1435	Bob Atwater	AMEND FUNERAL SERV. PRAC./OTHER RELATED LAWS.	*SR	Ch. SL 2007-531	07-27-07	07-27-07
S1437	John Snow	EXEMPT VFD FROM HIGHWAY USE TAX.	S	Ref To Com On Finance	03-26-07	
S1442	John Snow	SENIOR CIRCUIT	*S	Ref To Com On	03-26-07	07-30-07

'$' indicates the bill is an appropriation bill.
A bold line indicates the bill is an appropriation bill.
'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill.

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
		BREAKER TAX BENEFIT.		Finance		
S1467=	Charles W. Alber	INCREASE PENALTIES FOR AIR POLLUTION.	S	Re-ref Com On Finance	05-08-07	
S1472=	Charles W. Alber	REVISED DIST. OF SCRAP TIRE DISPOSAL TAX.	SR	Ch. SL 2007-153	03-26-07	05-23-07
$ S1484=	**Tony Rand**	**SALES TAX MEDICAID SWAP.**	**S**	**Ref To Com On Finance**	**03-27-07**	
S1485	Tony Rand	AMEND NC APPRAISERS ACT/FEES.	*SR	Ch. SL 2007-506	06-14-07	07-25-07
S1492=	Daniel G. Clodfe	SOLID WASTE MANAGEMENT ACT OF 2007.	*SR	Ch. SL 2007-550	07-23-07	07-25-07
S1510	Jean Preston	DISABLED VETERANS FREE AT STATE PARKS.	S	Ref To Com On Finance	03-28-07	
S1513	Clark Jenkins	COUNTY FINANCING/ POWELL BILL/CITY ELECTION	*SR	Ch. SL 2007-428	05-22-07	07-26-07
S1516	Bob Atwater	LOCAL OPTION LAND TRANSFER TAXES.	S	Ref To Com On Finance	03-28-07	
S1517	Bob Atwater	PROHIBIT GIFT CARD MAINTENANCE FEES.	*SR	Ch. SL 2007-363	05-23-07	07-27-07
$ S1522=	**Charles W. Alber**	**LAND AND WATER CONSERVATION BOND ACT OF 2007.**	**S**	**Ref To Com On Finance**	**03-28-07**	
S1527	Daniel G. Clodfe	AMEND INSURANCE LAWS/ PRODUCERS AND BAIL BONDS.	*SR	Ch. SL 2007-507	06-26-07	07-02-07
S1529	Daniel G. Clodfe	IMPLEMENT MODERNIZATION COMMISSION RECOMMEND.	S	Ref To Com On Finance	03-28-07	
S1537	Fred Smith	DISABLED HUNTING AND FISHING LICENSES FREE.	S	Ref To Com On Finance	03-28-07	
S1545	David W. Hoyle	QUALIFIED VENTURE CAPITAL GAIN EXEMPTION.	S	Ref To Com On Finance	03-28-07	
S1547	David W. Hoyle	INCOME TAX MODERNIZATION.	S	Ref To Com On Finance	03-28-07	
S1548	David W. Hoyle	TURNPIKE AUTHORITY BONDS/SECURED-STATE FUNDS.	S	Ref To Com On Finance	03-28-07	

'$' indicates the bill is an appropriation bill.
A bold line indicates the bill is an appropriation bill.
'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill.

AGENDA

Joint House & Senate Finance Committee

Thursday, February 15, 2007
Room 544 LOB
9:00 a.m.
Chaired by: Representative Luebke

House Co-Chairs

Representative Pryor Gibson ***Representative William Wainwright***
Representative Paul Luebke ***Representative Jennifer Weiss***

Senate Co-Chairs

Senator Dan Clodfelter ***Senator David Hoyle***
Senator John Kerr

Call to Order

Introduction of Pages

Informational Presentation: "Principles of Taxation"
Roby Sawyers, Professor of Accounting, NCSU College of Management

Committee Discussion

Adjournment

North Carolina General Assembly

House & Senate Committee on Finance

(JOINT MEETING)

Minutes

~

February 15, 2007

The House and Senate Committees on Finance met jointly on Thursday, February 15, 2007 at 9:00 am in Room 544 of the Legislative Office Building. The following House of Representatives members were present: Chairpersons Gibson, Luebke, and Weiss; Vice-Chairs Howard and McComas; and Representatives Blackwood, Blust, Carney, Cunningham, Faison, Folwell, Hall, J. Harrell, McGee, Ross, Stam, Starnes, Tillis, and Walend. The following Senators were present: Chairmen Hoyle and Kerr; Minority Member, Senator Hartsell; and Senators Albertson, Atwater, P. Berger, Blake, Brock, Brown, Dalton, Dannelly, Garrou, Goodall, Goss, Hagan, Hunt, Jenkins, Preston, Purcell, Queen, Rand, Smith, Tillman, and Weinstein. Also present were House Sergeant-at-Arms John Brandon, Mark Cone, Dusty Rhodes, and James Worth, and Senate Sergeant-at-Arms Charles Marsalis, Ernie Sherrell, Ronald Spann, and Leslie Wright. Staff persons present included Cindy Avrette, Rodney Bizzell, Brenna Erford, David Crotts, Dan Ettefagh, Canaan Huie, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

House Finance Chairman Luebke called the meeting to order at 9:09 am and recognized the 12 House Pages and 4 Senate Pages present at the Committee. House Pages: Peter McInnis of Cleveland County, sponsored by Representative Moore; Sophia Treakle of Buncombe County, sponsored by Representative Fisher; Czyz Savage of Hoke County, sponsored by Representative Pierce; Jeremy Littlejohn of Cleveland County, sponsored by Representative Moore; Lisha McAllister of Hoke County, sponsored by Representative Pierce; Jasmine Spikes of Cleveland County, sponsored by Representative Moore; Jamiun Blackmon of Robeson County, sponsored by Representative Pierce; Laura Paige Easter of Vance County, sponsored by Representative Crawford; Sydney Miller of Buncombe County, sponsored by Representative Gillespie; Ashley Miller of Buncombe County, sponsored by Representative Gillespie; Spencer Hardison of Johnston County, sponsored by Representative Langley; and Josh Williams of Gaston County, sponsored by Representative Moore. Senate Pages: Justin Clinard of Mecklenburg County, sponsored by Senator Hartsell; Erica Vines of Durham County, sponsored by Senator Lucas; Laroy Dubois of Guilford County, sponsored by Senator Dorsett; and Jonathan Beasley of Chowan County, sponsored by Senator Jones.

Chairman Luebke then passed the gavel to Senate Finance Chairman Hoyle to introduce the meeting's speaker: Dr. Roby Sawyers, a professor of Accounting in the NC State University College of Management. (A brief introduction for Dr. Sawyers is available for review as **attachment 3.**)

Dr. Sawyerss was then recognized by Chairman Luebke, who had returned to the Chair, and began a PowerPoint Presentation with the Committee detailing what he termed the "Ten Guiding Tax Principles" (see **attachment 4**).

Throughout and following Dr. Sawyers' presentation, Committee members were recognized for inquiries. Chairman Hoyle asked Dr. Sawyers to "grade" North Carolina in its standing with other states in the application of the ten tax principles. Dr. Sawyers responded that overall and in general, North Carolina was in "fairly good shape" but that there was also room for improvement as the state's economy was one of constant change. He also pledged to work on a grading system as suggested by Chairman Hoyle. Senator Jenkins was recognized next by the Chair and asked what could be done to begin taxing internet sales. Dr. Sawyers stated that the issue of taxing internet sales was larger than any one state. He advocated that North Carolina continue in its work with the multi-state Streamlined Sales Tax Agreement (SSTA).

Chairman Luebke next recognized Senator Albertson who asked how increasing the sales tax would affect the state's economy. Dr. Sawyers responded that increasing the sales tax, especially by expanding the sales tax to services and other exempt items would make the economy much more progressive, as the more affluent taxpayers in the state typically spent more on services. Senator Goodall was recognized next and inquired what sales tax rate would be required to supplement lost revenues if the state income tax were eliminated. Dr. Sawyers responded that even without the elimination of the income tax, the current state sales tax could be dramatically decreased if it were extended to services.

Representative Starnes was recognized next and inquired how North Carolina ranked in its dependence on individual, rather than corporate, income tax as a revenue source compared with other states, given the continuing demise of manufacturing in North Carolina. Dr. Sawyers acknowledged that the personal income tax in North Carolina was relied upon more heavily than in some other states, but also noted North Carolina's overall low property tax rates. He further acknowledged that North Carolina was somewhat "out of kilter" regarding its revenue structure.

As a final inquiry, Chairman Luebke asked Dr. Sawyers if the tax structure in North Carolina would become more progressive or regressive if the General Assembly approved increases in the sales tax without expanding that tax to services. Dr. Sawyers stated his opinion that such increases would act to make the State's tax structure more regressive.

As the Senate session was scheduled to convene at 10:00 am, Chairman Luebke then adjourned the meeting at 9:49 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheets
3. Brief Biographical Information on Speaker: Dr. Roby Sawyers
4. PowerPoint Presentation on "Ten Guiding Tax Principles"

VISITOR REGISTRATION SHEET

JOINT HOUSE & SENATE FINANCE — February 15, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael Hauser	NCAE
R. Paul Williams	NCHCA
Beatrice Williams	CUCA
Bill O'Donnell	NCSBA
Meg Gray	NC Budget & Tax Center
for Coletti	JLF
Adam Whitehouse	office of Rep. Gibson
Jess MacDonald	Sen. Rosemen's office
Tazra Mitchell	House Intern
Amanda Stanley	Sen. Goss
Randy Ishee	TWC

VISITOR REGISTRATION SHEET

JOINT HOUSE & SENATE FINANCE — February 15, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Brewer	Embarq
Pam Melton	Embarq
John Bordeaux	Cisco Systems
Will Coleman	Moore & Van Allen
Alastair Macaulay	NC Home Builders
Lisa Martin	" " "
Chris Hayes	Cisco
Nathan Kauffman	OSBM

VISITOR REGISTRATION SHEET

JOINT HOUSE & SENATE FINANCE — February 15, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	JD, AL, PA
Kathy Hawkins	Progress Energy

Guiding Principles of Good Tax Policy

Roby B. Sawyers, CPA, Ph.D.
College of Management

NC STATE UNIVERSITY

A Framework for Evaluating Tax Proposals

- A framework based on guiding principles helps lawmakers:
  - evaluate the current tax structure
  - evaluate and compare proposals to modify the current state tax revenue system

NC STATE UNIVERSITY

Ten Guiding Tax Principles

- These principles are widely recognized and accepted
- No ranking of the principles is implied
- It is difficult to apply the principles to one type of tax but rather should be applied broadly to the tax system in its entirety

3

NC STATE UNIVERSITY

#1 Equity and Fairness

- Similarly situated taxpayers should be taxed similarly and similar transactions should be taxed in the same manner
- Encompasses concepts of both horizontal equity and vertical equity
  - Horizontal equity provides that two taxpayers with the same ability to pay should pay the same amount of tax
  - Vertical equity means that the person with the greater ability to pay should pay more tax

4

NC STATE UNIVERSITY

#1 Equity and Fairness

- In practice, equity is a difficult concept to apply.
  - What is a taxpayer? Is a married couple one or two taxpayers? Should two single taxpayers pay less tax than a married couple with the same income?
  - Flat taxes are "fair" in that those with higher incomes pay more tax than taxpayers with lower income
  - Progressive taxes are "fair" in that taxpayers with higher incomes pay tax at higher rates than lower income taxpayers

5

NC STATE UNIVERSITY

Tax Rate Structures and Equity

- Fairness and equity are often discussed in terms of whether a tax system is proportional (flat), progressive or regressive
- While a regressive tax system would not be fair, it is important to look at the system as a whole, not just one type of tax
- A September study in State Tax Notes found that over the 15 year period from 1985 to 2000, NC's tax system ranked 32nd in terms of regressivity and that the regressivity level has increased slightly over the last 15 years

6

NC STATE UNIVERSITY

Transactional Equity

- Similar transactions should be subject to the same tax
- Purchasing a pair of shoes via the Internet should be taxed the same as purchasing shoes purchased at the shoe store
- Sales tax holidays violate this principle

#2 Certainty

- Tax rules should clearly specify when the tax is to be paid, how it is to be paid and how the amount is to be determined
  - Certainty is reduced when a tax system is complex
  - Certainty helps increase compliance
  - Are transactions subject to tax easy to identify?
  - Are transactions subject to tax easy to value?
  - If a taxpayer can not determine if a particular transaction should be subject to tax, certainty does not exist

#3 Convenience of Payment

- A tax should be due at a time or in a manner that is most likely to be convenient for the taxpayer
  - This is accomplished through withholding and assessing a sales tax on the purchase of goods at the time of the purchase

#4 Economy in Collection

- The costs to collect a tax should be kept to a minimum for both the government and taxpayers
  - State taxes that piggyback on the Federal system are economical in this respect
  - State income taxes that are simply assessed as a percent of federal adjusted gross income or federal taxable income are economical
  - State estate taxes that were based on the old allowable federal state death tax credit were economical

#5 Simplicity

- The tax law should be as simple as possible so that taxpayers understand the rules and can comply with them correctly and in a cost-efficient manner
  - Complexity leads to errors and can reduce compliance
  - Complexity leads to higher administration and enforcement costs on the part of government

#6 Neutrality

- The tax law should not impact a taxpayer's decisions as to how to carry out a particular transaction or whether to engage in a transaction
  - Tax breaks for special interests, tax credits designed to promote certain activities and tax incentives for new businesses violate this principle
  - Broad bases and low rates help promote neutrality

#7 Economic Growth and Efficiency

- The tax system should be efficient and not impede or reduce the productive capacity of the economy
- Tax rules should not result in competitive disadvantages for North Carolina firms relative to firms in other states
- Tax rules should not favor a particular industry or sector
- Economists generally agree that consumption taxes that reward saving (as opposed to taxes on income) are more efficient and result in greater economic growth

13

NC STATE UNIVERSITY

#8 Transparency and Visibility

- Taxpayers should know that a tax exists and how and when it is imposed on them and others
- Phase outs of exemptions and deductions at the federal level violate this principle resulting in higher tax rates than suggested by the tax tables
- The lack of indexing tax brackets for inflation violates this principle – tax rates rise due to inflation and not any explicit action by the legislature

14

NC STATE UNIVERSITY

#9 Minimum Tax Gap

- A tax should be structured to minimize noncompliance
- Complexity is a big part of the tax gap. The more complex a tax, the more likelihood it will not be complied with

15

NC STATE UNIVERSITY

#10 Sufficient and Predictable Government Revenues

- The tax system should provide the government with a sufficient and predictable source of revenue without having to resort to rate increases
- A mix of taxes provides a more stable tax base because different types of taxes are affected differently by the economy
- North Carolina relies more on the income tax than most states. The income tax is more volatile than other sources of revenue

16

NC STATE UNIVERSITY

SENATE FINANCE COMMITTEE
Wednesday, March 7, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, March 7, 2007, in room 544 of the Legislative Office Building. Twenty-seven members of the committee were present. Senator David Hoyle presided.

Senator Hoyle introduced the new members of the committee, who included, Senator Harry Brown, Senator Steve Goss, Senator Jean Preston, and Senator Joe Sam Queen. Senator Hoyle then introduced the Finance Staff.

Presentation of Google Incentives

Jim Fain, Secretary of Commerce, was introduced to support the Google's incentive package for an Internet Data Center. A copy of his handouts is attached.

David Barlow, Mayor of Lenoir, was recognized to explain the package's effect on the city. He explained that it will reduce their high unemployment by creating new jobs. The Caldwell Community College is already working with Google to assist in employee training. Copies of his handouts are attached.

Faye Higgins, Chair of the Caldwell County Board of Commissioners, was recognized to support the incentives package. She stated that the package will not cost taxpayers money, Google is already paying for county water improvements, hiring local residents and local merchants have seen increased activity. She added that Google is providing global recognition for the area.

The meeting adjourned at 11:20 am.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

SENATE FINANCE COMMITTEE

Sen. Daniel Clodfelter Sen. David Hoyle Sen. John Kerr

Wednesday, March 7, 2007
Room 544, Legislative Office Building
1:00 p.m.

I. Introduction of Senate Members

II. Introduction of Finance Staff

II. Presentation on Google Incentives

- *Jim Fain, Secretary of Commerce*
- *David Barlow, Mayor of Lenoir*
- *Faye Higgins, Chair of the Caldwell County Board of Commissioners*

III. Adjournment

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	March 7, 2007	1:00 PM	544

The following will be considered:

Explanation of Google Incentives
by Department of Commerce and local officials

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Caldwell County Delegation

MARCH 7, 2007

FAYE Higgins - Chair - Caldwell County Commissioners
RON Beane - Vice Chair - " " "
Herb Greene - Caldwell County Commissioner
DON BARRIER - Caldwell County Commissioner
DAVID BARLOW - Mayor City of LENOIR
JACK HORTON - Caldwell County Manager
LANE Bailey - Lenoir City Manager
Tim Sanders - Caldwell County Project Team MEMBER
Bill STONE - VICE CHAIR Caldwell Co. EDC
Deborah Ashley - Caldwell County Chamber of Commerce
DR. Ken Bohaan - President Caldwell Community College & Technical Institute.
Bobby White - Caldwell County Project member

Natural Gas - Calgary

Name | Date

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

March 7, 2007 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Su Ann Goodman	ITW
Joyce Peters	JP & Associates
Barbara Canales	BCBSNC
Stacy Hancock	NCHCFA
JOHN GOODMAN	STATE CHAMBER
Katherine Davis	Electricities
BRUCE THOMPSON	PARKER POE
DON HOBART	NCDOC
Sec. Jim Fain	NCDOC
Kevin Leonard	DCSR
Andy Romanet	NCLM

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 7, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Emily Atkinson	Capstrat
[illegible]	CHPA
Cam Cowan	BCBSL
Patricia Lawlu	Lawlu Consulting
Preston Howard	MCIC
John McAlister	NCCBI
Albert Eckel	Corning
Amy McConkey	Smith Anderson

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 7, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Patrick Buffkin	Nelson Mullins
David Barnes	Poyner + Spruill
Paul Pulley	NCAIL
Becki Gray	John Locke Foundation
Bob Orr	NCICL
Jordan Qualls	NCICL
Lindsey Wakely	NCICL
Jeanette Brooks	NCICL
Dean Webster	NCICL
J Cox	A N-J
Leslie Bolanger Jones	Capstrat

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

March 7, 2007 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Don Domanski	Womble Carlyle Raleigh
Joe Stewart	ITNC
Deborah Ashley	Caldwell County Chamber of Commerce
Kaitlin Kubinsky	NCCA
[signature]	[signature]
Deborah Barnes	Dept of Commerce
Martyn Johnson	NCDOC
Mike Abraczinskas	NCDENR - DAQ
THOMAS A. SUTER	WYETH
GARY SALAMOO	GSK
GENE AINSWORTH	A & A

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 7, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tom Bolan	NC Environmental Defense & NC Sustainable Energy Assoc.
Elizabeth Dalton	NCRMA
Andy Ellen	NCRMA
Ryan Minto	NCGA
Ronnie Sowinski	NCEDA
John Peterson	NCEDA
Hayes Johnson	NCGA
Josh Glasser	Common Cause NC
Barbara Hall	NCCTL
Steve Mitchell	Capitol
Daniel Bacon	Kennedy Covington

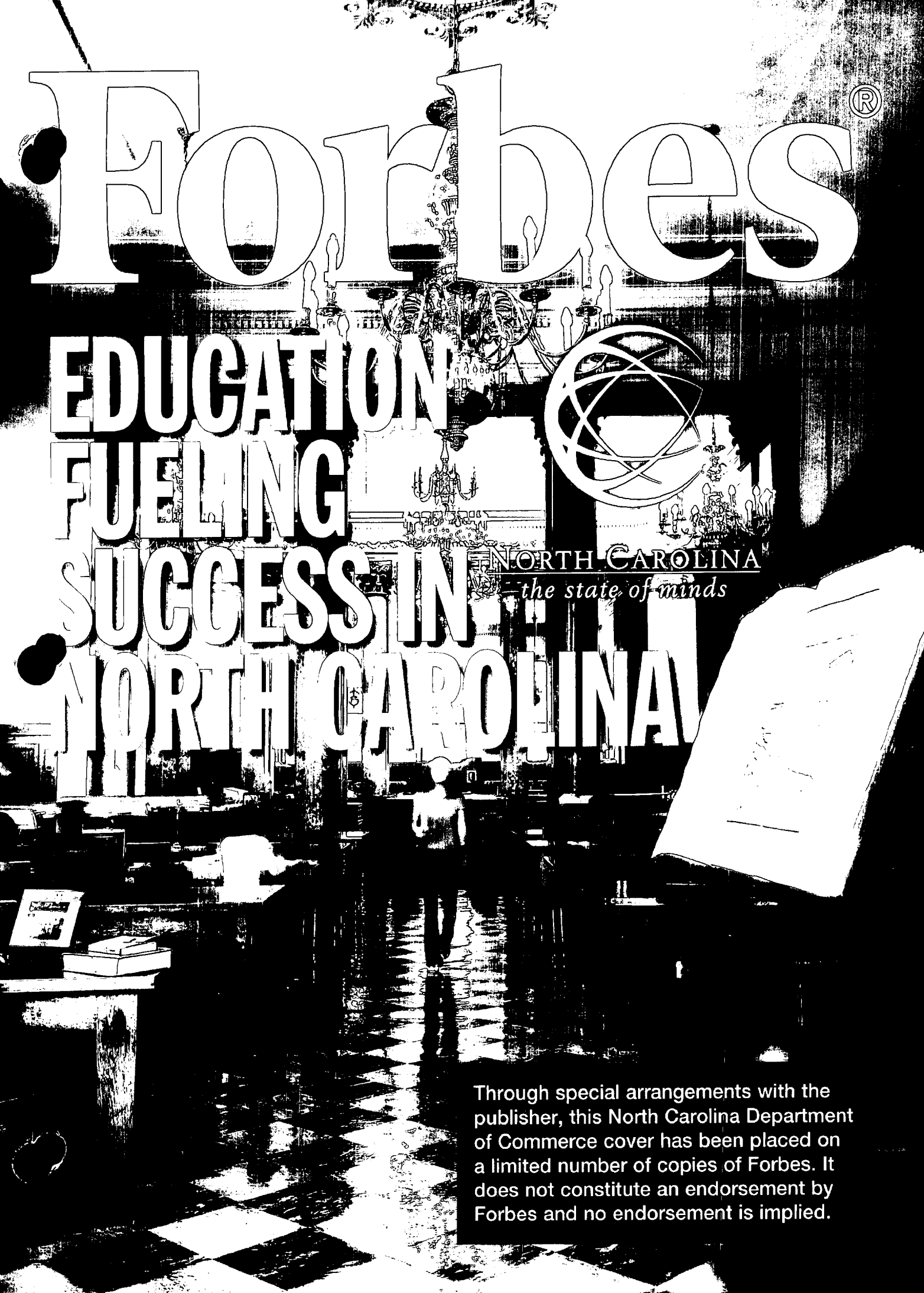
VISITOR REGISTRATION SHEET

Senate Finance Committee — March 7, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Hawkins	Progress Energy
Scott Gardner	Duke Energy
Peggy Anderson	NC Dept. of Commerce
Doug Byrd	"
Barry Masden	Caldwell
Bill Stone	Caldwell Co. EDC
Bobby White	Caldwell County Staff
Jim Saunders	Caldwell County
Ken McHow	N.C. DOR.
Anna Lea	NC D.O.C.
Michael [illegible]	NC DOC



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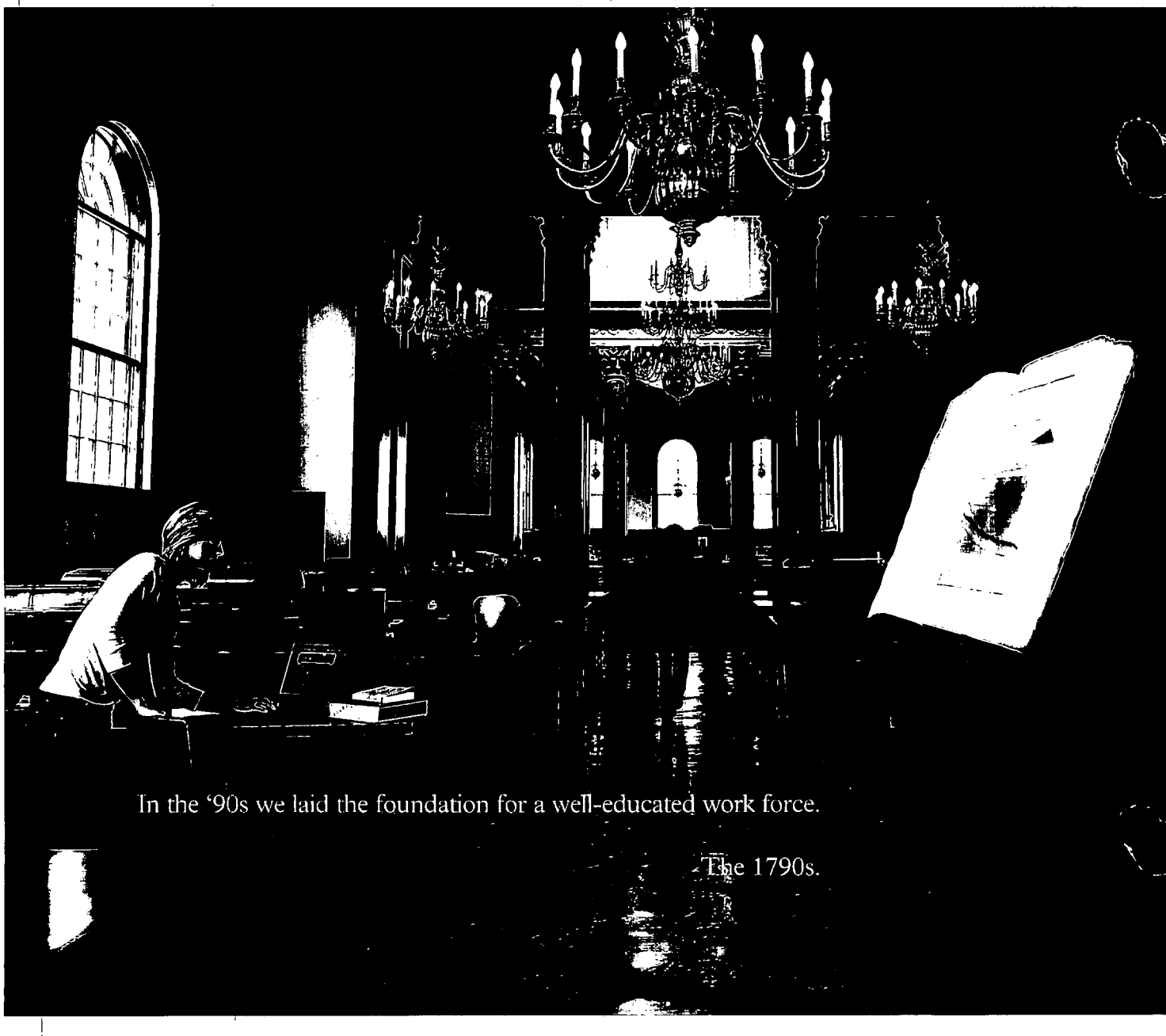

We discovered long ago that better education means better jobs. So, among other things, North Carolina opened the first public university in 1795 and later pioneered the country's first workplace training programs. We are committed to and invest heavily in both primary and secondary education, including the creation of smaller, more specialized high schools. The state ranks sixth in the nation in per capita appropriations for higher education and our institutions conduct more than one billion dollars in sponsored research annually. We understand that better students make better employees, and better employees make better businesses. See where great minds can take your business at www.nccommerce.com.

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DEPARTMENT OF COMMERCE
PROJECT ANNOUNCEMENTS

The annual total of announced projects, jobs and new investments (both by new companies and expansions by existing companies) that the Commerce staff facilitated for the past five years:

	ANNOUNCED PROJECTS	JOBS CREATED	INVESTMENT
2002	122	12,120	$1.2 BILLION
2003	145	10, 656	$1.2 BILLION
2004	171	19,464	$2.95 BILLION
2005	201	18,834	$3 BILLION
2006	176	22,059	$2.64 BILLION

North Carolina
Department of Commerce

Michael F. Easley, Governor **James T. Fain III, Secretary**

February 9, 2007

Letters to the Editor
News & Observer
215 McDowell Street
Raleigh, NC 27602

Dear Editor:

With regard to your reporting and opinion piece on Google's investment in Caldwell County, I would encourage you to consider the following very basic observations:

Sales tax legislation passed by the General Assembly put North Carolina in a position to recruit Google. Without it, Google likely would have located in a state that did not impose those taxes on it.

If Google does not locate in Lenoir, the county will have lost the opportunity for up to 210 new jobs at an estimated average wage of $48 thousand and investment of $600 million. Without that investment in facilities, the county will not enjoy the economic impact of major construction activity, including the many construction jobs generated during the building phase. Grocery stores, barbers, laundries and other retailers would not enjoy the purchases of the new employees. And if Google does not locate in North Carolina, it will certainly pay no property taxes here.

Those opportunities are vital to a hard-hit county which, as a center of the furniture industry, has experienced job losses in the thousands as furniture manufacturing has largely moved overseas and has suffered disproportionately from trade policies that accelerated that process.

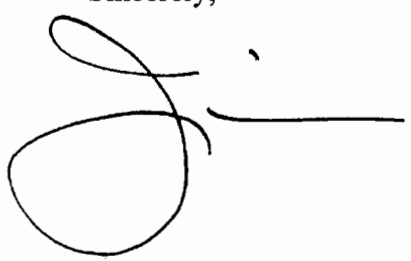
In the interest of clarity, citizens should understand that no one is writing Google a check for the estimated amounts you have featured in your headlines. Incentives offered by the state are dependent on future tax receipts paid by the company. They are primarily reductions of future tax revenues that we do not now receive, nor would we ever receive if Google does not locate here. Google will receive future incentive benefits only if they create the jobs and make the investments in facilities and equipment that generate this tax revenue for their incentives.

Your choice of a 30-year time frame as a basis of estimating incentives is intriguing. Other incentive packages that have been cited were not measured over so long a period. Ten years constitutes a long time in today's rapidly changing business world. Had you used a 10-year time frame, the amounts described in your articles would have been reduced by two thirds.

At the Department of Commerce, we administer the JDIG program, which offered a grant of up to $4.8 million to induce Google to locate in the state. The law appropriately requires that we undertake cost benefit analyses as a basis for our grants. Our model indicates that gross state product for this project would increase by about $1 billion over the 12-year term of the grant. In offering the grant, the committee that makes grant decisions and the Department of Commerce acted based on a thoughtful analysis of the many benefits derived from attracting Google to the state. We approached the process in a rational and logical fashion. We do our work based on facts, and not in reaction to the occasional rhetorical hyperbole that sometimes slips into any negotiating process.

We are pleased that Google will join the Caldwell County community, where their presence will make a positive economic and psychological impact. The company's decision is affirming to a community which has suffered huge job losses and attendant despair. And that decision will not cost the state any money that it had before they arrive.

Sincerely,



Jim Fain

GOOGLE SITE
TAX VALUES

Before Property Acquisition		After GOOGLE Development	
Tax Value	$ 3,588,200		$ 600,000,000
	x 1.0799/$100 Valuation*		x 20% Real Property
	$ 38,748.97		$ 120,000,000
			x 20% Returned Property
			$ 24,000,000 Tax
			x 1.0799/$100 Valuation*
			$ 259,176.00

*Current Combined City & County Tax Rate

GOOGLE Project will increase tax revenues by 669% on site location.

CITY OF LENOIR

10 Largest Taxpayers 2005-2006
Calendar Year Ending 12/31/05

1.	Broyhill Furniture Industries	$ 51,794,105
2.	Bernhardt Furniture Industries	$ 31,078,119
3.	Kincaid Furniture Industries	$ 20,045,070
4.	Bemis	$ 14,982,615
5.	Duke Energy Corporation	$ 13,399,405
6.	Bellsouth	$ 11,792,292
7.	Thomasville Furniture Industries	$ 11,625,693
8.	Greer Labs	$ 11,337,315
9.	Neptco	$ 11,086,982
10.	James B. Taylor Family, Ltd.	$ 10,413,800

GO GLE projected tax value after grants $ 24,000,000

Based on the investment goal of $600 million and even after making the incentive grants, the City of Lenoir and Caldwell County will each retain the ad valorem taxes on $24 million worth of property.

COUNTY TAX VALUE
RANKING OF GOOGLE
AFTER INCENTIVE CALCULATION

Caldwell County

1.	MDI/Merchants Distributors	88,155,222
2.	Broyhill Industries	70,615,729
3.	Duke Energy	53,769,763
4.	Bernhardt Industries	36,591,641
5.	Blue Ridge Electric Membership	36,143,321
6.	Kincaid Furniture	28,176,742
7.	BellSouth	25,797,477
8.	Neptco	24,253,049
9.	***Google***	24,000,000
10.	Shuford Mills	17,536,190

Elements of the State & Local Recruiting Package

Google Internet Data Center
Caldwell County • Tier 1

State Incentive Package

Projected Benefits to the State

- $37 million in net new state taxes over 12 years.
- $1.07 billion increase in Gross State Product over 12 years.
- Up to 1,924 new jobs during 3-year construction phase.
- 582 sustained jobs, including indirect and induced jobs.

Job Development Investment Grant

- Estimated value of grant to company: Up to $4.8 million, payable over 12 years.
- Performance-based grant – payments funded from withholding taxes paid by new Google jobs.
- Company must meet job creation, retention, and investment targets over 12-year term.
- Clawback of grant payments in certain circumstances, including failure to maintain operations at site.

Sales Tax Exemption on Machinery & Equipment and Electricity

- Estimated value of exemption: Potentially $18 to $34 million over five years.
  - Press accounts of $90 million cost are overstated.
- Performance-based tax exemption – tax benefit is received only if the company purchases equipment and electricity.
- Matches a comparable incentive provided by South Carolina.
- Company must invest at least $250 million to receive the exemption.
- Clawback of tax benefits previously claimed if company fails to meet statutory investment requirements.
- Datacenter equipment exemption is comparable to tax treatment of manufacturing equipment (mfg. equipment not subject to sales tax; only to 1% privilege tax, capped at $80 per piece)

Article 3J Income Tax Credits

- Estimated value of credits: Up to $19 million over 7 years.
- Performance-based tax credits – tax benefit is received only if the company hires employees and invests in machinery & equipment in Tier 1 County
- Tax credits will be lost if company fails to retain employees and equipment as required under the Act.
- Company cannot reduce annual corporate or franchise tax by more than 50%.

Local Incentive Package

Projected Benefits to the Community

- $7.8 million in property tax revenues over term of agreement – a 669% increase.
- $4.1 million cash paid by company to local governments to fund public infrastructure upgrades and costs.
- Millions in annual electric franchise fees.
  - Volume of electricity used is confidential information, but franchise fee represents many millions in new local revenues over term of agreement.
- Entire local incentive package funded out of future revenues. No existing tax dollars used to fund recruitment or local incentives.

Local Economic Development Incentive Grant

- Estimated value of grant: Potentially $5.5 to $6.2 million per year.
- Payable over 30-year period. Potentially $165 to $185 million over term of agreement.
  - Length of grant matches comparable incentive offered by South Carolina.
- Performance-based grant: Value of annual payments is tied to value of investments made by company.
- Annual grant payment is percentage of new property tax receipts. Low investments by company yield low grant payments, and vice versa.
- Grant payments terminate if company ceases to do business at the site.

Common Local Incentives Not Offered by Lenoir & Caldwell County

- Land at no cost to the company.
  - Google paid the cost to acquire the property.
- Government-funded site grading, infrastructure and preparation.
  - Google paid the cost of site preparation and infrastructure.
- Up-front cash grants
  - Caldwell County's incentive grant is payable over time – not up front.

The Google Project
Talking Points
Faye Higgins
Wednesday, March 7, 2007

Introductory Statement

Good afternoon Ladies and Gentlemen: Thank you for the opportunity to explain our project and correct the misconceptions surrounding it. Let me say, up front, that this project will not cost the taxpayers of Caldwell County one cent. Google will pay all their taxes up front. The grants they will receive will not be paid until after all their taxes are paid in full. This has been the case for all EDC grants the county has given since 1997.

Our County has been economically devastated over the past five (5) years as a result of losing most of our furniture jobs to **overseas competition. These jobs will not return!**
Prior to our opportunity associated with the Google project, the County Commissioners understood the need to **aggressively pursue** new industry with an emphasis on **diversification**. We committed that our County will be as competitive as any other site in surrounding states should the opportunity arise.

The Google project represented an opportunity of a lifetime for our County. The successful recruitment of this type **21st Century global based information company will serve as the foundation in on going efforts to diversify Caldwell County's economic recovery.**

While Mayor Barlow has focused comments on the specific recruitment economics of the project, I would like to provide the Legislators with some **associated economic benefits** we are already beginning to experience.

- Google has provided a cash payment of **$3 million dollars** to the County and the City of Lenoir to cover costs associated with the project.

- Google has also paid over **$1 Million** to the city of Lenoir for Water System improvements. These payments total over **$4 million** in payments from Google.

- Google has committed to hire local residents. Google is working with **Caldwell Community College and Technical Institute** along with **Appalachian State University** to develop **training programs** for local residents.

- The County has begun discussions of a nationwide recruitment effort geared toward complimenting the Google location in our County.

- Many of our local merchants have begun to see increased activity associated with the project construction

    - A local company has already realized sales of an estimated **40,000 tons of stone** specifically for the Google project.

    - A local electric company indicates a Google subcontractor has generated purchases equal to their largest customer.

    - A local developer is now involved in a **50 lot residential** expansion along with a **400 unit mini warehouse** and **a 20,000 square foot** general warehouse all fueled by the Google project.

    - A vacant **Lenoir Mall Building** which was for sale for a period of over two (2) years has come under sale contract since the Google announcement.

    - A vacant **Winn Dixie building** near the Google site has also been placed under contract for sale. This building had been on the market for approximately 18 months.

    - A **hotel developer** is now in discussions concerning the construction of a hotel near our civic center.

    - In addition to the **$600 million construction potential,** early indications are that Google could spend in excess of **$1.9 Million** in immediate related activities associated with the project construction.

- Since the Google announcement our **Planning Department** has received 9 new cell communication permit requests for either new towers or additional co-locations. Each has a **$5,000 fee** which will amount to an additional **$45,000** in County revenues.

- The **County Building Inspection Department** estimates receiving approximately **$150,000** in revenues from Google for building construction fees.

In addition to these immediate economic benefits for our County we believe the Google project will provide some greater long-term economic impacts. For example:

- Based on the initial minimum **$600** million investment the County should realize in excess of **$7.8 million** in new tax dollars over the term of the agreement or about **$16 million** City and County taxes.

- The annual estimated payroll of approximately **$10 million dollars** will have a multiplier effect resulting in an estimated **$60 plus million** annually in local economic expenditures. Over the term of the agreement this could be an impact of more than **$1.8 billion** for our local economy!

- Caldwell County and all of North Carolina is becoming known nationally and throughout the world because of the Google location here. This will equate to **millions** of dollars in economic development marketing benefits.

- The project has **expansion possibilities** which could lead to even greater job opportunities for our local citizens as well as additional tax revenues.

- We will now be able to retain our brightest and best students due to the opportunities provided by this project.

- We have enough space to accommodate educational needs associated with this project. (Note: --The Public School System currently has a total of **1,436** available seats for future school growth). This project will not require us to build any new schools or add other additional infrastructure.

- The potential for fiber optic and other modes of sophisticated communication capabilities can become more of a reality throughout the County.

From the County perspective Google will represent a new opportunity never before seen in Caldwell County. With the loss of over **7,000** furniture and related manufacturing jobs, with another plant slated to close in December '07, this type of new job opportunity will only lead to greater growth for our County. Our latest figures showed 8.4% unemployment.

While there has been a great deal of publicity dealing with the project, it is important to note that our local citizens are excited about the future of our County. While this single successful effort has not solved all of our problems, it does represent a significant boost to our overall morale.

We believe every one in the State of North Carolina should be elated to realize the location of a Google facility of this size. Caldwell County Commissioners are dedicated to continuing this economic development initiative and believe that additional **diversified new jobs** will continue to locate in our County.

This project will generate new tax revenues, create additional jobs that pay double our current average salary rate, provide global recognition for our area, and all this without using any existing local tax dollars. Finally, no incentive obligations will come from taxes paid by local citizens.

From an overall economic evaluation of this project we believe that Caldwell County, the City of Lenoir, and the entire State of North Carolina will reap significant economic benefits over the life of the commitment.

The Mayor and I will be glad to answer any questions from the Legislators concerning our presentation. Thank you for this opportunity to discuss and clarify this exciting economic project for our area.

LIVING. EVENT CELEBRATES CULTURES
▸ 1C

News-Topic
SUNDAY
Caldwell County's local news since 1875

Feb. 25 2007

Google project hits high gear

Server farm campus quickly taking shape

Edward Terry
Editor
eterry@newstopic.net

Johnny Brooks, owner of Trinity Trucking in Lenoir, isn't quite sure what his neighbor is up to these days, but he does know one thing: It's going to be huge.

"The magnitude of equipment there is breathtaking," he said. "It just blows your mind."

After more than a year of secretive negotiations, and a month after finalizing the deal that is expected to bring millions of dollars in investment and hundreds of jobs to Lenoir, the first phase of the Google project is quickly taking shape.

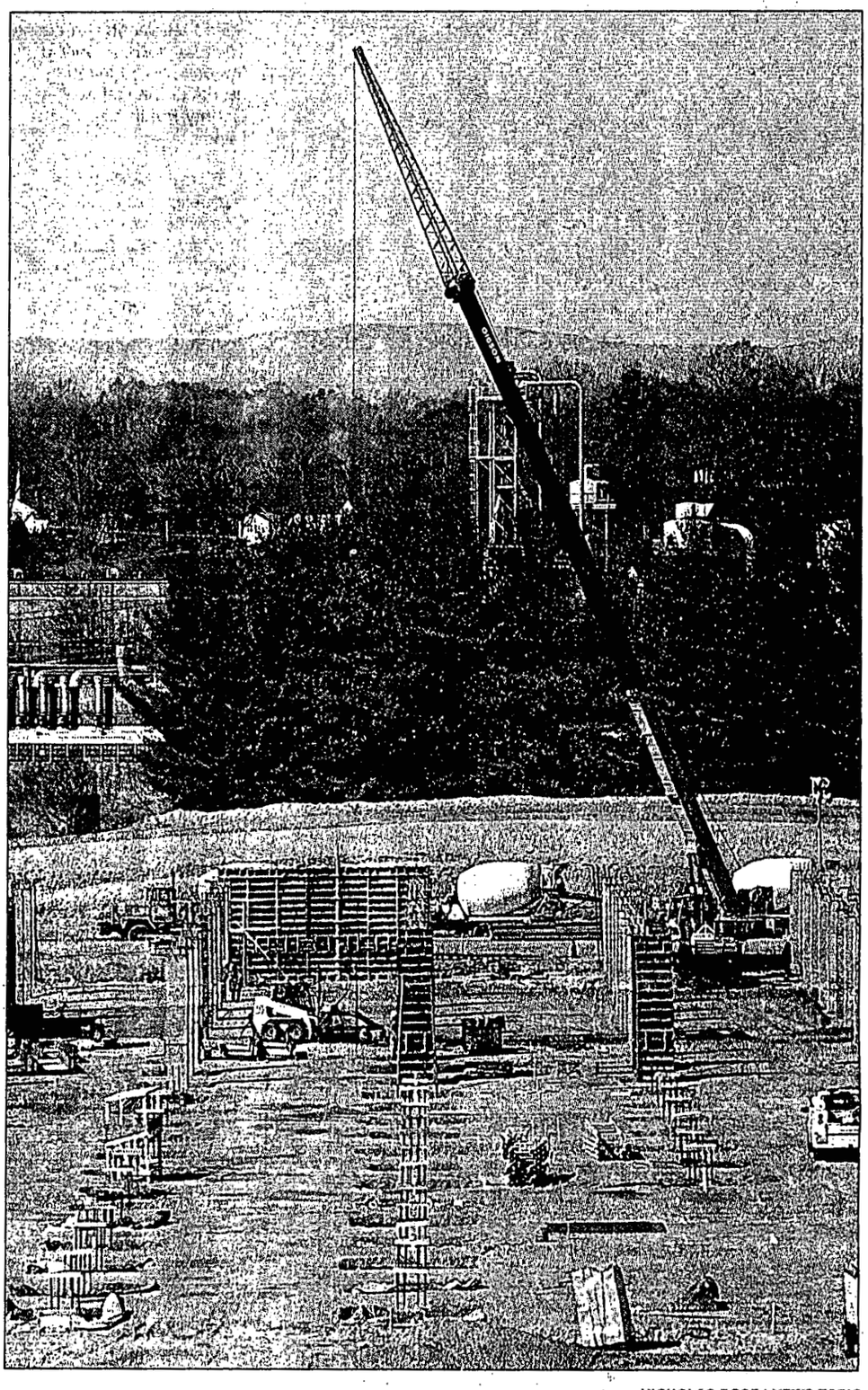
In a matter of weeks, much of the more than 200 acres of land that Google purchased so far has been cleared and the frame of a building near the Harrisburg Road entrance to the site is beginning to take form.

Until now the size and scope of the project only has been tangible through descriptions by company or local elected officials. Today, simply driving by the construction site, which is dotted with dump trucks, bulldozers, cement mixers and dozens of other construction vehicles, reveals that the much-talked about project is quickly becoming real.

Google's Director of Global Operations, Lloyd Taylor, confirmed Saturday that the data center is the building being erected near the Harrisburg entrance to the work site and that the size should not be surprising to anyone.

"We have over 300 construction workers on site now, and the activity level will increase substantially once the building shell is up," Taylor said. "They'll be less visible because they'll

See GOOGLE | 5A



NICHOLAS ROSE | NEWS-TOPIC

The first signs of a building are taking shape near the Harrisburg Drive entrance of the Google server farm project in Lenoir. During the last two to three weeks, the current phase of construction has progressed quickly.

FROM PAGE 1

GOOGLE

be working inside."

Taylor said a large part of the company's investment in the project goes toward construction workers' salaries.

Google officials are pleased with the project at the site thus far, and are expecting the data center building to go up quickly, Taylor said.

And there's no shortage of people wanting to catch a glimpse of the unprecedented project, which has brought both positive and negative attention to Caldwell County in recent weeks.

"If the city would put a toll road on Overlook (Drive) they'd make some money," said Tim Sanders, former county commissioner and one of the lead negotiators on Project Vesper, which brought the Internet search giant to Lenoir.

Sanders said he's visited the construction site several times in the last week and is amazed at how rapidly the project is moving along.

Lenoir Mayor David Barlow spent much of last week defending the project, which has drawn criticism from public officials, private residents and the media over the incentives used to attract the Mountain View, Calif.-based company.

The city of Lenoir and Caldwell County both granted Google a 100-percent break on business property taxes and an 80-percent refund on real estate property taxes over the course of 30 years. The company also has received grants from the state as well as discounts on water and electricity.

In return, the company has said it has an investment goal of at least $600 million and the creation of approximately 200 jobs at the data processing facility. Documents recently acquired through the Freedom of Information Act estimate the total overall investment in Caldwell County could go as high as $1.8 billion.

Critics argue that Google is under no obligation to make the investment or create the jobs, according to the economic incentive agreement, and that the jobs the company will create are not the kind that Lenoir's mostly blue-collar workforce will be able to take advantage of.

Google officials have said that they plan to partner with local organizations, including Caldwell Community College and Technical Institute, to prepare local workers for the jobs the project is expected to bring. During a visit in January, company officials said they want to hire local workers for the jobs that will be created.

The project also is expected to generate non-technology jobs, such as security, maintenance, groundskeeping and construction.

Supporters of the project, including local city and county leaders, have argued that the overall investment, potential spin-off jobs, name recognition the company generates and the taxes the government will collect from the project justify the unprecedented incentives given.

Lenoir was one of several communities competing for the project, which will create at least one building housing a Google data processing facility. The company made its choice official on Jan. 18.

Local resident Jason Myers has seen the project from the top of Hibriten Mountain, Lenoir's highest point, and was astounded by its size.

"You can see the whole thing," he said. "It's pretty impressive."

Barlow isn't surprised at the scope of the project. He's known all along that it would be sizeable and have a big impact on the community.

"It goes along with what they told us from day one," he said. "They said whenever they did this server farm the activity would be mind boggling."

Despite recent criticism of the city and county's handling of the negotiations with Google, Barlow said he believes that local residents are excited about the project.

"I think this community is thirsty for something good," Barlow said. "People are excited about it. They will be excited to hear about the activity going on."

Brooks is one of those "excited" residents.

He made his living working with the local furniture industry, which has shed thousands of jobs and plants in the last five years, but is happy to see a new industry making its presence felt in Caldwell County.

"I think it's going to be good for the county, no matter what we gave," he said. "I can't believe it's happening like it's happening, and the speed at which they're doing it."

Brooks also was surprised when he got a call from his stockbroker in Tampa, Fla., asking about the Google project.

"He told me if I see some real estate, he said to let him know," Brooks said.

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News-Topic
SUNDAY
Caldwell County's local news since 1875

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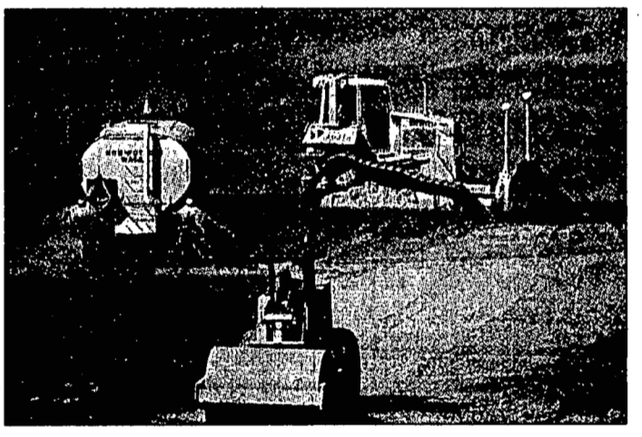
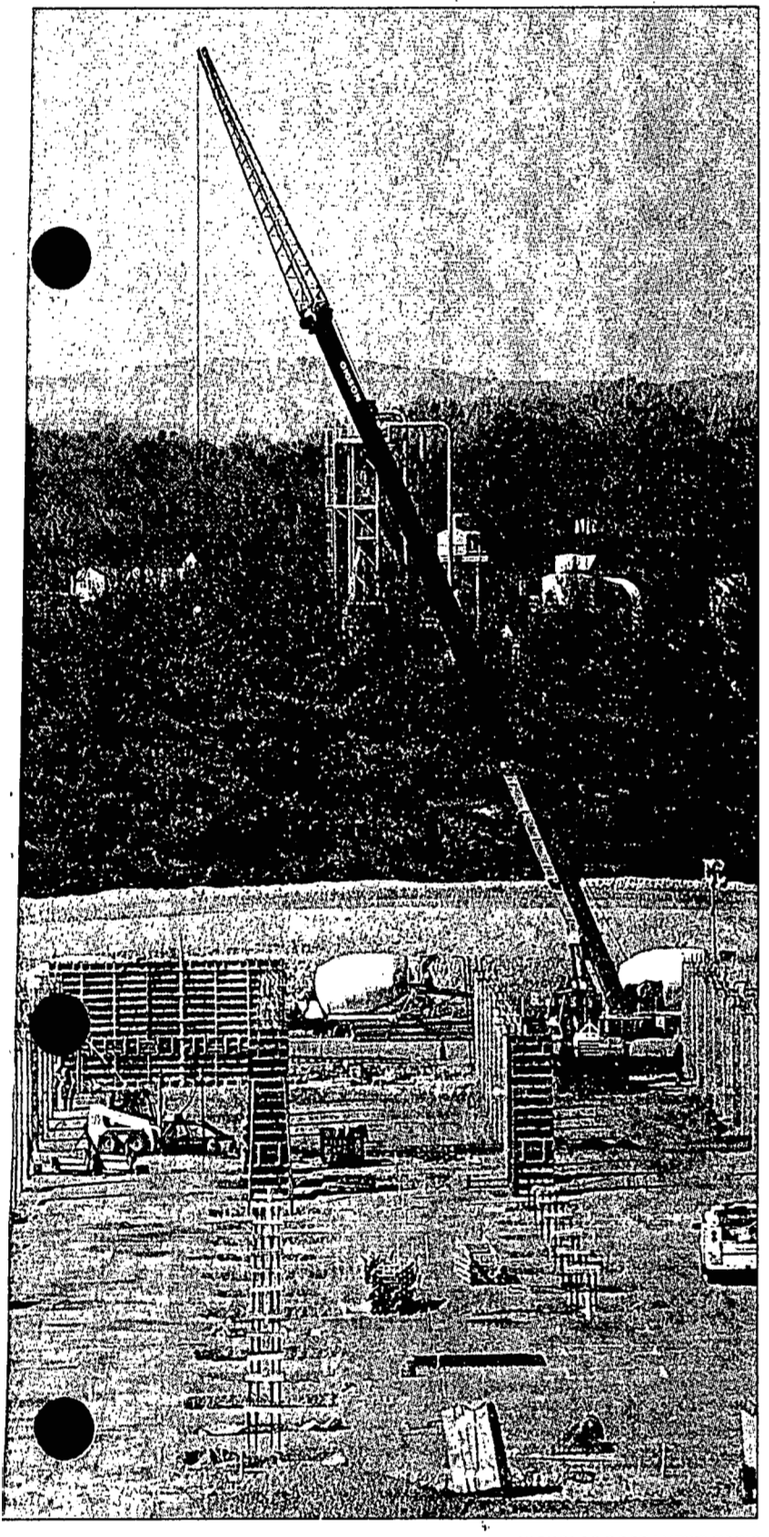


NICHOLAS ROSE | NEWS-TOPIC

Workers continue preparation Saturday as part of Google's server farm campus in Lenoir. Construction crews have been working long hours for the last few weeks as the project has gone into high gear.



NICHOLAS ROSE | NEWS-TOPIC

of a building are taking shape near the Harrisburg Drive e Google server farm project in Lenoir. During the last two , the current phase of construction has progressed quick-

Boham: We will have people ready

Ron Jackson
Staff Writer
rjackson@newstopic.net

The Caldwell Community College and Technical Institute Board of Trustees discussed the latest developments in its future partnership with Google with the Caldwell County Commissioners at Wednesday's board of trustees meeting.

CCC&TI President Ken Boham said he had the opportunity to meet with two Google representatives about a week ago. He said he presented a proposal of what the college can do to assist Google with its future employment needs.

"I think they were impressed," Boham said. "(Google) found out we had a lot more to offer than they may have anticipated. Yes, we can put something together that will benefit Google, and we will have people ready to go to work for Google.

"They have the proposal in hand back at California. We will e-mail back and forth to put meat on the proposed information technology program. They have invited us to meet with them in California."

Boham said the college will kick off the first group of individuals in this new "institute" in June. He said those individuals will then undergo more training until about January before being interviewed for jobs.

Ken Boham

Boham and the commissioners also used the meeting as an opportunity to sound off against recent negative press about the project.

Boham said some of the negative press doubts the county's ability to supply qualified employees due to its heritage in furniture. He said he and the college are aiming to prove all the critics wrong.

"We are going to take the high road and prove them wrong," Boham said. "(Google) is committed to hiring local people."

Caldwell County Commission Chairwoman Faye Higgins also responded.

"We have taken a shellacking in the (Charlotte) Observer and the Raleigh News & Observer," Higgins said. "I get the distinct impression that they can't believe we landed this. We did give them incentives over 30 years and the Charlotte Observer really questions that. The reason we did that is because of what it will bring. We may be giving them an 80 percent tax incentive, but 20 percent of $600 million is still a lot.

See READY | 5A

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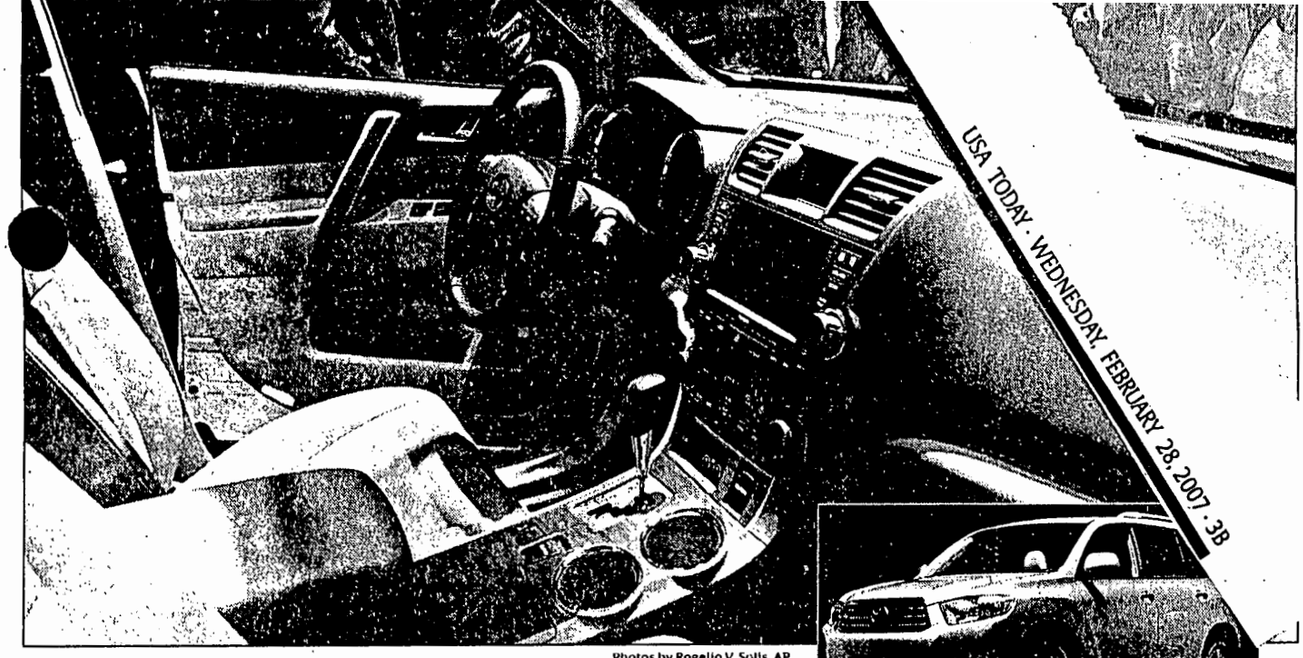
FROM PAGE 1

READY

"Google reads all of the articles. The negativity, they see it and hear it. That concerns them."

Higgins also commented on the backlash regarding the secrecy surrounding the negotiations with Google.

"We would not have them if not for the nondisclosure agreement," Higgins said. "I would sign another agreement tomorrow if that is what I had to do to keep them here."



Photos by Rogelio V. Solis, AP

Getting ready to roll: The Toyota Highlander, redesigned for 2008, is similar to those that Toyota will build at a new factory near Tupelo, Miss., scheduled to open in 2010. The plant will be able to build 150,000 Highlanders a year.

Toyota to build Mississippi plant

Facility will produce Highlanders

By James R. Healey
USA TODAY

Toyota Motor took another step Tuesday in its quest to go from foreigner to naturalized American.

The big Japanese automaker, poised to become the biggest car company in the world this year, said it will build a $1.3 billion manufacturing plant near Tupelo, Miss., that will build 150,000 Highlander crossover utility vehicles annually when it opens in 2010.

Autos

Toyota said it will employ 2,000 factory workers at a forecast $20 an hour after three years on the job, not counting benefits.

That will bring to eight the number of Toyota's North American plants, capable of manufacturing 2.2 million vehicles a year, equivalent to 86% of the cars and trucks Toyota sold in the USA last year.

The plant is an attempt to keep up with growing U.S. demand. Toyota sales in the USA were up 12.5% last year in a new vehicle market off 2.5% from a year earlier.

Tupelo also is a move to insinuate Toyota so deeply into American culture that it's considered a U.S. company.

That's important, as Toyota's expansion continues to take business from Detroit automakers, potentially engendering resentment and political backlash.

The announcement Tuesday by enthusiastic government and Toyota officials at the Tupelo high school auditorium was a stunning contrast to the cuts announced lately by glum Detroit automakers.

General Motors, Ford Motor and DaimlerChrysler's Chrysler Group are trying to shrink to fit their declining share of U.S. sales. Together they plan to ax 86,000 jobs and idle 26 factories by the end of 2009.

Toyota, meantime, says it will add more U.S. plants, if needed.

Mississippi Gov. Haley Barbour praised Toyota as the answer to prayers of officials worried about shrinking employment in the state's furniture industry. Barbour said he was grateful to get the plant for less than the amount that Mississippi spent on incentives to lure Nissan Motor's truck plant to Canton in 2003. Toyota would get $296 million in incentives if the Legislature approves; Nissan got $363 million, according to the Mississippi Development Authority.

By Thomas Wells, AP

Native son: Toyota's Seiichi Sudo wears Elvis glasses and sideburns.

Sen. Trent Lott, R-Miss., thanked Toyota at the news conference for the economic boost the plant will provide. "When you're our constituent, we are warriors on your behalf, and I can assure you we will look after your interests," he said.

Toyota is an immigrant, not a foreigner, Jim Press, president of Toyota Motor North America, said in a speech in Chicago earlier this month. Immigrants "brought something of value," Press said. "At some point, they are assimilated and cease to be immigrants. In a way, that parallels our company," he said, laying out Toyota's agenda.

Toyota overtook DaimlerChrysler last year to become the No. 3 car company in the USA. It could overtake Ford to become No. 2 this year. Its global production plans would push it past GM as biggest car company in the world this year. In the USA, GM still sells about 60% more vehicles than Toyota.

Foreign-based car companies, including Toyota, operate a total of 13 vehicle-assembly plants in the USA. Most are in southern states, where unions are less likely to organize plant workers than in the industrial heartland, where Detroit's automakers are based. Legally, the workers, not the plant management, decide whether to unionize.

Highlander is a car-based crossover utility vehicle, a category that's booming even as sales of truck-based sport-utilities collapse.

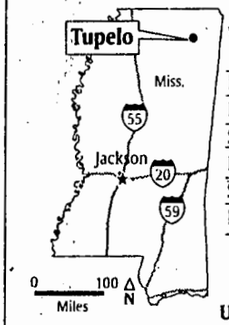
Last year, Toyota sold 129,794 Highlanders in the USA, 24% of them hybrids, according to sales tracker Autodata. All those Highlanders were imported from Japan.

The automaker didn't say whether the hybrid version would also be built in Tupelo.

Toyota has a history of announcing expansions of its North American plants even before they're completed. Spokesman Daniel Sieger wouldn't predict whether that would happen in this case. "We're just talking about 150,000 Highlanders and 2,000 employees," he said.

Toyota's new plant

Toyota will open its eighth North American vehicle assembly plant in Blue Springs, Miss., outside Tupelo. Overview of plant operations:



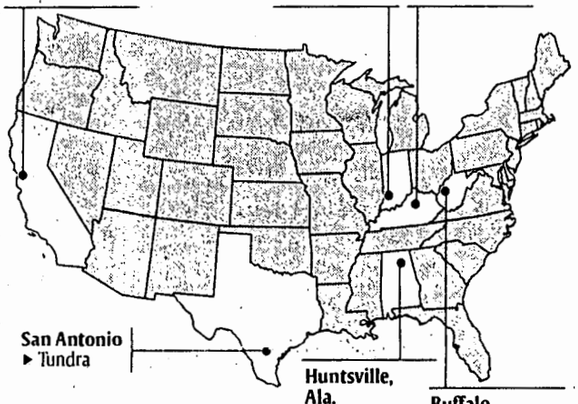
Vehicle production:	Stamping, body weld, plastics, paint and assembly
Product:	Toyota Highlander
Production capacity:	150,000 units/year
Site area:	1,700 acres
Investment:	$1.3 billion
Start of production:	2010
Employment:	2,000

U.S. Toyota assembly and powertrain plants:

Fremont, Calif. (joint venture with General Motors)
- Corolla
- Tacoma
- Pontiac Vibe

Princeton, Ind.
- Tundra
- Sequoia
- Sienna

Georgetown, Ky.
- Camry
- Camry Hybrid
- Camry Solara
- 4-cylinder and V-6 engines



San Antonio
- Tundra

Huntsville, Ala.
- V-6 and V-8 engines

Buffalo, W.Va.
- 4-cylinder and V-6 engines and automatic transmissions

Other North American plants:

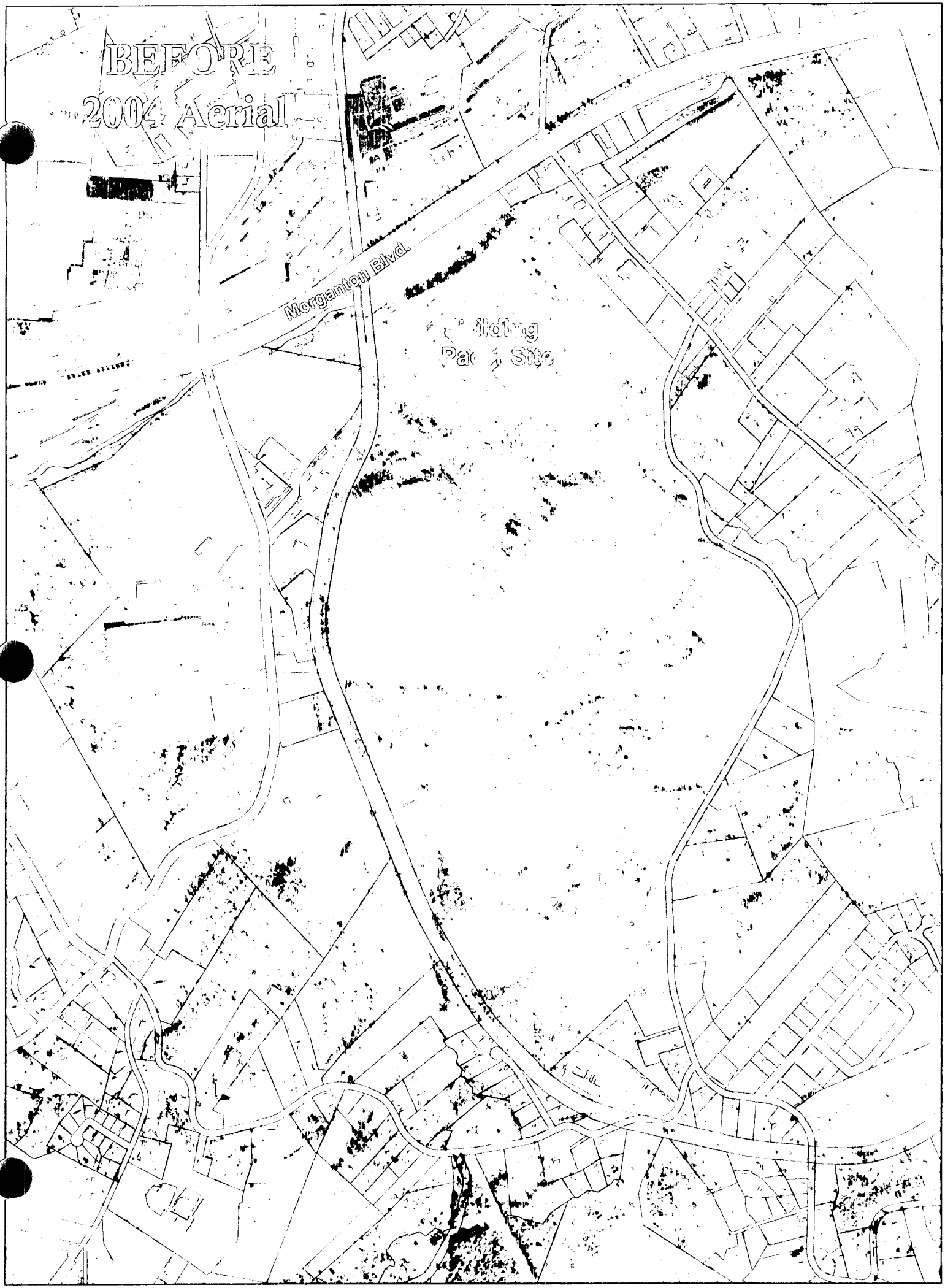
Tijuana, Mexico
- Tacoma and Tacoma truck beds

Cambridge, Ontario
- Corolla
- Matrix
- Lexus RX 350
- 4-cylinder engines

Beginning in 2008, a new Toyota plant in Woodstock, Ontario, will produce the RAV4; Toyota this spring will start producing Camrys at Subaru of Indiana Automotive in Lafayette, Ind.

Source: Toyota

By Robert W. Ahrens, USA TODAY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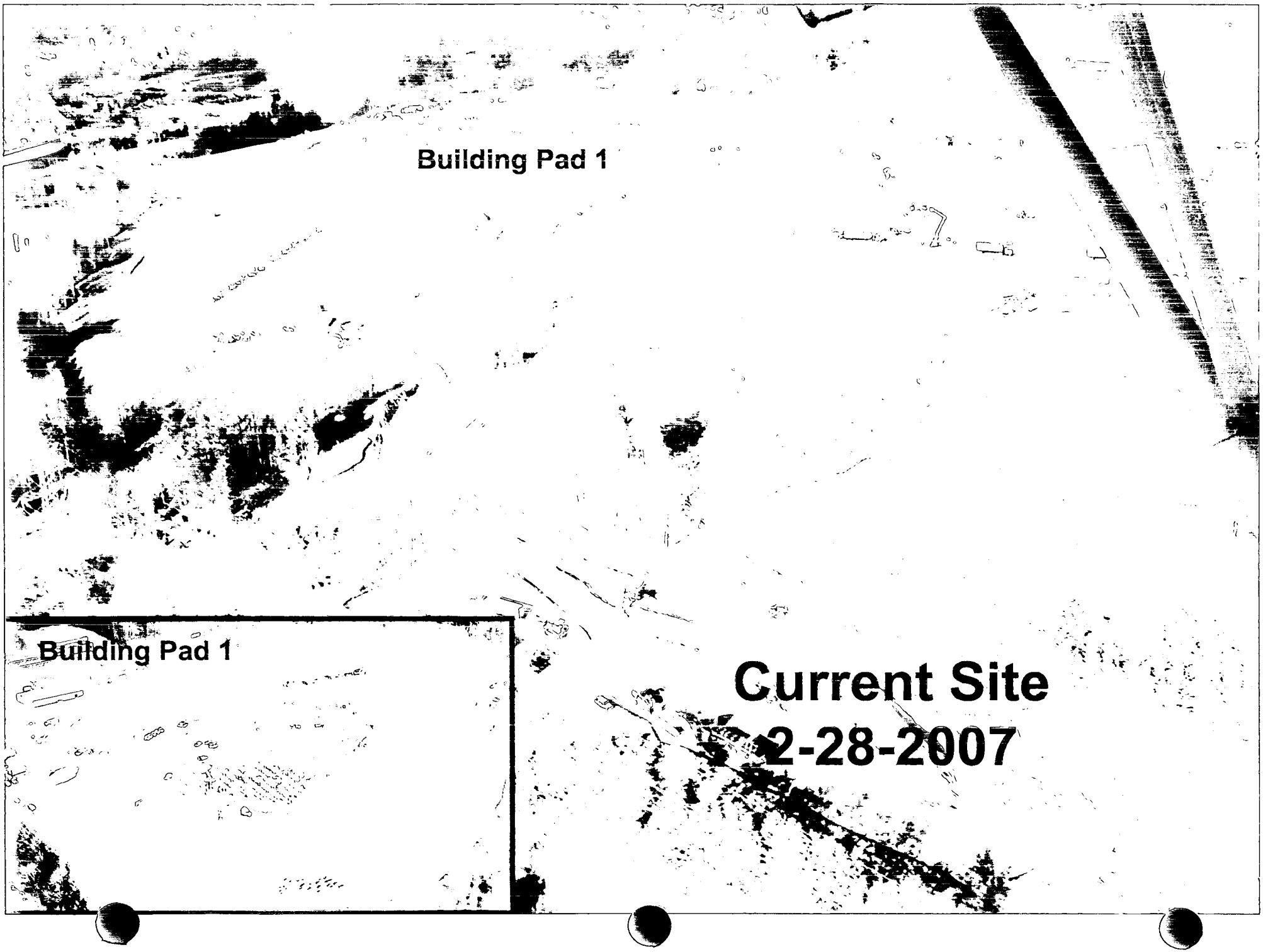
Building Pad 1
Building Pad 1
Current Site
2-28-2007

AGENDA

Joint House & Senate Finance Committees

Wednesday, March 14, 2007
Room 544 LOB
8:30 a.m.
Chaired by: Representative Wainwright

House Co-Chairs

Representative Pryor Gibson ***Representative William Wainwright***
Representative Paul Luebke ***Representative Jennifer Weiss***

Senate Co-Chairs

Senator Dan Clodfelter ***Senator David Hoyle***
Senator John Kerr

Call to Order

Introduction of Pages

Presentation: "2007 Debt Affordability Study"

State Treasurer Richard Moore

Committee Discussion

Adjournment

Overview of Debt Affordability and the 2007 Recommendations of the Debt Affordability Advisory Committee

March 14, 2007

Richard H. Moore
State Treasurer

Debt Affordability Advisory Committee - Background

- Legislation adopted in 2004 created the Committee and directed it to:
  - Annually advise the Governor and the General Assembly of the estimated debt capacity of the State for the upcoming ten years.
  - Recommend other debt management policies it considers desirable and consistent with the sound management of the State's debt.
  - Report due annually by February 1.
  - Study makes no recommendations regarding the use of available debt capacity.

NORTH CAROLINA
Debt Affordability Advisory Committee

Members of the Debt Affordability Advisory Committee

Richard H. Moore
State Treasurer

David McCoy
State Budget Officer

Robert Powell
State Controller

James V. Porto
House Appointee

E. Norris Tolson
Secretary of Revenue

Leslie W. Merritt, Jr.
State Auditor

Christopher Henson
Senate Appointee

3

NORTH CAROLINA
Debt Affordability Advisory Committee

Review
What is Debt Affordability?

- The amount of debt that may be prudently authorized and issued in a given period of time without negatively affecting the credit position or impairing the budget flexibility of the issuer.
  - The amount of debt that is affordable ("capacity") is finite
  - Capacity can be measured and compared
  - Issuance beyond a prescribed level can erode credit ratings
  - A balance between capital needs and the ability to repay debt must be achieved

4

Preliminary Outstanding Net Tax-Supported Debt by Type at June 30, 2006 (millions)

Total GO Bonds	$ 5,735
Less: Highway T.F.-Supported	(757)
Net Tax-Supported GO Bonds	$4,978
Special Indebtedness (COPs, Lease Revenue Bonds)	$733
Less: Trust Fund-Supported, Energy	(82)
Plus: Installment purchase/leases	61
Net Tax-Supported Special Indebtedness	$712
Total Net Tax-Supported Debt	$5,690

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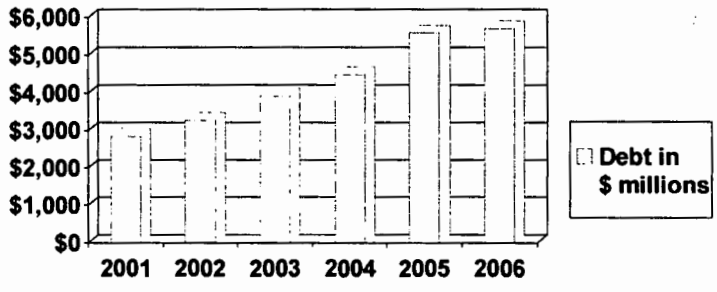
State Debt - Background

- The amount of net tax-supported debt outstanding totaled $5,690 million at 6/30/06



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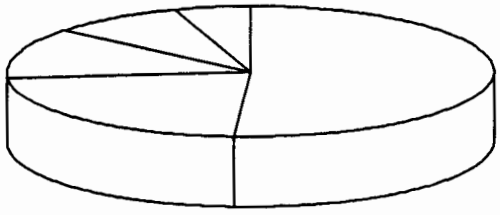
NORTH CAROLINA
Debt Affordability Advisory Committee

State Debt - Background

Outstanding Debt by Program at 6/30/06



- Higher Ed 51%
- Public Schools 23%
- Clean Water 12%
- Prison &Youth 9%
- Parks & Rec, R&R, Gas, Healthcare 5%

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NORTH CAROLINA
Debt Affordability Advisory Committee

2006 GA Session
New Debt Authorizations

■ Psychiatric Hospitals	$328.3
■ Correctional Facilities	132.2
■ University Projects	45.8
■ Youth Facilities (supp)	7.0
■ Parks and Land	20.0
■ State Projects	185.9
(Art Museum, Parking Deck, Public Health/Med Examiner, Data Center)	
TOTAL (millions)	**$719.2**

Issuance Limitations by FY (rounded)			
2007	2008	2009	2010
$226	$211	$105	$177

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NORTH CAROLINA
Debt Affordability Advisory Committee

Authorized but Unissued Debt* as of October 1, 2006

	General Obligation		Special Indebtedness	
Total Amount	$502.8 million		$760.3 million	
By Use (millions)	Univ.	$324.2	R&R	$ 75.0
	Comm. Coll.	$ 79.3	Psych. Hosp.	$ 321.1
	Clean Water	$ 99.3	Parks	$ 10.0
			Corr. Facilities	$ 175.1
			State & other	$ 179.1

*Excludes $331.5 million special indebtedness supported by non-tax revenues, trust funds and energy performance contracts.

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NORTH CAROLINA
Debt Affordability Advisory Committee

North Carolina General Obligation Bond Ratings

Rating Agency	*Rating*	*Outlook*
Fitch Ratings	AAA	Stable
Moody's Investors Service	Aaa	Stable
Standard & Poor's Rating Services	AAA	Stable

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NORTH CAROLINA
Debt Affordability Advisory Committee

"AAA" States Total Debt Comparisons

State	*Debt/Personal Income*	*Debt per Capita*	*DS % GF Expenditures*
Delaware	5.9%	$2,170	4.9%
Georgia	2.5%	759	3.1%
Maryland	2.5%	1,052	5.5%
Missouri	1.4%	454	1.2%
N. Carolina	2.4%	742	2.0%
Utah	2.7%	754	4.2%
Virginia	2.0%	760	3.2%
Median	2.5%	759	3.2%
Source:	S&P FY 2005 based on total debt & calc. other		

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NORTH CAROLINA
Debt Affordability Advisory Committee

North Carolina Tax-Supported Debt Statistics
February 2007 DAAC Study

	Debt to Personal Income	Debt per Capita	Debt Service as % Revenues	10-Year Payout Ratio
6/30/06	2.1%	$649	3.2%	52%
6/30/07 (proj.)	2.1%	$692	3.4%	53%
6/30/08 (proj.)	2.0%	$670	3.6%	57%

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NORTH CAROLINA
Debt Affordability Advisory Committee

Unreserved General Fund Balance

- Due to a combination of strong operational results and accounting changes, the deficit in the Unreserved General Fund Balance has been eliminated.
- At 6/30/06, balance totaled $1.77 billion (without accounting change, balance was estimated at $417 million).

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NORTH CAROLINA
Debt Affordability Advisory Committee

NC Debt Affordability Model Guidelines

- GF Debt Service as a % of GF Revenues
  - 4% Guideline
  - 4.75% Ceiling
- Other Measures Evaluated
  - Debt to Personal Income
  - Payout Ratio
  - Level of GF Unreserved Fund Balance

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NORTH CAROLINA
Debt Affordability Advisory Committee

NC Debt Affordability Model Highlights

- 10-Year Calculation Horizon
- All Authorized but Unissued Obligations Incorporated
- Repayment of Existing Debt Incorporated
- Results Provided on Aggregate and Smoothed Basis
- Conservative Assumptions

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NORTH CAROLINA
Debt Affordability Advisory Committee

Debt Affordability Model

- Revenues
  - General tax revenues, investment earnings, misc. revenue adjusted for non-recurring items
  - Growth rate estimated @ 3%
- Liabilities
  - Debt Service from all net General Fund tax-supported debt, including authorized but unissued debt. Definition does not include Highway Fund debt, trust fund-supported or other self-supporting debt (but neither are the revenues associated with these liabilities included).

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Other Post Employment Benefits ("OPEB")

- OPEB liabilities are not included in the DAAC model
- Not considered tax-supported debt unless actual debt obligations are issued to fund the liability
- Rating Agencies concur

February 1, 2007 Debt Affordability Study Results (in Millions)

4 %	2007	2008	2009	2010	2011
Total Capacity	$1,032	$149	$50	$56	$520
Annual Capacity	384	384	384	384	384

4.75%	2007	2008	2009	2010	2011
Total Capacity	$2,888	$191	$72	$125	$170
Annual Capacity	636	636	636	636	636

State of North Carolina

Debt Affordability Study

February 1, 2007

Debt Affordability Advisory Committee

Department of State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385
Phone: 919-508-5176

STATE OF NORTH CAROLINA
DEBT AFFORDABILITY ADVISORY COMMITTEE

February 1, 2007

To: Governor Michael Easley
Lieutenant Governor Beverly Perdue, President of the North Carolina Senate
Senator Marc Basnight, President Pro Tempore of the North Carolina Senate
Representative Joseph Hackney, Speaker of the North Carolina House of Representatives
Members of the 2007 General Assembly through the Fiscal Research Division

Attached is the February 1, 2007 report of the Debt Affordability Advisory Committee submitted to you pursuant to North Carolina General Statute §142-101. The report was created to serve as a tool for sound debt management practices by the State of North Carolina.

The report provides the Governor and the General Assembly with a basis for assessing the impact of future debt issuance on the State's fiscal position and enables informed decision-making regarding both financing proposals and capital spending priorities. A secondary purpose of the report is to provide a methodology for measuring, monitoring and managing the State's debt levels, thereby protecting North Carolina's bond ratings of AAA/Aaa/AAA.

The Committee is particularly proud to report that on January 12, 2007, Moody's Investors Service upgraded the State's General Obligation bond rating to Aaa with a stable outlook. North Carolina takes its place once again in the select group of only seven states awarded top ratings by all three of the bond rating agencies.

The methodology used by the Committee to analyze the State's debt position incorporates historical and future trends in debt levels, peer group comparisons and provides recommendations within adopted guidelines. The Committee has also provided recommendations regarding other debt and financial management related policies considered desirable and consistent with the sound management of the State's debt. Such recommendations were developed incorporating management practices consistent with those utilized by the most highly-rated states.

Respectfully submitted,

Richard H. Moore, State Treasurer
Chair, Debt Affordability Advisory Committee

Members of the Debt Affordability Advisory Committee:

Mr. Richard H. Moore, State Treasurer

Mr. E. Norris Tolson, Secretary of Revenue

Mr. David McCoy, State Budget Officer

Mr. Leslie W. Merritt, Jr., State Auditor

Mr. Robert Powell, State Controller

Mr. Christopher Henson, Senate Appointee

Mr. James V. Porto, House Appointee

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Executive Summary

Studies of debt affordability are an essential management tool that help to provide a comprehensive assessment of a government's ability to issue debt for its capital needs. Standard & Poor's, one of the three major bond rating agencies, stated in a 2005 report that "Most of the 'AAA' states have a clearly articulated debt management policy. Evaluating the impact of new or authorized but un-issued bond programs on future operating budgets is an important element of debt management and assessing debt affordability."

Control of tax-supported debt is a key factor affecting credit quality. North Carolina currently maintains a reasonable level of debt when compared with a peer group composed of the most highly-rated states.

The 2004 General Assembly adopted legislation creating a Debt Affordability Advisory Committee (the "Committee") to annually advise the Governor and the General Assembly of the estimated debt capacity of the State for the upcoming ten fiscal years. The legislation also directs the Committee to recommend other debt management policies it considers desirable and consistent with the sound management of the State's debt. The Committee hereby presents its Study for 2007.

Recommended Guidelines and Amounts of Debt

The Committee has adopted the following targets and outside guidelines to measure the recommended amount of debt that the State could prudently authorize and issue over the next 10 years:

- Net Tax-Supported Debt Service as a percentage of General Tax Revenues should be targeted at no more than 4% and not exceed 4.75%;
- Net Tax-Supported Debt as a percentage of Personal Income should be targeted at no more than 2.5% and not exceed 3.0%; and
- The amount of debt to be retired over the next ten years should be targeted at no less than 55% and not decline below 50%.

The Committee adopts the ratio of net tax-supported debt service as a percentage of revenues as the preferred ratio for the base calculations. It further determines that a measure of annual debt capacity over a given time period provides a more useful management tool for policymakers than a measure that assumes that available debt capacity is utilized as soon as it is available.

A combination of strong revenue growth, the retirement of existing debt and continued low interest rates enables the State to project a moderate amount of available debt capacity for the immediate future. Specifically, the Committee finds that the State could annually authorize $384 million of new tax-supported debt over the model horizon and remain within its targeted ratio. However, as more debt is issued the State has less budget flexibility to address any declines in revenue that might occur.

Table 1

Net Tax-Supported Debt Capacity using 4.0% debt service/revenues target ratio
(In Millions of dollars)

Fiscal Year	2007	2008	2009	2010	2011
Total Additional Debt Capacity per Year *	$1,032.1	$149.1	$50.4	$56.3	$520.2
Debt Capacity Available Each and Every Year	384.0	384.0	384.0	384.0	384.0

* In addition to that already Authorized but Unissued. Assumes additional debt capacity is authorized and issued in stated fiscal year.

Other Recommendations

As directed by statute, the Committee submits the following additional recommendations that it finds desirable and consistent with the sound management of the State's debt:

General Fund Balance

The Committee confirms its view that achieving structural budgetary balance and rebuilding the State's reserve funds are strong evidence of financial stability and flexibility. The progress the State has made in rebuilding its reserves coupled with legislative action raising the targeted level of the State's Savings Reserve Fund ("Rainy Day Fund") is encouraging. At FY 2006 year-end, the Unreserved General Fund Balance (GAAP basis) totaled $1.770 billion, or 10.4% of recurring General Fund tax revenues. This marked improvement is the result of both strong operational results and a change in accounting methodology. Without the accounting change, estimates put the Unreserved General Fund Balance at $417 million.

The Committee recognizes that legislative action has targeted an 8% level of reserves in the State's Rainy Day Fund and believes this targeted level is consistent with previous Committee recommendations.

Capital Project Costs and the use of Pay-Go Funding

A consideration that affects project costs and future debt service capacity is the use of "pay-as-you-go" ("PAYGO") funding of capital projects. By using current revenues to fund a portion of the capital improvements plan, the State can reduce future debt service and retain debt capacity. For example, if the State funded a capital project with $50 million as PAYGO rather than financing it through a $50 million, 20-year bond issue, the State would save approximately $20.9 million in total interest payments over the life of the issue assuming current market conditions.

General Obligation Bonds versus Special Indebtedness

The Committee recognizes the State's exclusive reliance in recent years on the authorization of Special Indebtedness (for example, Certificates of Participation and lease revenue bonds) to

provide debt financing for capital projects. Such indebtedness is not subject to a vote of the people and its repayment is based on the State's annual debt appropriation. For these reasons, Special Indebtedness is rated lower than the State's General Obligation bonds and typically carries a higher interest rate, which increases the cost of projects so financed. It is recommended that the State balance its approach and consider the authorization of General Obligation debt as the preferred, if no longer exclusive, method to finance capital projects. Further discussion is found in Section II, Review of State Debt.

Conclusions

Currently, all of the State's debt ratios are below median levels for all fifty states, as well as the ratios for the State's peer group composed primarily of states rated "triple A" by all three rating agencies. North Carolina's debt is considered manageable at current levels.

As the State continues to issue debt that has already been authorized, the absolute level of tax-supported debt is projected to increase and will stand at approximately $6.173 billion by the end of Fiscal Year 2007. On an absolute basis, debt service will increase through Fiscal Years 2010 and 2011, declining thereafter. As a percentage of general tax revenues, debt service peaks in Fiscal Year 2008 at 3.6%, below its 4.0% target. The ratio of debt to personal income is projected to remain steady to 2.1% in Fiscal Year 2007. The ten-year payout ratio, which stood at 52% at June 30, 2006, is projected to improve substantially over the near term, reaching its targeted goal in FY 2008. Finally, due to a combination of strong operational results and accounting changes, the State has succeeded in eliminating the deficit in the Unreserved General Fund Balance.

The State has enjoyed a period of strong revenue growth and has been able to significantly replenish its reserves. The debt model now projects availability to support $384 million in new debt authorizations annually over the model horizon.

Introduction and Background

In 2003, the North Carolina Department of State Treasurer prepared the first Debt Affordability Study to provide a methodology for measuring, monitoring and managing the State's debt capacity. In 2004, the General Assembly adopted legislation creating a Debt Affordability Advisory Committee to annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming ten fiscal years.

Debt capacity is a limited and scarce resource. It should be used only after evaluating the expected results and foregone opportunities. The Study enables the State to structure its future debt issuances within existing and future resource constraints by providing a comparison of its current debt position to relevant industry standards, and by evaluating the impact of new debt issuances as well as changes in the economic climate on the State's debt position. The Study can thus be used to help develop and implement the State's capital budget. The Study is premised on the concept that resources as well as needs should guide the State's debt issuance program.

Although the State's level of authorized and unissued debt is manageable, establishing guidelines for future debt issuance and financial performance is a critical part of prudent debt management and can keep the debt burden from becoming excessive. The Committee recognizes that such guidelines must strike a balance between providing sufficient debt capacity to allow for the funding of essential capital projects and imposing sufficient discipline so that the State does not create a situation that results in a loss of future budgetary flexibility and could lead to a deteriorating credit position. Control of debt burden is one of the four key factors used by rating agencies' analysts in assessing credit quality. The other three are economic vitality and diversity, fiscal performance and flexibility and the administrative capabilities of government.

The Debt Affordability Committee has recommended both target and maximum (ceilings) debt ratios to use as guidelines to measure and control the State's debt burden. The adoption of such guidelines demonstrates that the State is committed to decreasing capital spending or finding new sources of revenue rather than imposing an excessive debt burden on future budgets.

Section I -The North Carolina Debt Affordability Model

The Debt Affordability Committee has adopted the measure of annual debt service arising from net tax-supported debt as a percentage of general tax revenues as its basis to evaluate the State's existing and projected debt burden. The Committee notes that policymakers control both variables that determine this ratio. By measuring what portion of the State's resources is committed to debt-related fixed costs, this ratio reflects the State's budgetary flexibility and ability to respond to economic downturns.

The results of the debt model are presented both as a total aggregate and as an annual amount which smoothes the solution over time. The result is the amount of new debt that the State can afford to authorize and issue each and every year while staying within its targeted ratios. Section IV and Appendix B contain the detailed presentation of the model solutions.

Debt Used in the Model Calculation

The model uses a definition of net tax-supported debt that includes General Obligation Bonds, Special Indebtedness, Capital Lease Obligations, Installment/Equipment Leasing Obligations and any other such obligations that are owed to a third party over a predetermined schedule from General Fund Revenues. Obligations of Component Units, Highway Fund debt paid from Highway Fund revenues, non tax-supported special indebtedness paid from non-general fund supported trust funds and other self-supporting or non-tax supported debt such as revenue bonds and short term tax anticipation notes are excluded from the definition of net tax-supported debt. Also excluded are obligations termed Other Post Employment Benefits ("OPEB") currently estimated to total $23.9 billion. See Appendix A for more discussion of OPEB and its exclusion from the model.

Model Assumptions regarding Revenue Growth and Sensitivity Analysis

The Committee recognizes that it cannot predict the future level of interest rates or the pace of revenue growth and recognizes the sensitivity of the model results to such factors. Changes in revenue estimates have a particularly significant impact on the calculation of available debt capacity because of the multiplier effect of compounding growth over the ten-year period. Such projections are especially important when they reflect changing or different economic outlooks. The Committee has adopted a revenue growth assumption that applies a growth rate of 3.0% to base revenues but has reviewed sensitivity analysis based on differing revenue assumptions.

Debt Structuring Assumptions

The following assumptions were used in this year's debt affordability model calculations:

- The rate on existing Variable Rate Debt will average 4%.
- The interest costs on all authorized but unissued General Obligation ("GO") and non-GO issues will be 5.50% and 6.00%, respectively.

- GO debt will be structured with a 20-year maturity with an overall level principal payment profile after the first year.
- Non-GO debt will be structured with a 20-year maturity with an overall level debt service or principal payment profile after the first year.
- Incremental model debt will be structured with a fixed rate 20-year maturity, a 6% interest rate, and an overall level debt service payment profile after the initial years.

Section II – Review of State Debt

Outstanding Debt

The State issues two kinds of tax-supported debt: General Obligation Bonds and various kinds of "Special Indebtedness", which are also known as Appropriation-Supported Debt. General obligation bonds are secured by the full faith, credit and taxing power of the State. The payments on all other kinds of long-term debt, including Certificates of Participation ("COPs"), lease-purchase revenue bonds, capital lease obligations and equipment installment purchase contracts are subject to appropriation by the General Assembly. Some appropriation-supported debt is also secured by a lien on facilities or equipment.

Debt that is determined to be self-supporting or supported by non-general fund tax revenues does not constitute net tax-supported debt but is included in the definition of "gross" tax-supported debt used by some analysts.

The State's outstanding gross and net tax-supported debt positions as of June 30, 2006 are shown below.

Chart 1

State of North Carolina Outstanding Net Tax-Supported Debt

	June 30, 2006
General Obligation Bonds Total	$ 5,734,665,995
Less: Self-Supporting payable from Highway Trust Fund	756,755,000
Net Tax-Supported General Obligation Bonds	$ 4,977,910,995
Appropriation Supported Indebtedness:	
Certificates of Participation / Lease Revenue Bonds	$ 733,006,000
Less: Self-Supporting payable from Energy Performance Contracts, [1] Tobacco and Health and Wellness Trust Funds	91,736,250
Net Tax-Supported Certificates of Participation / Lease Revenue Bonds	$ 651,268,750
Plus: Installment Purchase Contracts / Equipment & Capital Leases [2]	60,865,626
Net Appropriation-Supported Indebtedness	$ 712,134,376
Gross Tax-Supported Debt	$ 6,528,636,621
Less: Self - Supporting / Trust Fund Debt	838,491,250
Net Tax-Supported Debt	$ 5,690,045,371

[1] HB 1264 Debt Supported by the Clean Water, Natural Heritage and Parks and Recreation Trust Funds is not considered to be self-supporting because these Trust Funds flow through the General Fund.
[2] Source: Office of State Budget & Management pursuant to G.S. 147-33.72H.

General Obligation Bonds versus Special Indebtedness

Prior to 2001, the State issued only General Obligation ("GO") debt. Such debt is usually considered to be the highest quality of all the various types of debt or debt-like instruments and

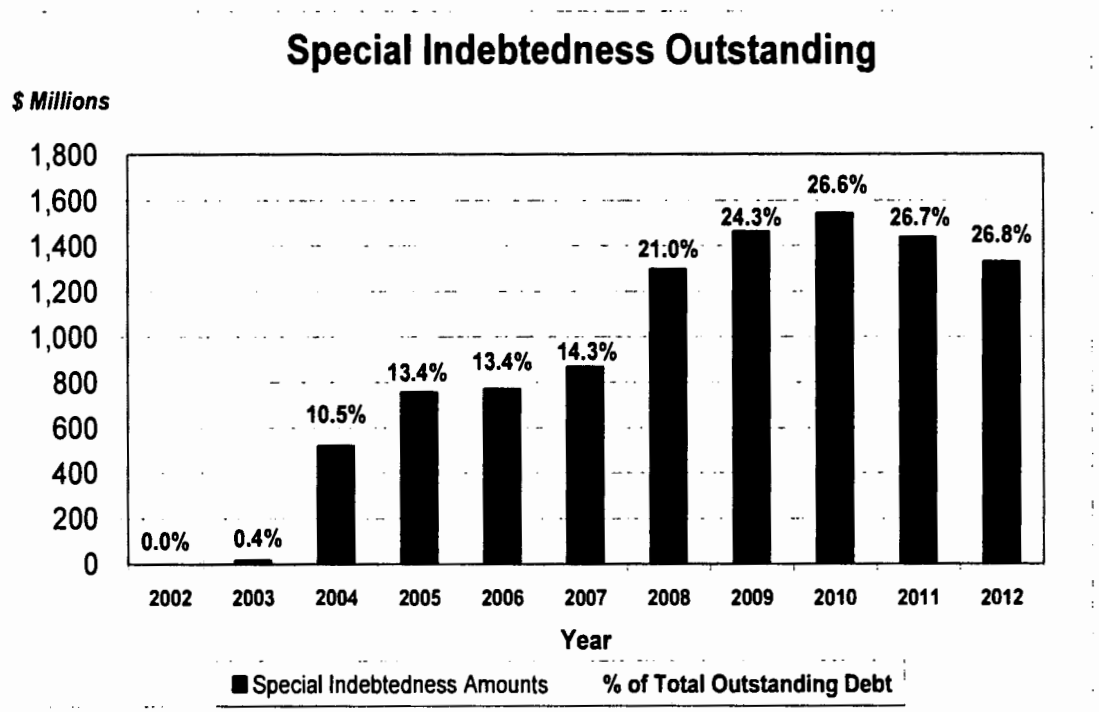
usually carries the highest credit rating. Several factors contribute to the high rating including the legal protections inherent in constitutionally permitted debt, investor confidence in the pledge of the full faith and credit of the State and the presumption of the availability of the government's full resources. GO bonds are generally the most transparent of the various types of State debt obligations and typically carry the lowest interest cost.

Special Indebtedness, also termed appropriation-supported debt, is a relatively recent financing vehicle employed by the State. Secured by a specific stream of revenues or by a lease payment or financing agreement (and sometimes by a security interest in the project being financed), such obligations are typically paid from annual budgeted appropriated amounts for debt service. Depending upon the credit and structure, appropriation-supported debt is usually assessed an interest rate penalty ranging from 5 to 20 basis points when compared with the State's GO bonds. Although modest, the interest rate penalty does increase the cost of the projects being financed.

Most states have diversified their debt portfolios and utilize these non-GO structures, which include Certificates of Participation and lease revenue bonds. However, the State of North Carolina has exclusively authorized this type of financing since 2000, when the last GO bond package was authorized.

The amount of the State's outstanding appropriation-supported debt is shown below, with the percentage of appropriation-supported debt to total debt on a percentage basis noted. Also shown is a projection of the amount and percentage of appropriation-supported debt through FY 2012, assuming issuance of all existing debt authorizations.

Chart 2



Note: Total Outstanding Debt does not include debt funded by the Highway Trust Fund

In December 2006, FitchRatings published a report analyzing the amount of non-GO debt currently carried by all 50 states. They found that the higher-rated states tend to have the highest amount of GO debt relative to their total debt positions. For example, for "triple A" states, the median ratio of GO debt to total tax-supported debt was 74%, while the ratio for all "double A" states (without modifiers) was 70%. The State of North Carolina is in the range of the medians reported for the "triple A" states but without a more balanced approach to authorizing debt, will move closer to the levels evidenced by lower-rated entities.

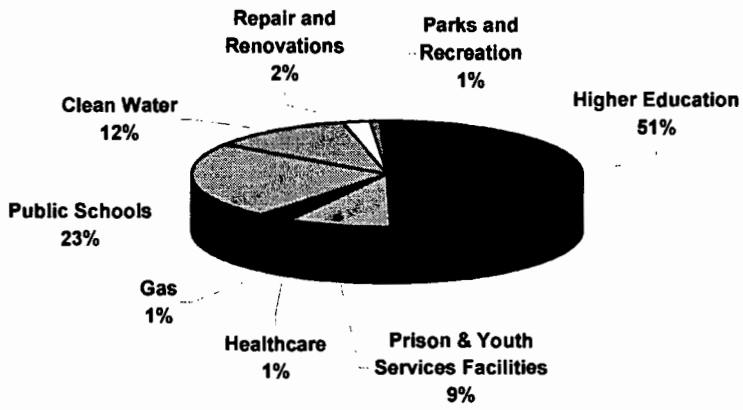
The Committee therefore recommends that the State move away from exclusively authorizing Special Indebtedness for its capital financing needs and consider the authorization of General Obligation debt as the preferred method to provide debt financing.

Uses of Outstanding Tax-Supported Debt

The following chart illustrates the uses for which the State has issued net tax-supported debt calculated on the amount outstanding. The State has used the proceeds of its debt programs for many purposes with the two largest being to provide facilities and infrastructure for higher education (51%) and public schools (23%).

Chart 3

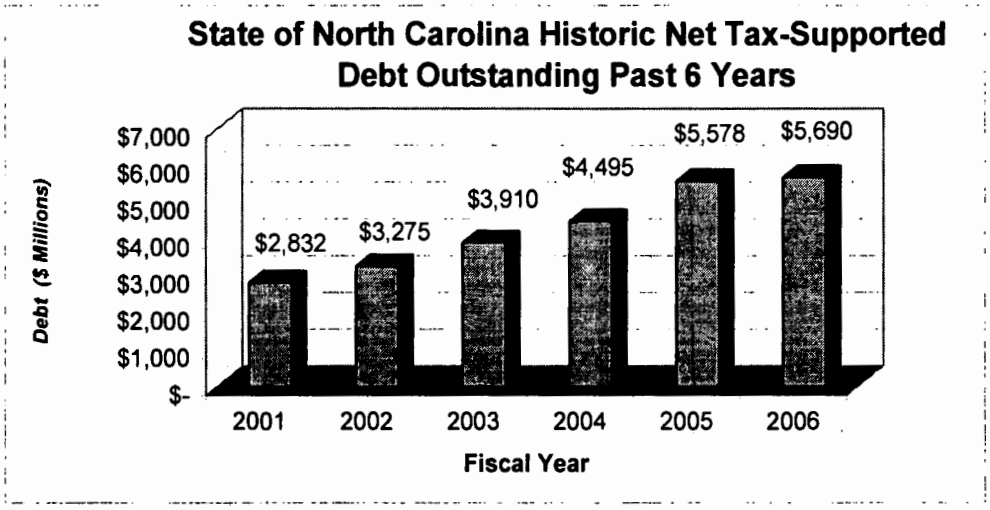
North Carolina Outstanding Net Tax-Supported Debt by Program as of June 30, 2006



Growth in State Debt

Net tax-supported debt has shown significant growth over the last six years as the State has used debt financing to address the requirements of a growing population for education and other capital needs. Tax-supported debt increased from $2.8 billion at June 30, 2001 to approximately $5.7 billion at June 30, 2006. Chart 4 below illustrates the growth in total State net tax-supported debt outstanding over the last six years.

Chart 4



Authorized but Unissued Debt

The State issues debt on a cash flow basis. Bond issues are timed to provide funds as they are actually needed. Therefore there is typically a lag between when debt is authorized and when it is actually issued. As of the end of December 2006, the amount of such authorized but unissued net tax-supported debt totaled approximately $1.26 billion, including $403 million Higher Education Bonds, $99 million Clean Water Bonds, and $760 million of Certificates of Participation to fund various other projects. For planning purposes, the State anticipates issuance of all currently authorized but unissued debt through Fiscal Year 2010.

Chart 5 below shows the projected pace of net tax-supported debt issuance over the next three years. As discussed previously, Highway debt and other special indebtedness payable from non-tax supported revenue is excluded.

Chart 5

Currently Authorized but Unissued Net Tax-Supported Debt
Plan of Issuance as of 12/31/06
(Dollars in Millions)

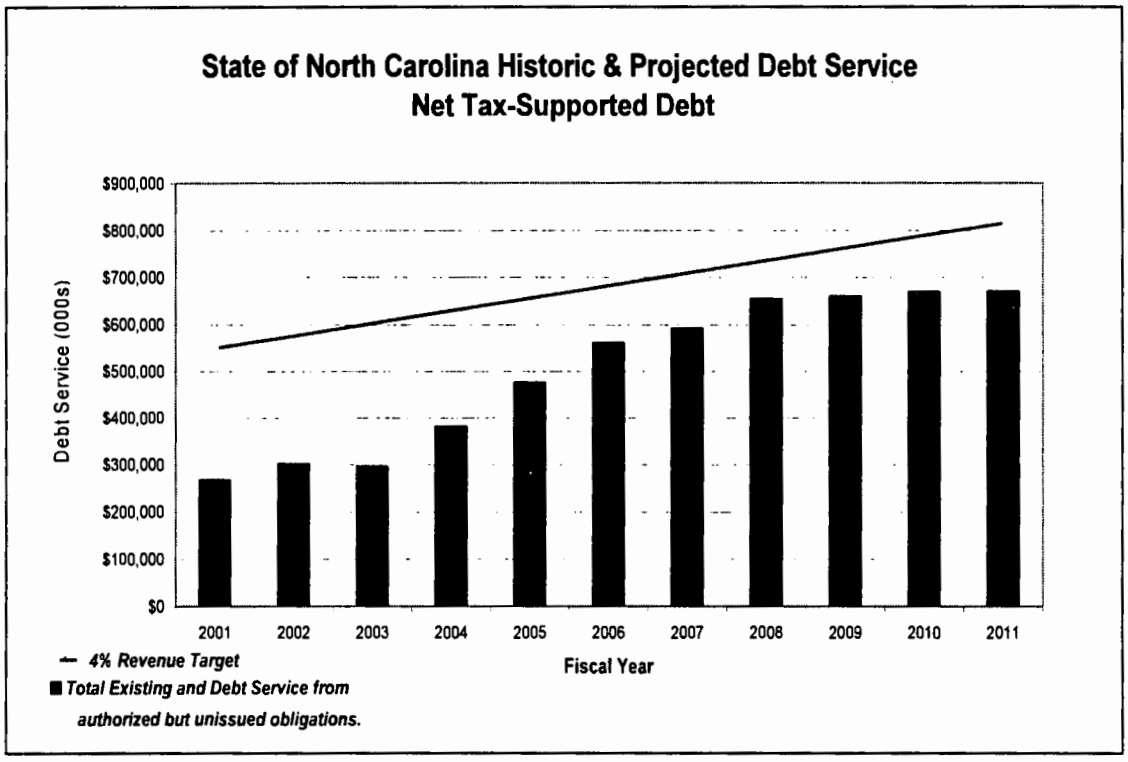
	General Obligation				*Special Indebtedness*						
	University Projects	Community Colleges	Clean Water	Sub Total	Repair & Renovation	Psychiatric Hospitals	Parks & Land	Correctional Facilities	State Projects & Other	Sub Total	Total
Authorized & Unissued as of December 31, 2006	$324.2	$79.3	$99.3	$502.8	$75.0	$321.1	$10.0	$167.0	$187.2	$760.3	$1,263.1
Assumed Issued											
FY 2007	324.2	79.3	99.3	502.8	0.0	12.8	4.6	34.5	1.3	53.2	556.0
FY 2008	0.0	0.0	0.0	0.0	75.0	20.5	5.4	50.0	121.8	272.7	272.7
FY 2009	0.0	0.0	0.0	0.0	0.0	287.8	0.0	82.5	64.1	434.4	434.4
Total:	$324.2	$79.3	$99.3	$502.8	75.0	321.1	10.0	167.0	187.2	760.3	1263.1

Debt Service

The amount the State spends on debt service each year has risen, both on an absolute basis and as a percentage of general tax revenues. This trend is expected to continue for the near future, as the absolute amount of outstanding debt also increases. Both the State's historic and projected debt service, incorporating the debt service on all authorized but unissued amounts, is illustrated below in Chart 6.

The scheduled retirement of debt is an important source of future debt capacity and its impact is incorporated into the affordability analysis presented in Section IV and Appendix B.

Chart 6



Section III - Review of State Credit Ratings and Comparative Ratios

Credit ratings are the rating agencies' assessment of a governmental entity's ability and willingness to repay debt on a timely basis. Credit ratings are an important factor in the public credit markets and can influence interest rates a borrower must pay.

Chart 7

North Carolina Credit Rating Matrix

State of North Carolina

General Obligation Bond Credit Ratings as of January 12, 2007

Rating Agency	*Rating*	*Outlook*
Fitch Ratings	AAA	Stable
Moody's Investors Service	Aaa	Stable
Standard & Poor's Rating Services	AAA	Stable

The State's general obligation bonds are rated AAA with a "stable" outlook by FitchRatings ("Fitch"), and AAA with a "stable" outlook by Standard & Poor's Ratings Services ("S&P") and Aaa by Moody's Investors Service ("Moody's") with a "stable" outlook, the highest ratings attainable. On January 12, 2007, Moody's reinstated North Carolina's Aaa rating, citing the State's strong financial performance, relatively moderate debt burden, effective management, healthy financial outlook, replenishment of reserves and recent economic gains surpassing the national averages. The action by Moody's underscores the benefits of the State's conservative approach to its financial operations.

Comparison of Debt Ratios to Selected Medians

A comparison to national and peer group medians is helpful because absolute values are more useful with a basis for comparison. The primary source for this information is Standard & Poor's 2006 Public Finance Scorecard.

How North Carolina compares with its peers for the three debt ratios evaluated is presented below. The peer group is composed of states rated "triple A" by all three credit rating agencies (Delaware, Georgia, Maryland, Missouri, North Carolina, Utah and Virginia) and South Carolina which is rated "triple A" by two of the three agencies. As shown in Chart 8, the State's debt ratios are below the median levels for its peer group.

Chart 8

North Carolina Debt Ratios
versus Actual Ratios for Other Highly Rated States *

State	Ratings (Fitch/S&P/Moody's)	2005 Debt to Personal Income	2005 Debt per Capita	2005 Total Debt Service as % of General Fund Expenditures
Delaware	AAA/AAA/Aaa	5.9%	$2,170	4.9%
Georgia	AAA/AAA/Aaa	2.5%	759	3.1%
Maryland	AAA/AAA/Aaa	2.5%	1,052	5.5%
Missouri	AAA/AAA/Aaa	1.4%	454	1.2%
South Carolina	AAA/AA+/Aaa	2.2%	618	3.4%
North Carolina	AAA/AAA/Aaa	2.4%	742	2.0%
Utah	AAA/AAA/Aaa	2.7%	754	4.2%
Virginia	AAA/AAA/Aaa	2.0%	760	3.2%
	Peer Group Median	2.5%	$757	3.3%
	NC Ratio to Median	98.0%	98.1%	60.6%

Tax-Supported Debt Ratios

North Carolina			Tax-Supported Debt Service as a % of DAAC Revenues
2006 (Actual)	2.1%	$649	3.2%
2007	2.1%	$692	3.4%
2008	2.0%	$670	3.6%
2009	1.8%	$645	3.5%

* Source: Standard & Poor's 2006 Public Finance Scorecard and selected calculated information.
North Carolina projections are based on February 1, 2007 DAAC Report.

SECTION IV – Guidelines and Model Results

Net Tax-Supported Debt Service as a Percentage of General Tax Revenues

The Committee adopted the following target and ceiling guidelines as the preferred measure used to determine the amount of net tax-supported debt that can be prudently authorized by the State:

- Net Tax-Supported Debt Service as a percentage of General Tax Revenues should be targeted at no more than 4% and not exceed 4.75%.

The Committee adopted a revision in the manner that the amount of debt affordability is presented for the 2006 report, recognizing that a measure of affordability that assumes that all additional debt that the State has the capacity to authorize is issued in the year it is available is not consistent with current practice. There is often a time lag, sometimes of multiple years, between when debt is authorized and when it is issued. The adopted annual measure smoothes the amount of debt the State can afford to prudently authorize each and every year for the model horizon without exceeding its target ratios. In practice, the limit imposed by the years of the least capacity over the model horizon (2011 and 2012) drives the smoothing.

4.0% Target Ratio/Debt Service Impact

Illustrated below the first line is the actual amount of new tax-supported debt that could be authorized and issued by year staying within the 4.0% target ratio. The second line shows this new debt amount smoothed over every year of the planning horizon.

One important source of capacity is the retirement of existing debt. As the State retires debt, the amount becomes a resource of future capacity. The amount of debt to be retired totals nearly $1.86 billion through 2011 and is netted from Total Debt Capacity per year to illustrate the impact versus that of revenue growth.

Finally, the debt service arising from the presumed issuance of $384 million of new debt annually is illustrated.

Table 2

Net Tax-Supported Debt Capacity using 4.0% debt service/revenues target ratio
(In Millions of dollars)

Fiscal Year	2007	2008	2009	2010	2011
*Total Additional Debt Capacity per Year **	$1,032.1	$149.1	$50.4	$56.3	$520.2
Debt Capacity Available Each and Every Year	384.0	384.0	384.0	384.0	384.0

* In addition to that already Authorized but Unissued. Assumes additional debt capacity is authorized and issued in stated fiscal year.

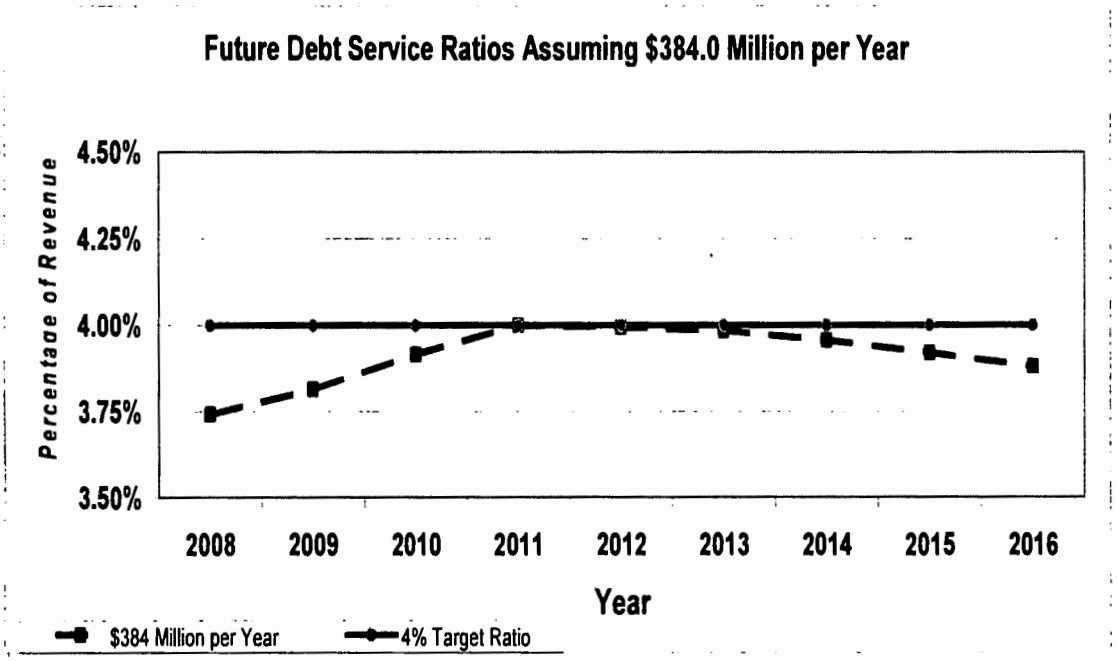
Table 3

Retirement of Outstanding Debt Compared to the $384.0 Million Annual Debt Capacity
(In Millions of Dollars)

Fiscal Year	2007	2008	2009	2010	2011
Retirement of Outstanding Debt	333.2	367.5	374.9	386.8	395.1
Debt Capacity in Excess of Retirement of Debt	50.8	16.5	9.1	(2.8)	(11.1)
Additional Debt Service on Debt Capacity ($384.0 million / year)	0.0	28.3	59.7	94.1	134.4

A chart showing the ratio of debt service to revenues that is the result assuming the annual $384 million is issued as shown below in Chart 9.

Chart 9



Sensitivity Analysis on 4% Target Solution

The model results are highly sensitive to changes in revenue assumptions. Specifically, a one percent change, either up or down, in general tax revenues in each and every year of the model solution horizon will change the amount of annual debt capacity each and every year by approximately $22 million. The effect of a variation in revenues of $100 million per year will impact the amount of new debt that may be prudently issued each and every year by approximately $12 million per year.

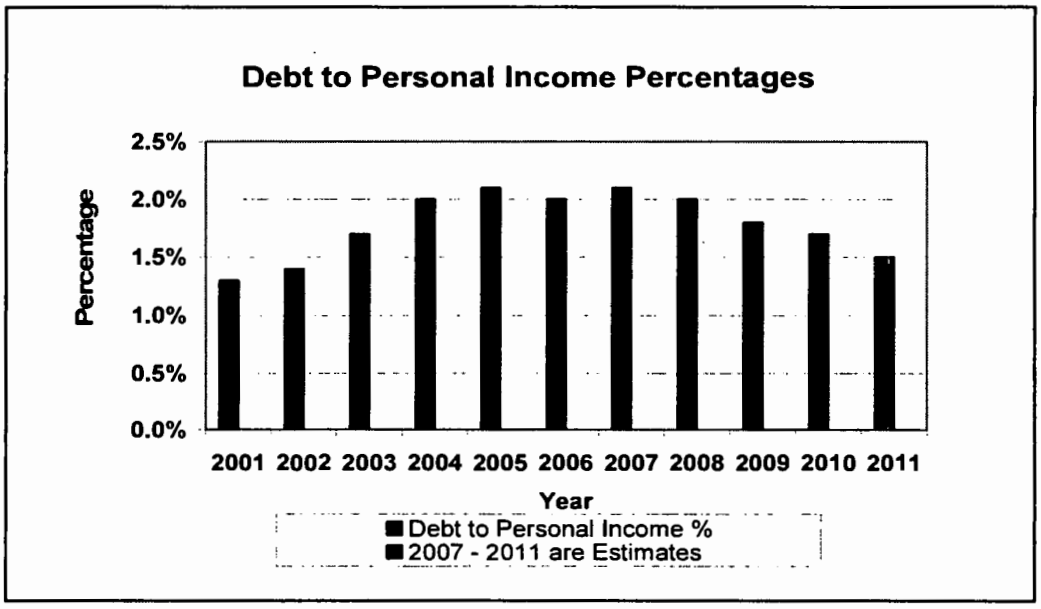
Net Tax-Supported Debt to Personal Income

The Committee has also established guidelines for evaluating the State's debt burden as a measure of personal income, as follows:

- Net Tax-supported Debt as a percentage of Personal Income should be targeted at no more than 2.5% and not exceed 3.0%.

Chart 10 below, shows that the amount of tax-supported debt as a percentage of personal income has been rising and will peak in Fiscal Year 2007 incorporating all currently authorized but unissued debt.

Chart 10



Source: Population and Personal Income statistics provided by "Moody's Economy.com" courtesy of the North Carolina General Assembly Fiscal Research Division.

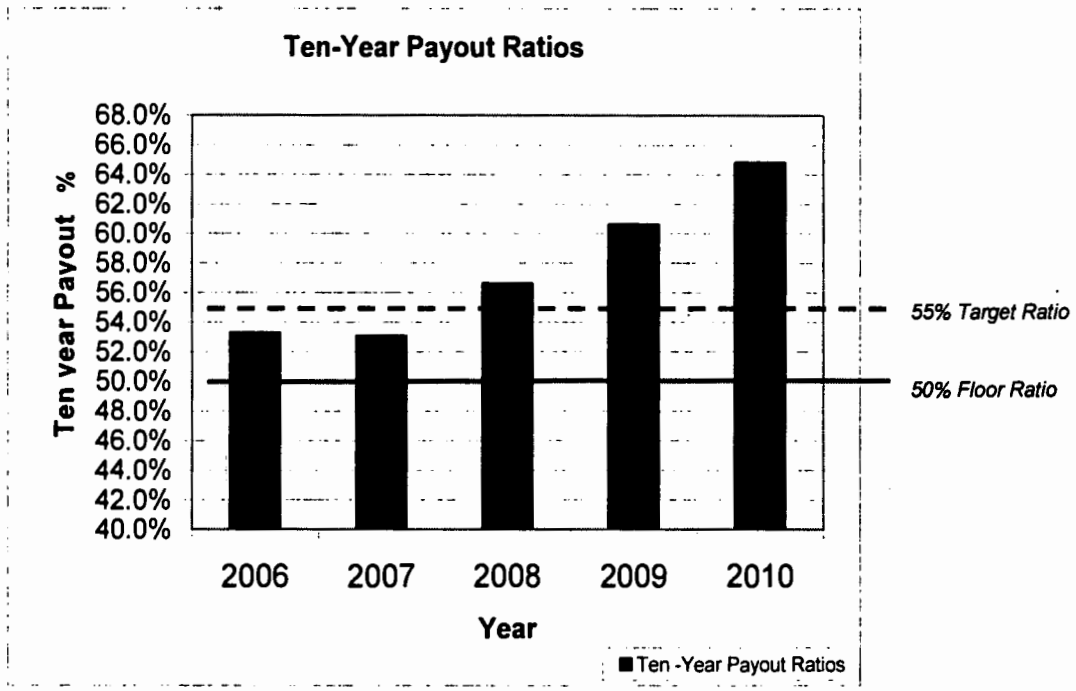
Ten-Year Payout Ratio

A short period of time within which a State retires outstanding debt obligations is considered a positive credit attribute. The Committee has adopted the following guideline regarding the payment structure of the State's debt:

- The amount of debt to be retired over the next ten years should be targeted at no less than 55% and should not decline below 50%.

Chart 11 below illustrates that the State's payout ratio will reach its targeted levels in Fiscal Year 2008 and beyond.

Chart 11



Level of Unreserved Fund Balance

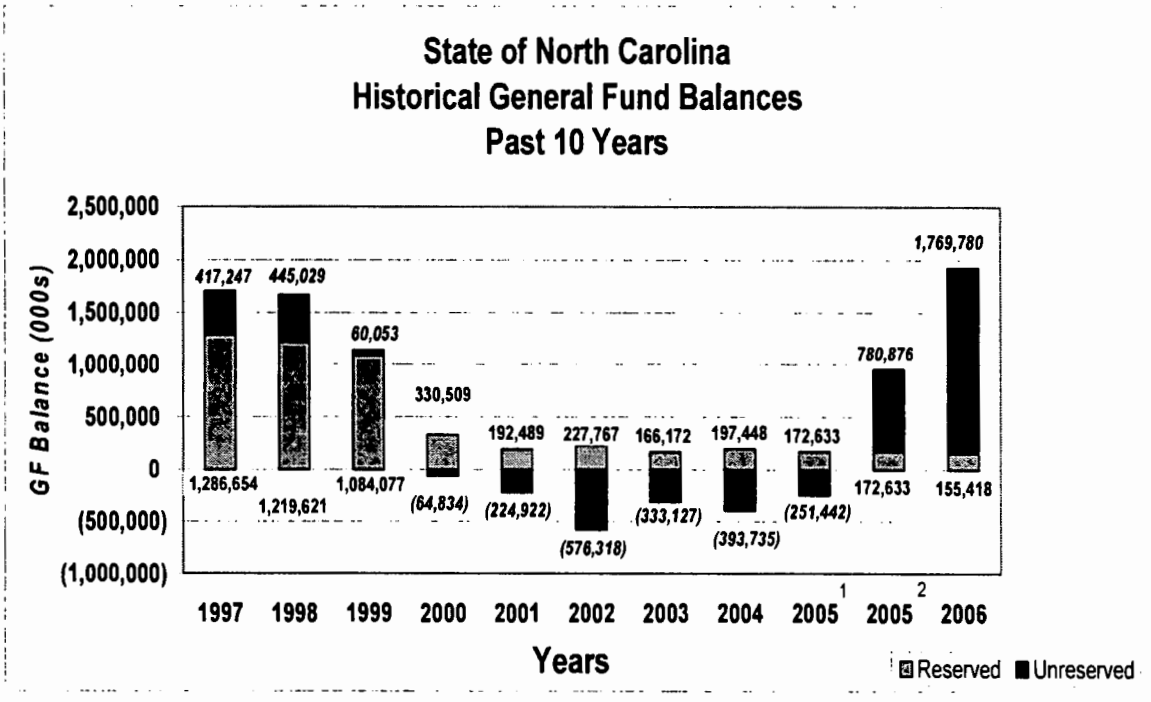
As discussed previously, the rating agencies place emphasis on budgetary reserves. In a report dated December 22, 2005, Standard & Poor's stated that "...reserves are critical to managing economic cycles and providing substantial flexibility to manage the budget and capital requirements of a government."

During 2006, through a combination of strong operational results and a change in accounting methodology that achieves a better match between accrual of tax revenues and refunds, the State succeeded in eliminating the negative Unreserved General Fund Balance on a GAAP basis. That negative balance had been a legacy of the budget challenges and natural disasters beginning in Fiscal Year 1999-2000. At FY 2006 year-end, the Unreserved General Fund Balance totaled $1.770 billion, or 10.4% of recurring tax revenues. Without the accounting change, estimates put the Unreserved General Fund Balance at $417 million.

Legislation adopted in 2006 (SL 2006-203) increases the targeted Savings Reserve Fund ("Rainy Day Fund") balance to 8% (from 5%) of the prior year's General Fund operating budget. Based on Fiscal Year 2005-2006 results, the resulting targeted Rainy Day Fund balance at 8% is $1.371 billion. The Committee recognizes that the legislation specifically sets a level of reserves for the State that is consistent with the recommendations made by the Committee in previous years.

Chart 12 depicts the State's historic General Fund Balance over the last ten years.

Chart 12



[1] As originally reported in 2005 Comprehensive Annual Financial Report.

[2] As restated per the Office of State Controller.

Section V - Capital Project Costs and Pay-Go Funding

A consideration that affects capital project costs and future debt service capacity is the use of "pay-as-you-go" ("PAYGO") funding of capital projects. By using current revenues to fund a portion of the capital improvements plan, the State can reduce future debt service and retain debt capacity. For example, if the State funded a capital project with $50 million as PAYGO rather than financing it through a $50 million, 20-year bond issue, the State would save approximately $20.9 million in total interest payments over the life of the issue assuming current market conditions.

Appendix A

Revenues and Liabilities in the North Carolina Debt Affordability Model

Revenues

The model uses general tax revenues adjusted for one-time or non-recurring items plus certain other revenue items deemed available to service debt from the most recently available *Comprehensive Annual Financial Report.* The following items are included:

General Fund Tax Revenues

- Individual Income Tax
- Corporate Income Tax
- Sales & Use Tax
- Franchise Tax
- Insurance Tax
- Beverage Tax
- Inheritance Tax
- Other Taxes

Other General Fund Revenue Items

- Investment Income
- Miscellaneous Revenues

Revenue Growth and other Assumptions

Changes to revenue estimates have a significant impact on the calculation of available debt capacity because of the multiplier effect of compounding growth over the ten-year period. And such projections are especially important when they reflect changing or differing economic outlooks.

Base revenues are assumed to grow at a rate of 3% annually through the forecast period (2016). The Committee believes this assumption to be prudent. Sensitivity analysis has been provided for those who believe that these assumptions are either overly conservative or aggressive. The revenue estimates incorporate the effect of any changes dictated in current law.

Liabilities

To calculate net tax-supported debt, credit analysts take into account all debt supported by general tax revenues. This debt position shows the amount of indebtedness serviced from an issuer's General Fund; that is, it reflects the debt service payments made directly from tax revenues and is known as net tax-supported debt. Although a consensus appears to exist among credit analysts as to the appropriateness of using net tax-supported debt as the standard

for determining an issuer's debt position, there is less unanimity about the precise calculation. The Committee has determined to follow the approach of Moody's Investor Service and exclude self-supporting debt from its calculations.

The model uses a definition of net tax-supported debt that includes General Obligation Bonds, Special Indebtedness, Capital Lease Obligations, and any other such obligations that are owed to a third party over a predetermined schedule from General Fund Revenues. Obligations of Component Units, Highway Fund debt that is paid from Highway Fund revenues, non tax-supported special indebtedness that is paid from trust funds and other self-supporting debt is excluded. Short-term Tax Anticipation Notes and Energy Performance Contract Financing Liabilities are also excluded.

Other Post Employment Benefits ("OPEB")
In order to comply with Governmental Accounting Standards Board (GASB) Statements No. 43 and 45, the State Health Plan had an actuarial study completed that estimates the size of the State's unfunded liability for Other Post Employment Benefits. The bond rating agencies have been clear that OPEB liabilities do not represent a hard liability in the same way that debt service does and should not be considered tax-supported debt unless bonds are actually issued to fund part or all of the liability. They have also consistently assured the State that these liabilities do not represent a threat to the State's credit rating in the short-term. Over the longer term, the State will need to develop a realistic plan to meet these obligations.

The model includes the actual debt service from all outstanding net tax-supported debt and for all authorized, but currently unissued tax-supported debt if such issuance does not require further action on the part of the General Assembly. The following is a list of those liabilities that are included in the model (outstanding amounts as of June 30, 2006):

- General Obligation Bonds supported by General Fund Tax Revenue - $4,977,910,995.
- Appropriation-Supported Indebtedness (collectively "Special Indebtedness")
    - Certificates of Participation supported by General Funds $396,223,750. Also including
        - Chapter 1264 projects supported by the Clean Water, Natural Heritage and Parks and Recreation Trust Funds where funds flow through the General Fund - $22,006,875.
    - Capital Leases, Installment Purchase Contracts and Equipment lease obligations determined pursuant to G.S. 147-33.72H - $60,865,626.
    - Lease Revenue or Lease-Purchase Revenue Bonds - $255,045,000.

Liabilities not included in the model (outstanding amounts as of June 30, 2006):

- Highway Construction General Obligation Debt supported by separate taxes - $756,755,000.
- Appropriation-Supported Indebtedness (collectively "Special Indebtedness")
    - Certificates of Participation supported by non-General Funds including
        - Chapter 1264 projects supported by the Health and Wellness/Tobacco Trust Funds - $57,836,250 (issued), $359,126,036 (authorized but unissued).
- Specifically authorized Revenue Bonds (Butner Water and Sewer Revenue Bonds) - $8,800,000.

- Short Term Tax Anticipation Notes (not supported by General Tax Revenue) - $0.

- Obligations of the University of North Carolina System, the North Carolina Housing Finance Agency or other Component Units - $6,638,320,000.

- Energy Performance Contract obligations where such obligations are guaranteed and approved pursuant to G.S. 142-64 and not supported by separate appropriations - $23,900,000.

- Other Post Employment Benefits ("OPEB")

Note: Although these liabilities do not constitute tax-supported debt, they are obligations of The State of North Carolina or various component units, and The State's General Fund, although not legally obligated to, could be called upon to service these obligations if necessary.

Debt Structuring Assumptions

The following assumptions were used in this year's debt affordability model calculations:

- The rate on existing Variable Rate Debt will average 4%
- The interest costs on all authorized but unissued GO and non-GO issues will be 5.50% and 6.0%, respectively.
- GO debt will be structured with a 20-year maturity with an overall level principal payment profile after the first year.
- Non-GO debt will be structured with a 20-year maturity with an overall level debt service or principal payment profile after the first year.
- The incremental model debt is assumed to be fixed-rate, 20-year maturity debt with an average interest cost of 6% and a level principal payment profile after the initial years.

Appendix B
10-Year Model Solution

4% Debt Service/Revenue Target

Table 4

Net Tax-Supported Debt Capacity using 4.0% debt service/revenues target ratio
(In Millions of dollars)

Fiscal Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total Additional Debt Capacity per Year [1]	$1,032.0	$149.1	$50.4	$56.3	$520.2	$366.8	$509.4	$461.3	$510.2	$619.0
Debt Capacity Available Each and Every Year	384.0	384.0	384.0	384.0	384.0	384.0	384.0	384.0	384.0	384.0

* In addition to that already Authorized but Unissued. Assumes additional debt capacity is authorized and issued in stated fiscal year.

Table 5

Retirement of Outstanding Debt Compared to the $384.0 Million Annual Debt Capacity
(In Millions of Dollars)

Fiscal Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Retirement of Outstanding Debt	$333.2	$367.5	$374.9	$386.8	$395.1	$396.5	$398.9	$398.8	$398.4	$398.9
Debt Capacity in Excess of Retirement of Debt	50.8	16.5	9.1	(2.8)	(11.1)	(12.5)	(14.9)	(14.8)	(14.4)	(14.9)
Additional Debt Service on Debt Capacity ($284 million / year)	0.0	28.3	59.7	94.1	134.4	175.9	216.2	255.1	292.9	329.3

4.75% Debt Service/Revenue Target

Table 6

Net Tax-Supported Debt Capacity using 4.75% debt service/revenues target ratio
(In Millions of dollars)

Fiscal Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total Additional Debt Capacity per Year [1]	$2,887.6	$190.8	$72.2	$124.7	$169.6	$69.2	$769.3	$463.1	$660.1	$693.6
Debt Capacity Available Each and Every Year	635.9	635.9	635.9	635.9	635.9	635.9	635.9	635.9	635.9	635.9

[1] In addition to that already Authorized but Unissued. Assumes additional debt capacity is authorized and issued in stated fiscal year.

Table 7

Retirement of Outstanding Debt Compared to the $635.9 Million Annual Debt Capacity
(In Millions of Dollars)

Fiscal Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Retirement of Outstanding Debt	333.2	367.5	374.9	386.8	395.1	396.5	398.9	398.8	398.4	398.9
Debt Capacity in Excess of Retirement of Debt	302.7	268.4	261.0	249.1	240.8	239.4	237.0	237.1	237.5	237.0
Additional Debt Service on Debt Capacity ($635.9 million / year)	0.0	47.4	96.8	148.3	202.9	264.5	334.3	402.5	468.4	532.0

SENATE FINANCE COMMITTEE
Wednesday, March 14, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, March 14, 2007, in room 544 of the Legislative Office Building. Twenty-two members of the committee were present. Senator John Kerr presided. Jessica Smith of Winterville and Amber Nead of Carteret County served as pages.

S.B. 432 – Greensboro Deannexation

Senator Hagan was recognized to explain the bill. Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 336 – Occupancy Tax Modifications for Swain County

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Snow was recognized to explain the proposed committee substitute. Senator Apodaca moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary is attached.

S.B. 220 – Roanoke Rapids/Weldon/Ahoskie Annexations

Senator Jones was recognized to explain the bill. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 496 – Perquimans Occupancy Tax

Senator Jones explained the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 284 – Sanford Annexations

Senator Atwater was recognized to explain the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 398 – Norwood Satellite Annexations

Senator Purcell was recognized to explain the bill. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 443 – Yanceyville Annexation

Senator Foriest was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 442 – Caswell County Occupancy Tax

Senator Foriest explained the bill. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

S.B. 439 – Extend Magnolia ETJ

Senator Albertson was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 465 – Amend Carteret County Occupancy Tax

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Preston was recognized to explain the PCS. Senator Hoyle moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, the fiscal note, and the summary is attached.

S.B. 491 – Morrisville Annexations

Senator Cowell was recognized to explain the bill. She recognized the Honorable Jan Faulkner, Mayor of Morrisville, and John Whitson, Morrisville Town Manager. They distributed an informational memo, spreadsheet and map outlining the bill's effects (attached). Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 1:22 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Senate Finance Committee
Wednesday, March 14, 2007, 1:00 PM
544

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Approval of Minutes

Bills

SB 220	Roanoke Rapids/Weldon/Ahoskie Annexations.	Senator Jones
SB 284	Sanford Annexations.	Senator Atwater
SB 336	Occupancy Tax Modifications for Swain County.	Senator Snow
SB 398	Norwood Satellite Annexations.	Senator Purcell
SB 432	Greensboro Deannexation.	Senator Hagan
SB 439	Extend Magnolia ETJ.	Senator Albertson
SB 442	Caswell County Occupancy Tax.	Senator Foriest
SB 443	Yanceyville Annexation.	Senator Foriest
SB 465	Amend Carteret County Occupancy Tax.	Senator Preston
SB 491	Morrisville Annexations.	Senator Cowell
SB 496	Perquimans County Occupancy Tax.	Senator Jones

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

March 14, 2007 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dana Simpson	Smith Anders
Amy Schilder	HANC
MARY Alice Chagin	Delta Kappa Gamma Washington NC (legislative Day
Millie Barnes	DKG - Penelaw, NC
Vicki W. Jones	DKG - Aurora, NC
Judy McConnell	IOG
Jan Faulkner	Mayor, Town of Morrisville
John A Whitson	TOWN MANAGER TOWN OF MORRISVILLE
Susan C Patterson	City of Sanford NC
Bob Briswell	CITY OF SANFORD
Jack Morisey	Community Properties

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 14, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Gary Harris	NC Petroleum Marketers
Fred Allen	NC Aggregates Assn

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Andy Munn	REBIC
Daniel Baum	
Kim Hibbard	NCLM
Tonola Brown	Greensboro
Linda Miles	City of Greensboro
David Barnes	Poyner Spruill
Bill Cooke	Piedmont Triad Airport Authority
Sam Cover	BPMHL
Tan Nap	Senator Hagan's Office
Hayes Holderness	NCGA
Susanne Streb	NCRLM
Jared Hayden	SMH

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 220*

Short Title:	Roanoke Rapids/Weldon/Ahoskie Annexations.	(Local)
Sponsors:	Senator Jones.	
Referred to:	Finance.	

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE CITY OF ROANOKE RAPIDS AND THE TOWNS OF AHOSKIE AND WELDON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

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

SENATE BILL 220:
Roanoke Rapids/Weldon/Ahoskie Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 12, 2007
Introduced by:	Sen. Jones	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 220 would exempt the city of Roanoke Rapids and the towns of Ahoskie and Weldon from the requirement for satellite annexation that the area to be annexed, when added to the area within all other satellite corporate limits, does not exceed 10% of the area within the primary corporate limits of the annexing city.

[As introduced, this bill was identical to H188, as introduced by Reps. Allen, Bryant, Wray, which is currently in House Finance.]

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: Senate Bill 220 would permanently exempt the city of Roanoke Rapids and the towns of Ahoskie and Weldon from the 5th requirement, which requires that the proposed area for satellite annexation, when added to the area within all other satellite corporate limits, not exceed 10% of the area within the primary corporate limits of the annexing city.

The purpose of the 5th requirement is designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. In practice, however, the standard has proved to be a problem for many smaller cities, because one large development by itself

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

may easily exceed the 10% limit. Because of this, the General Assembly has exempted a significant number of cities and towns (over 70) from this 10% rule by local act.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The Town of Ahoskie is in the process of expanding its wastewater plant, which it expects to be complete in May of 2009. With this expansion, the Town will be able to provide water and sewer service to areas that would likely seek annexation in order to benefit from these services. While the Town does not have a specific annexation plan in the works, it is already approaching the 10% limit and would like this exemption in anticipation of annexation requests in the near future resulting from its expanded municipal service capability.

Both Weldon and Roanoke Rapids are experiencing growth due to Carolina Crossroads, the music and entertainment district located in this area, and anticipate that areas currently outside the city limits will seek annexation so they can benefit from municipal services. Neither town has a specific request or petition to annex at this time, but anticipate a need to annex beyond the 10% limit within the next three to five years.

S0220e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 284*

Short Title:	Sanford Annexations.	(Local)
Sponsors:	Senator Atwater.	
Referred to:	Finance.	

February 22, 2007

A BILL TO BE ENTITLED

AN ACT ALLOWING THE CITY OF SANFORD TO ANNEX BY VOLUNTARY PETITION AREAS THAT ARE MORE THAN THREE MILES FROM THE CITY'S PRIMARY CORPORATE LIMITS IF THE AREAS ARE CONTIGUOUS TO THE CITY'S SATELLITE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(1) shall not apply to the City of Sanford if the area proposed for annexation is contiguous to the City's satellite corporate limits. For purposes of this act, the term "satellite corporate limits" means the corporate limits of any noncontiguous area annexed pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes by the City of Sanford or pursuant to a local act enacted by the General Assembly authorizing or effecting noncontiguous annexations for the City of Sanford.

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

SENATE BILL 284:
Sanford Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 13, 2007
Introduced by:	Sen. Atwater	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 284 would allow the City of Sanford to voluntarily annex areas that are more than three miles from the city's primary corporate limits if the areas are contiguous to the City's satellite corporate limits.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. **The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.**
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: Senate Bill 284 would exempt the City of Sanford from the first requirement for satellite annexation only under circumstances where the area to be annexed is contiguous to the City's satellite corporate limits.

The rationale for this standard is that while annexing satellite areas is not inconsistent with the notion that a city should be a single, compact entity, those areas must not be too far from the city's primary limits. The standard does not require the entire annexation area to be within three miles of the primary limits, but only the point of the area that is closest to the annexing city. Approximately 22 municipalities have an exemption from or local modification to this requirement.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: In 2000, the City of Sanford annexed a large tract of land that is currently undeveloped. The City has been approached by a developer who would like to develop a tract that is behind but contiguous to this current satellite area. However, this area is beyond the three-mile limit. If a city is using the satellite procedure to annex an area contiguous to an existing satellite area, the distance must still be measured from the primary corporate limits and not from the satellite limits. Therefore, the City is requesting this legislation so it may annex this tract of land.

S0284e1-SMSV

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 336
PROPOSED COMMITTEE SUBSTITUTE S336-CSSVx-2 [v.1]

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Short Title: Occupancy Tax Modifications for Swain County. (Local)

Sponsors:

Referred to:

February 27, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SWAIN COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 923 of the 1985 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and Scope. – The Swain County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or ~~similar~~ accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious ~~organizations.~~organizations when furnished in furtherance of their nonprofit purpose.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Swain County Board of Commissioners may levy an additional room occupancy tax of up to one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Swain County may not levy a tax under this subsection unless it also levies the maximum tax authorized under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the~~

~~purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

(c) Administration. – ~~The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and Use of Tax Revenue. – Swain County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Swain Tourism Development Authority. The Authority ~~may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. No more than twenty-five percent (25%) of the funds remitted to the Authority may be used for salaries, wages, and administrative expenses.~~shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Swain County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) ~~As used in this subsection, "net proceeds" means gross~~Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance ~~officer.~~officer, not to exceed three percent (3%) of the first five hundred thousand dollars

($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of Swain County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Swain County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 2. Tourism Development Authority. – (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control ~~Act and shall be composed of the following five members:~~

~~(1) Two tourist-oriented business members appointed by the Swain County Chamber of Commerce; and~~

~~(2) Three tourist-oriented business members appointed by the Swain County Board of Commissioners.~~

~~The Chamber shall designate one of its initial appointees to serve a two-year term and one to serve a three-year term. The board of commissioners shall designate one of its initial appointees to serve a one-year term, one to serve a two- year term, and one to serve a three-year term. Thereafter, all members shall serve three-year terms. Vacancies shall be filled by the appointing authority of the member who created the vacancy. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.~~

~~The members of the Authority shall elect from its membership a chairman.~~Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be

individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the ~~chairman~~ chair and shall adopt rules of procedure to govern its meetings. The finance officer of Swain County shall ~~serve~~ be the ex officio ~~as the~~ finance officer of the Authority.

(b) Duties. – The Authority shall ~~promote travel, tourism, and conventions in Swain County.~~ expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in Swain County, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) ~~Report.~~ Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and ~~disbursements~~ expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 3. This act is effective upon ratification."

SECTION 2. This act is effective when it becomes law. The Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

SENATE BILL 336:
Occupancy Tax Modifications for Swain County

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 12, 2007
Introduced by:	Sen. Snow	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S336-CSSVx-2		Committee Counsel

SUMMARY: ***Senate Bill 336 authorizes Swain County to levy an additional 1% room occupancy tax. It also makes administrative changes to the existing occupancy tax legislation so that it conforms to all the occupancy tax guidelines adhered to by the North Carolina Travel and Tourism Coalition and the House Finance Committee.*** ***The Proposed Committee Substitute makes technical and stylistic changes only.***

CURRENT LAW: In 1985, the General Assembly authorized Swain County to levy a 3% room occupancy tax. Currently, the proceeds are remitted to the Swain County Tourism Development Authority, which is required to spend the proceeds to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. Up to twenty-five (25%) of the proceeds remitted to the TDA may be used for salaries, wages, and administrative expenses. The current TDA is composed of two tourist-oriented business members appointed by the Chamber of Commerce and three tourist-oriented business members appointed by the board of commissioners.

BILL ANALYSIS: Senate Bill 336 authorizes Swain County to levy an additional 1% room occupancy tax, for a total rate of up to 4%. The proceeds must be remitted to the county Tourism Development Authority (TDA), which must use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

EFFECTIVE DATE: This bill would become effective when it becomes law. The board of commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with the act.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

S0336e1-SMSV-CSSVx-2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 336

Short Title:	Occupancy Tax Modifications for Swain County.	(Local)
Sponsors:	Senator Snow.	
Referred to:	Finance.	

February 27, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SWAIN COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 923 of the 1985 Session Laws reads as rewritten:

"**Section 1.** Occupancy Tax. (a) Authorization and Scope. The Swain County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or ~~similar~~ accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105- 164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious ~~organizations.~~organizations when furnished in furtherance of their nonprofit purpose.

(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Swain County Board of Commissioners may levy an additional room occupancy tax of up to one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Swain County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead

of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. ~~The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and Use of Tax Revenue. Swain County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Swain Tourism Development Authority. The Authority ~~may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. No more than twenty-five percent (25%) of the funds remitted to the Authority may be used for salaries, wages, and administrative expenses.~~shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Swain County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) ~~As used in this subsection, "net proceeds" means gross~~Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance ~~officer.~~officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of Swain County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Swain County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

"**Sec. 2.** Tourism Development Authority. (a) Appointment and Membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control ~~Act and shall be composed of the following five members:~~

~~(1) Two tourist-oriented business members appointed by the Swain County Chamber of Commerce; and~~

~~(2) Three tourist-oriented business members appointed by the Swain County Board of Commissioners.~~

~~The Chamber shall designate one of its initial appointees to serve a two-year term and one to serve a three-year term. The board of commissioners shall designate one of its initial appointees to serve a one-year term, one to serve a two-year term, and one to serve a three-year term. Thereafter, all members shall serve three-year terms. Vacancies shall be filled by the appointing authority of the member who created the vacancy. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.~~

~~The members of the Authority shall elect from its membership a chairman.~~Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as

chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the ~~chairman~~ chair and shall adopt rules of procedure to govern its meetings. The finance officer of Swain County shall ~~serve~~ be the ex officio ~~as the~~ finance officer of the Authority.

(b) Duties. The Authority shall ~~promote travel, tourism, and conventions in Swain County.~~ expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in Swain County, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Report. The Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and ~~disbursements~~ expenditures for the preceding quarter and for the year in such detail as the board may require.

"**Sec. 3.** This act is effective upon ratification."

SECTION 2. This act is effective when it becomes law. The Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 398*

Short Title:	Norwood Satellite Annexations.	(Local)
Sponsors:	Senator Purcell.	
Referred to:	Finance.	

February 28, 2007

A BILL TO BE ENTITLED

AN ACT MODIFYING THE STANDARDS FOR SATELLITE ANNEXATIONS FOR THE TOWN OF NORWOOD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~ten percent (10%)~~ twenty-five percent (25%) of the area within the primary corporate limits of the annexing city.

..."

SECTION 2. This act applies to the Town of Norwood only.

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

SENATE BILL 398:
Norwood Satellite Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 12, 2007
Introduced by:	Sen. Purcell	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 220 would modify for the Town of Norwood only the requirement limiting the area of a city's satellite annexations from 10% to 25%.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: Senate Bill 398 would permanently modify for the Town of Norwood the 5th requirement for satellite annexation, which requires that the proposed area for satellite annexation, when added to the area within all other satellite corporate limits, not exceed 10% of the area within the primary corporate limits of the annexing city. This bill would change the requirement so that the proposed area for annexation may not exceed 25% of the area within the primary corporate limits of the annexing city.

The Town currently knows of or anticipates at least three requests for annexation in the near future which, if all annexed, would exceed the 10% limit: (1) a large residential development; (2) a single residential tract owned by one property owner; (3) a biotech energy plant.

The purpose of the 5th requirement is designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. In practice, however, the standard has proved to be a problem for many smaller cities, because one large development by itself may easily exceed the 10% limit. Because of this, the General Assembly has exempted over 70 cities

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

and towns entirely from this 10% rule by local act. For an additional 18 municipalities, the limit has been increased from 10% to 20%.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 432

Short Title: Greensboro Deannexation. (Local)

Sponsors: Senators Hagan; and Dorsett.

Referred to: Finance.

March 1, 2007

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTIES FROM THE CORPORATE LIMITS OF THE CITY OF GREENSBORO.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property that is currently within the corporate limits of the City of Greensboro is hereby removed from the corporate limits of the City of Greensboro:

TRACT 1

BEGINNING at a point that is located N 59°59'03" W 213.83 feet from the intersection of US Route 421 (West Market Street) and Burgess Road and running thence from said BEGINNING point, N 31°44'25.00" W 136.3100 feet; thence N 4°58'24.00" E 163.4600 feet; thence N 4°59'15.00" E 42.6300 feet; thence N 3°01'10.00" E 212.7600 feet; thence N 9°59'05.00" W 339.4100 feet; thence N 23°00'40.00" W 212.9900 feet; thence N 25°01'55.00" W 117.2900 feet; thence N 23°47'30.00" W 191.1500 feet; thence N 75°50'30.00" E 210.4000 feet; thence N 7°34'06.00" E 74.5500 feet; thence N 18°53'35.00" E 123.0000 feet; thence N 49°27'55.00" E 128.8100 feet to a point; thence along a curve to the right having a radius of 1438.58 feet, an arc distance of 181.7000 feet, and a chord bearing and chord distance of S 74°01'32.85" E 181.58 feet; thence S 74°01'33.70" E 267.6900 feet; thence S 69°36'02.70" E 60.1800 feet; thence S 74°03'45.00" E 31.6200 feet to a point; thence along a curve to the right having a radius of 25.00 feet, an arc distance of 20.5121 feet, and a chord bearing and chord distance of S 55°59'31.25" E 19.94 feet; thence S 14°25'35.00" W 539.5500 feet; thence S 14°15'22.89" W 199.1496 feet; thence S 14°19'29.00" W 774.3700 feet; thence S 60°45'41.00" W 110.8700 feet; thence N 82°24'11.61" W 104.4575 feet to the POINT OF BEGINNING, containing 18.5193 acres, more or less.

TRACT 2

BEGINNING at a point that is located S 39°28'32" E 43.25 feet from the intersection of Burgess Road and Canoe Road and running thence from said BEGINNING point; S

78°27'12.65" E 957.1978 feet; thence S 11°38'35.97" W 771.9353 feet; thence N 77°10'00.00" W 393.8007 feet; thence N 11°32'47.35" E 575.6791 feet; thence N 78°27'12.65" W 577.7861 feet; thence N 16°18'11.00" E 188.0589 feet to the POINT OF BEGINNING, containing 9.4007 acres, more or less.

TRACT 3

BEGINNING at a point that is located N 29°08'07" W 448.57 feet from the intersection of Regional Road and Canoe Road and running thence N 00°54'00" E 237.95 feet to a point on the northeast right-of-way line of former Lebanon Road; thence in a north-westerly direction along the northeast right-of-way line of former Lebanon Road approximately 2,200 feet to a point, said point being the point of intersection with the straight line projection of the northern property line of the tract acquired by the Piedmont Triad Airport Authority from Kermit G. Phillips, II, et al; thence crossing former Lebanon Road and running with the northern line of said tract, N 87°27'02" W 739.1 feet to a point on the easterly right-of-way line of Burgess Road; thence S 5°53'09.44" W 365.7359 feet to a point; thence along a curve to the right, having a radius of 5132.78 feet, an arc distance of 575.1087 feet, and a chord bearing and chord distance of S 8°21'44.13" W 574.81 feet; thence S 12°55'27.01" W 232.7001 feet; thence S 14°03'13.23" W 682.6083 feet; thence S 78°27'12.65" E 949.7339 feet; thence S 84°20'13.11" E 57.4734 feet; thence S 77°08'11.67" E 194.9970 feet; thence N 12°56'10.00" E 169.7800 feet; thence N 76°33'19.00" W 34.9000 feet; thence N 13°18'02.45" E 150.8400 feet; thence S 77°09'37.00" E 159.3300 feet; thence N 12°49'56.00" E 124.9400 feet; thence N 77°10'00.00" W 160.0000 feet; thence N 12°50'00.00" E 92.0954 feet; thence S 77°26'20.66" E 157.0677 feet; thence S 59°34'41.00" E 60.4494 feet; thence S 30°25'19.00" W 40.9163 feet; thence S 11°05'19.00" W 100.0000 feet; thence S 10°35'40.35" W 99.7751 feet; thence S 12°58'47.10" W 100.6884 feet; thence S 12°52'37.83" W 169.5081 feet; thence S 77°00'18.00" E 75.1300 feet; thence S 80°09'49.77" E 107.6624 feet; thence S 78°51'13.00" E 200.9147 feet; thence N 12°38'39.00" E 346.8397 feet; thence N 32°44'08.60" E 94.2091 feet; thence S 78°10'43.00" E 328.7100 feet; thence S 55°18'30.00" E 277.01 feet to the POINT OF BEGINNING, containing 60.0358 acres, more or less.

TRACT 4

BEGINNING at a point that is located S 81°58'44" E 491.64 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point N 8°58'14.00" E 187.0000 feet; thence S 78°51'31.00" E 101.8864 feet; thence S 79°43'08.00" E 149.0600 feet; thence S 8°56'14.00" W 188.5800 feet: thence N 79°00'36.00" W 251.1000 feet to the POINT OF BEGINNING, containing 1.0790 acres, more or less.

TRACT 5

BEGINNING at a point that is located S 08°31'14" W 486.85 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point S

78°35'00.00" E 175.0000 feet; thence S 11°29'38" W 100.07 feet; thence S 10°19'58" W 101.84 feet; thence S 11°09'54" W 200.00 feet; thence N 78°35'00" W 175.00 feet; thence N 11°09'53" E 200.00 feet; thence N 10°19'58" E 101.89 feet; thence N 11°34'12" E 100.00 feet to the POINT OF BEGINNING, containing 1.6144 acres, more or less.

TRACT 6

BEGINNING at a point that is located S 38°38'50" E 33.28 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point S 78°35'00.00" E 125.0000 feet; thence S 76°38'32.15" E 112.3207 feet; thence S 78°35'00.00" E 112.5000 feet; thence S 11°25'00.00" W 164.6000 feet; thence N 77°21'48.08" W 102.5826 feet; thence S 11°25'00.00" W 100.0000 feet; thence N 78°28'00.00" W 249.9998 feet; thence N 11°24'58.47" E 99.4909 feet; thence N 12°22'58.03" E 166.2440 feet to the POINT OF BEGINNING, containing 1.9003 acres, more or less.

TRACT 7

BEGINNING at a point that is located S 59°07'50" W 33.79 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point S 11°24'39.00" W 164.5300 feet; thence S 11°56'28.54" W 99.9531 feet; thence S 11°00'56.77" W 134.2006 feet; thence N 79°33'55.66" W 175.6348 feet; thence N 11°25'00.00" E 137.2078 feet; thence N 11°45'07.56" E 99.9506 feet; thence N 11°28'43.00" E 164.6000 feet; thence S 78°33'37.51" E 174.8053 feet to the POINT OF BEGINNING, containing 1.6076 acres, more or less.

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

SENATE BILL 432:
Greensboro Deannexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 14, 2007
Introduced by:	Sen. Hagan	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 432 is a local bill that de-annexes seven (7) described tracts from the corporate limits of the City of Greensboro. The act is effective when it becomes law.

CURRENT LAW: While a city or town has statutory authority to annex property, either voluntarily or involuntarily depending upon certain circumstances, there is no statutory authority to de-annex property. Deannexation requires an act of the General Assembly.

BILL ANALYSIS: Senate Bill 432 de-annexes seven (7) described tracts from the corporate limits of the City of Greensboro.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Piedmont Triad Airport Authority (PTTA or Authority) owns and operates the Piedmont Triad International Airport. The PTTA's philosophy is that the airport is a regional airport that services the Triad. Essential to the maintenance of the airport's regional quality according to PTTA, is adherence to its philosophy that no property owned by PTTA and contributing to the operations of the airport be included in any municipal district.

The PTTA has recently purchased some land that will be utilized to expand the airport's operations. Some of that land is in the City of Greensboro's corporate limits and its location is not in accordance with the Authority's philosophy.

Both the City of Greensboro and the PTTA have adopted Resolutions in agreement for removal of the described tracts from the City's corporate limits. There is no cost to the State.

S0432e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 439*

Short Title:	Extend Magnolia ETJ.	(Local)
Sponsors:	Senator Albertson.	
Referred to:	Finance.	

March 1, 2007

A BILL TO BE ENTITLED

AN ACT EXTENDING THE EXTRATERRITORIAL JURISDICTION OF THE TOWN OF MAGNOLIA.

The General Assembly of North Carolina enacts:

SECTION 1. In addition to the authority provided in G.S. 160A-360, the Town of Magnolia may exercise the powers granted in Article 19 of Chapter 160A of the General Statutes in an area beginning at the Town corporate limits at State Highway 903 North, extending one-half mile on each side of the centerline of State Highway 903 to the Interstate Highway 40 southern right-of-way boundary, and extending one-half mile on each side of the center line of State Highway 903 and State Highway 24 from the Interstate Highway 40 southern right-of-way to the midpoint of State Secondary Road 1923 and State Secondary Road 2029 northeast of Interstate Highway 40.

SECTION 2. This act applies to the Town of Magnolia only.

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

SENATE BILL 439:
Extend Magnolia ETJ

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 14, 2007
Introduced by:	Sen. Albertson	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 439 is a local bill that expands the extraterritorial jurisdiction authority of the Town of Magnolia.

[As introduced, this bill was identical to H407, as introduced by Rep. Tucker, which is currently in House Local Government I.]

CURRENT LAW: Municipalities have the statutory authority to regulate land-use within their corporate limits and within an area one-mile beyond their municipal boundaries. The area outside the municipal limits, but under the municipality's planning authority, is called the extraterritorial land-use planning jurisdiction (ETJ). Land use regulation may take the form of zoning, subdivision regulation, minimum housing codes, and regulations governing open spaces and community appearance.

Counties have authority to regulate land-use only over the parts of the county not subject to city planning. However, if a city does not adopt an ordinance specifying the boundaries of its ETJ, then the county may exercise its planning jurisdiction over an area even if the area is within one mile of a municipality's corporate boundaries. If the county is already enforcing planning regulations, zoning regulations, and the State building code in that one-mile area, then a municipality may only exercise its ETJ authority in the one-mile area with the county's permission.

With the approval of the county commissioners, a city with a population between 10,000 and 25,000 may extend its extraterritorial land-use planning jurisdiction to two miles beyond its corporate limits; a city with a population of 25,000 or more may extend its extraterritorial land-use planning jurisdiction to three miles beyond its corporate limits.

BILL ANALYSIS: In 2000, the population of Magnolia was approximately 956. Therefore, under general law, the size of the town prohibits the county commissioners from extending the ETJ of the town beyond the one-mile radius. This local law accomplishes what cannot be accomplished under general law. Senate Bill 439 expands the ETJ of the Town of Magnolia to include the area in and around the I-40 interchange, as described in the bill.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: This bill would extend Magnolia's ETJ one mile beyond the Magnolia I-40 interchange and one-half mile each side of NC 903 from the Town's present ETJ limits The Town of Magnolia will be addressing sewer services for some new businesses for Exit 373—a convenience store, a Burger King, and a motel. The Town would like to be able to plan proper development of this interchange since Duplin County has not implemented a zoning ordinance.

S0439e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 442

Short Title:	Caswell County Occupancy Tax.	(Local)
Sponsors:	Senator Foriest.	
Referred to:	Finance.	

March 1, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CASWELL COUNTY TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Caswell County may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Caswell County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention

facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Caswell County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Caswell County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Caswell County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Caswell County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Caswell County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Caswell County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. Administrative provisions. – G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Caswell, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

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

SENATE BILL 442:
Caswell County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 14, 2007
Introduced by:	Sen. Foriest	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: ***SUMMARY: Senate Bill 442 authorizes Caswell County to levy a 3% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.***

CURRENT LAW: Currently, Caswell County does not have authority to levy a room occupancy tax.

BILL ANALYSIS: Senate Bill 442 authorizes Caswell County to levy a room occupancy tax of up to 3%. The proceeds must be remitted to a county Tourism Development Authority (TDA), which must use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

S0442e1-SMRE

Trina Griffin, Committee Counsel to Senate Finance substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: March 14, 2007

TO: Senate Finance Committee

FROM: Joseph Futima
Rodney Bizzell
Fiscal Research Division

RE: SB 442

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Caswell County	**$3,133**	**$3,231**	**$3,305**	**3,381**	**3,459**
EXPENDITURES:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Caswell County

EFFECTIVE DATE: When bill becomes law

BILL SUMMARY: Senate Bill 442 authorizes Caswell County to levy a 3% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.

ASSUMPTIONS AND METHODOLOGY:

Caswell County

The bill allows Caswell County to levy a 3% occupancy tax. According to the county manager for Caswell County, there is one motel in the county. The motel is located in Yanceyville and is expected to generate approximately $3,000 each year for Caswell County based on the proposed occupancy tax rate of 3% each for the county and the town. Applying the General Consumer Price Index rate of increase for future years provides the following revenue estimate:

Fiscal Year	Proposed 3% Tax	Each 1%
2006-07	$3,133	$1,044
2007-08	$3,231	$1,077
2008-09	$3,305	$1,102
2009-10	$3,381	$1,127
2010-11	$3,459	$1,153

SOURCES OF DATA: Caswell County and NC Dept. of State Treasurer

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 443

Short Title:	Yanceyville Annexation.	(Local)
Sponsors:	Senator Foriest.	
Referred to:	Finance.	

March 1, 2007

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN TERRITORY TO THE CORPORATE LIMITS OF THE TOWN OF YANCEYVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Yanceyville are extended to include the following described area:

"Beginning at a point in the centerline of N.C. Highway 62, a corner with Wells J. Barker; thence N 58° 39' 44" W 419.90 feet to an iron stake in the line of Wells J. Barker and a corner with David L. Barker; thence N 29° 12' 47" W 573.64 feet to an iron stake, corner with David L. Barker; thence N 64° 09' 40" W 69.64 feet to a point in a branch; thence S 64° 50' 49" W 57.51 feet to a point in a branch; thence S 26° 05' 50" W 50.00 feet to a point in a branch; thence S 47° 08' 57" W 184.60 feet to a point in a branch, corner with David L. Barker, in the line of Wells. J. Barker; thence N 58° 39' 44" W 1000.67 feet to an iron stake corner with Wells J. Barker; thence N 03° 08' 12" W 50.00 feet to an iron stake in the center of an abandoned railroad track; thence S 86° 57' 28" W 705.17 feet to an iron stake in the center of the abandoned railroad track; thence N 07° 58' 45" W 83.05 feet to a point on the edge of the Dan River; thence with the edge of the Dan River the following nine courses and distances, S 82° 31' 25" E 225.30 feet, N 83° 37' 39" E 239.13 feet, N 78° 58' 03" E 400.54 feet, N 64° 13' 28" E 432.60 feet, N 53° 07' 53" E 297.30 feet, N 50° 42' 40" E 247.78 feet, N 30° 00' 23" E 269.07 feet, N 33° 01' 42" E 114.19 feet, N 17° 29' 23" E 95.32 feet to a point on the edge of the Dan River in the center of a drainageway; thence S 81° 26' 16" E 88.33 feet to a point in the center of a drainageway; thence N 75° 44' 23" E 40.46 feet to a point in the center of a drainageway; thence S 62° 02' 31" E 65.00 feet to a point in the center of a drainageway; thence S 80° 57' 30" E 57.79 feet to a point in the center of the drainageway; thence S 23° 39' 48" E 30.89 feet to an iron stake in the center of an abandoned railroad track; thence S 55° 45' 26" W 107.42 feet to an iron stake in the center of an abandoned railroad track; thence S 52° 21' 41" W 338.13 feet to an iron stake in the center of an abandoned railroad track; thence S 38° 33' 21" W 377.53 feet to

an iron stake in the center of an abandoned railroad track; thence S 55° 39' 41" E 531.52 feet to a corner with David L. Barker in the center of a branch; thence S 34° 53' 30" W 38.63 feet to a point in the center of a branch; thence S 13° 20' 27" E 62.74 feet to a point in the center of a branch; thence S 39° 08' 15" W 128.92 feet to a point in the center of a branch; thence S 01° 02' 47" W 57.10 feet to a point in the center of a branch; thence S 19° 32' 06" E 51.77 feet to a point in the center of a branch; thence S 12° 20' 40" W 38.09 feet to a point in the center of a branch; thence S 20° 33' 09" W 40.00 feet to a point in the center of a branch; thence S 25° 16' 07" W 40.00 feet to a point in the center of the branch; thence S 01° 53' 45" E 82.32 feet to an iron stake, corner with David L. Barker; thence S 29° 12' 47" E 573.37 feet to an iron stake, corner with David L. Barker; thence S 58° 39' 44" E 400.00 feet to a point in the center of N.C. Highway 62, a corner with David L. Barker; thence S 27° 23' 43" W 60.14 feet to the point and place of BEGINNING and containing 21.718 acres more or less and 0.034 square miles more or less."

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

SENATE BILL 443:
Yanceyville Annexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 14, 2007
Introduced by:	Sen. Foriest	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 443 is a local bill that would annex certain described property to the corporate limits of the Town of Yanceyville.

CURRENT LAW: North Carolina law sets forth four (4) basic ways in which a town or city may annex an area.

1. **Voluntary Annexation**. The owners of all real property in the area desiring to be annexed sign a petition requesting annexation. Part 1 of Article 4 of Chapter 160A.
2. **Legislative Act**. The General Assembly has the authority to extend the boundaries of any town or city. This method is most helpful to a town or city trying to annex an area that they could not otherwise.
3. **Satellite Annexation**. This method allows a town or city to annex certain non-contiguous areas meeting the statutory standards into the town or city limits. Part 4 of Article 4 of Chapter 160A.
4. **Non-voluntary Annexation**. The town or city brings into the corporate limits an area that has not voluntarily agreed to be annexed. Parts 2 and 3 of Article 4 of Chapter 160A.

BILL ANALYSIS: House Bill 2604 would annex a specifically described tract of land into the existing corporate limits of the Town of Yanceyville, containing 21.719 acres, more or less.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: This legislation will allow the satellite annexation of the Dan River Water Intake Facility site, a public water facility owned in fee simple by the Town of Yanceyville, and slated for operation by the Town of Yanceyville. Since the Town will be required to police, protect and safeguard the water intake facility, it is imperative that the site be zoned and subject to the police power of the Town of Yanceyville. The Town of Yanceyville considers this legislation to be vital to protect future land development and the purity and safety of a future water supply source. The bill has the unanimous support of the Yanceyville Town Council.

S0443e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 465
PROPOSED COMMITTEE SUBSTITUTE S465-CSSVx-3 [v.1]

3/12/2007 9:51:38 PM

Short Title: Amend Carteret County Occupancy Tax. (Local)

Sponsors:

Referred to:

March 5, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DEADLINE FOR THE DEVELOPMENT OF A CONVENTION CENTER PLAN FOR CARTERET COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4(b) of S.L. 2001-381 reads as rewritten:

"**SECTION 4.(b)** If the conditions in subdivisions (1) and (2) of Section 5 of this act are not met, or the additional occupancy tax authorized by Section 5 is not levied, or the additional occupancy tax authorized by Section 5 sunsets as provided in Section 5, this section becomes effective ~~July 1, 2010.~~July 1, 2014. Otherwise, this section does not go into effect."

SECTION 2. Section 5 of S.L. 2001-381, as amended by S.L. 2005-120 and S.L. 2005-435, reads as rewritten:

"**SECTION 5.** Additional occupancy tax. – In addition to the occupancy tax authorized by Section 2 of this act, the Board of Commissioners of Carteret County may levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under Section 2 of this act if the following conditions have been met:

(1) A development plan for the construction of a convention center has been approved by resolution of the board of county commissioners and the governing board of the municipality where the center is to be located by June 30, ~~2008;~~ 2010; and

(2) There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, ~~2009.~~2011.

The tax authorized by this section may not become effective earlier than July 1, ~~2008.~~ 2010. The county may not levy a tax under this section unless it also levies the tax under Section 2 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with Section 2 of this act.

If the conditions in subdivisions (1) and (2) of this section have been met and the one-cent (1¢) room occupancy tax described in this section is levied, the county's authority to levy the one-cent (1¢) tax is repealed on the first day of the second month following the date that a cumulative total of ten million dollars ($10,000,000) in proceeds from this one-cent (1¢) tax has been collected. For purposes of this section, the cumulative total of ten million dollars ($10,000,000) is calculated beginning on July 1, ~~2008.~~2010.

Surplus proceeds from the one-cent (1¢) room occupancy tax described in this section beyond the ten million dollar ($10,000,000) cumulative total that are collected before the repeal date shall be redistributed to the Tourism Development Authority and used only to promote travel and tourism.

If the actual cost of the convention center is less than ten million dollars ($10,000,000), any proceeds from the one-cent (1¢) occupancy tax collected but not spent shall be redistributed to the Tourism Development Authority and used to promote travel and tourism.

If construction on the convention center has not begun by July 1, ~~2009.~~ 2011, the county's authority to levy the one-cent (1¢) room occupancy tax described in this section is repealed on September 1, ~~2009.~~ 2011. Any funds collected before the repeal date shall be redistributed to the Tourism Development Authority and used only to promote travel and tourism."

SECTION 3. Section 6(b) of S.L. 2001-381, as amended by S.L. 2005-120 and S.L. 2005-435, reads as rewritten:

"**SECTION 6.(b)** If the conditions in subdivisions (1) and (2) of Section 5 of this act are met, and the additional occupancy tax authorized by Section 5 is levied, this section becomes effective the later of July 1, ~~2008,~~ 2010, or the effective date of the tax levied under Section 5 of this act. Otherwise, this section does not go into effect."

SECTION 4. Section 7(b) of S.L. 2001-381 reads as rewritten:

"**SECTION 7.(b)** If the conditions in subdivisions (1) and (2) of Section 5 of this act are met, and the additional occupancy tax authorized by Section 5 is levied, Section 7 of this act becomes effective ~~July 1, 2010.~~July 1, 2014. Otherwise, this section does not go into effect."

SECTION 5. This act is effective when it becomes law.

SENATE BILL 465:
Amend Carteret County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 12, 2007
Introduced by:	Sen. Preston	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S465-CSSVx-3		Committee Counsel

SUMMARY: Senate Bill 465 amends the Carteret County occupancy tax legislation by extending the period of time allowed for the Board to develop a plan and sign a contract for the construction of a convention center, which is a condition of its authority to levy an additional 1% occupancy tax.

CURRENT LAW: Currently, Carteret County has the authority to levy a five percent (5%) occupancy tax. Fifty percent (50%) of the proceeds is remitted to the TDA and used to promote travel and tourism and the remaining fifty percent (50%) is used for beach nourishment.

Authority to Levy Additional 1% Occupancy Tax

Beginning with tax collections on and after July 1, 2008, the county is authorized to levy an additional 1% occupancy tax, and collect up to a maximum of $10 million dollars, only if the following conditions are met:

1. A development plan for the construction of a convention center has been approved by resolution of the county board and the board of the municipality where the center is to be located by June 30, 2008; and
2. There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, 2009.

If construction does not begin by July 1, 2009, the tax will be repealed and any funds collected for this purpose prior to the repeal date will be redistributed to the TDA to promote travel and tourism. In addition, if there are surplus proceeds beyond the $10 million collected before the repeal date, those proceeds shall be redistributed to the TDA, and if the convention center costs less than $10 million, the funds collected but not spent shall be redistributed to the TDA.

Use of Proceeds Until 2010

If the above conditions are met and the additional 1% tax is levied, the proceeds are to be distributed as follows:

First 50% (3¢) for Tourism Promotion. – The first 3¢ would be remitted to the Carteret County Tourism Development Authority (TDA). The TDA must use all of the net proceeds to promote travel and tourism in Carteret County. The TDA's administrative expenses are limited to 10% and may not include operating visitors' centers.

Next 2.5¢ for Beach Nourishment. – The next 2.5¢ would be used for beach nourishment on Bogue Banks.

Next .05¢ for Convention Center. – The next .05¢ would be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County.

Use of Proceeds Beginning in 2010

If the additional 1% tax is not levied, then beginning in 2010, the first 3¢ of the tax would be used for tourism promotion and the remaining 2¢ would be used for beach nourishment. Otherwise, the 6% tax would be used as follows:

First 50% (3¢) for Tourism Promotion. – The first 3¢ would be remitted to the Carteret County Tourism Development Authority (TDA). The TDA must use all of the net proceeds to promote travel and tourism in Carteret County. The TDA's administrative expenses are limited to 10% and may not include operating visitors' centers.

Next 2¢ for Beach Nourishment. – The next 2¢ would be used for beach nourishment on Bogue Banks under the same conditions as described above.

Next 1¢ for Convention Center. – The next 1¢ would be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County.

BILL ANALYSIS: Senate Bill 465 does not authorize any additional tax for Carteret County, but it allows the county more time to meet the two conditions required in order for it to levy the additional one percent (1%) occupancy tax. Specifically, the bill extends by two years: (1) the time allowed for developing a plan for a convention center, (2) the time to execute a contract between the local government and a developer to begin construction, (3) the date the one percent (1%) may be imposed, (4) the date to begin calculating the total amount of money to be collected from the one percent (1%) tax, and (5) the date of repeal of the tax if the Board does not act.

The Proposed Committee Substitute makes a conforming change to the date on which the distribution formula changes. As originally enacted, the legislation provided a certain distribution formula for the occupancy tax proceeds for an initial four-year period with the formula changing after those four years. An alternate distribution formula, which was also to change after four years, was provided if the additional 1% was not levied. When the legislation was amended in 2005 to extend the deadlines regarding plans for a convention center, corresponding changes were not made to the dates on which the distribution formulas were to change. Sections 1 and 4 of the bill make this change.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: In 2001, the General Assembly enacted legislation completely rewriting Carteret County's occupancy tax legislation. Among other things, the act provided for an additional 1% occupancy tax contingent upon a development plan for the construction of a civic center being in place by June 30, 2006. In 2005, the General Assembly extended the deadline to June 30, 2008.

S0465e1-SMSV-CSSVx-3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 465

Short Title:	Amend Carteret County Occupancy Tax.	(Local)
Sponsors:	Senator Preston.	
Referred to:	Finance.	

March 5, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DEADLINE FOR THE DEVELOPMENT OF A CONVENTION CENTER PLAN FOR CARTERET COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of S.L. 2001-381, as amended by S.L. 2005-120 and S.L. 2005-435, reads as rewritten:

"**SECTION 5.** Additional occupancy tax. – In addition to the occupancy tax authorized by Section 2 of this act, the Board of Commissioners of Carteret County may levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under Section 2 of this act if the following conditions have been met:

(1) A development plan for the construction of a convention center has been approved by resolution of the board of county commissioners and the governing board of the municipality where the center is to be located by June 30, ~~2008;~~ 2010; and

(2) There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, ~~2009.~~2011.

The tax authorized by this section may not become effective earlier than July 1, ~~2008.~~ 2010. The county may not levy a tax under this section unless it also levies the tax under Section 2 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with Section 2 of this act.

If the conditions in subdivisions (1) and (2) of this section have been met and the one-cent (1¢) room occupancy tax described in this section is levied, the county's authority to levy the one-cent (1¢) tax is repealed on the first day of the second month following the date that a cumulative total of ten million dollars ($10,000,000) in proceeds from this one-cent (1¢) tax has been collected. For purposes of this section, the cumulative total of ten million dollars ($10,000,000) is calculated beginning on July 1, ~~2008.~~2010.

Surplus proceeds from the one-cent (1¢) room occupancy tax described in this section beyond the ten million dollar ($10,000,000) cumulative total that are collected before the repeal date shall be redistributed to the Tourism Development Authority and used only to promote travel and tourism.

If the actual cost of the convention center is less than ten million dollars ($10,000,000), any proceeds from the one-cent (1¢) occupancy tax collected but not spent shall be redistributed to the Tourism Development Authority and used to promote travel and tourism.

If construction on the convention center has not begun by July 1, ~~2009.~~ 2011, the county's authority to levy the one-cent (1¢) room occupancy tax described in this section is repealed on September 1, ~~2009.~~ 2011. Any funds collected before the repeal date shall be redistributed to the Tourism Development Authority and used only to promote travel and tourism."

SECTION 2. Section 6(b) of S.L. 2001-381, as amended by S.L. 2005-120 and S.L. 2005-435, reads as rewritten:

"**SECTION 6.(b)** If the conditions in subdivisions (1) and (2) of Section 5 of this act are met, and the additional occupancy tax authorized by Section 5 is levied, this section becomes effective the later of July 1, ~~2008.~~ 2010, or the effective date of the tax levied under Section 5 of this act. Otherwise, this section does not go into effect."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: March 14, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to SB 465

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Carteret County	***See Assumptions and Methodology***				
EXPENDITURES:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Carteret County

EFFECTIVE DATE: Becomes effective when law.

BILL SUMMARY:
Senate Bill 465 amends the Carteret County occupancy tax legislation by extending the period of time allowed for the Board to develop a plan and sign a contract for the construction of a convention center, which is a condition of its authority to levy an additional 1% occupancy tax.

ASSUMPTIONS AND METHODOLOGY:
This bill authorizes additional time for Carteret County to meet requirements for levying an additional 1% occupancy tax; the county currently levies a 5% occupancy tax. Specifically, the bill extends by two years: (1) the time allowed for developing a plan for a convention center, (2) the time to execute a contract between the local government and a developer to begin construction, (3) the date the one percent (1%) may be imposed, (4) the date to begin calculating the total amount of money to be collected from the one percent (1%) tax, and (5) the date of repeal of the tax if the Board does not act.

The bill does not authorize any additional occupancy tax, however, if the additional time allowed for completion of specified requirements is utilized, occupancy tax revenues from the additional 1% tax would be delayed by as much as two (2) years. A 1% occupancy tax in Carteret County generates approximately $750,000 annually. Under current law, the county is authorized to levy the additional tax beginning July 1, 2008.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 491

Short Title:	Morrisville Annexations.	(Local)
Sponsors:	Senator Cowell.	
Referred to:	Finance.	

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MORRISVILLE TO ANNEX CERTAIN PROPERTIES CURRENTLY TOTALLY SURROUNDED BY THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-48, a municipality to which that section applies may adopt ordinances annexing property that, on February 15, 2007, was completely enclosed by the corporate limits of the municipality, if the ordinance makes a finding that the total acreage being annexed is less than five percent (5%) of the total acreage within the corporate limits of the municipality prior to the annexation and also either:

(1) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation is necessary for the orderly growth and development of the municipality; or

(2) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation improves the ability to provide public safety services.

SECTION 2. The procedure for recording any annexation under this act is as provided in G.S. 160A-51.

SECTION 3. Any annexation ordinance adopted under this act shall be adopted before December 31, 2017.

SECTION 4. This act applies only to the Town of Morrisville.

SECTION 5. This act is effective when it becomes law.

SENATE BILL 491:
Morrisville Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 14, 2007
Introduced by:	Sen. Cowell	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 491 is a local bill that authorizes the Town of Morrisville to annex certain property that is totally surrounded by the corporate limits without having to meet certain statutory requirements. This act is effective when it becomes law.

[As introduced, this bill was identical to H562, as introduced by Rep. T. Harrell, which is currently in House Local Government I .]

CURRENT LAW: To be annexed by a municipality, property must meet certain characteristics. One of the requirements concerns the location of the property in relationship to the municipality's existing corporate boundaries: the area proposed to be annexed must be adjacent or contiguous to the municipality's boundaries, at least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary, and no part of the area may be included within the boundary of another incorporated municipality.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

BILL ANALYSIS:

Senate Bill 491 would authorize the annexation of an area currently surrounded by the existing city limits of Morrisville without having to meet the statutory requirements described above. The Town may adopt ordinances annexing property that, on February 15, 2007, was completely enclosed by the corporate limits of the municipality, if the ordinance makes a finding that the total acreage being annexed is less than five percent (5%) of the total acreage within the corporate limits of the municipality prior to the annexation and also either:

- Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation is necessary for the orderly growth and development of the municipality; or
- Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation improves the ability to provide public safety services.
- Adopts the annexation ordinance before December 31, 2017.

EFFECTIVE DATE: This act is effective when it becomes law.

S0491e1-SMRE

Date: 14 MAR 07

To: Senate Committee on Finance

From: Town of Morrisville Board of Commissioners

Subject: Request for Local Act Granting the Town of Morrisville Special Annexation Authority to Annex Isolated Unincorporated Properties (S491)

Recent changes to the annexation statutes have more narrowly focused local annexation authority. These legislative changes together with heavy reliance on property owner initiated annexation (voluntary) have created islands of property being completely surrounded by incorporated municipal boundary. These property owners benefit directly from many municipal services without carrying the burden of the cost of providing these services. For example, a single home on a street within the heart of the town is directly benefited by street lights, police patrol and response, storm water management, and litter control. These are all services provided solely by the town's property owner tax payers. We believe that the legislature expects that North Carolina citizens and their property be protected and their needs provided for within a structure of fair cost sharing.

We recognize that North Carolina local governments are created by the state and we derive all our powers by delegation from the state. In the tradition of being a Dillon's rule state the legislature attempts to narrowly construct the scope of local authority. Changes in the annexation statutes continue to narrow the scope of local annexation authority.

Certainly the Senate Committee on Finance consists of members representing the full range of legislators who support providing narrow annexation authority to broad annexation authority. The legislature, in response to many competing positions, have carefully sought a collective compromise attempting to meet the requests from those opposed to annexation yet permit cities and towns to control certain aspects of urban growth via judicial use of their annexation authority.

In Morrisville, the result of narrowly defining local authority has resulted in 28 areas of isolated unincorporated properties that are completely surrounded by Morrisville's municipal boundary. Within these 28 areas there are 69 lots ranging in size from .02 acres (871 square feet) to 74 acres (see map). Two of the areas have 12 lots each and there are 15 single lot areas. Of the 19 structures nine are owner occupied properties, two are owned by non-residents, four are tenant occupied locally owned, and four are vacant. There are 49 undeveloped lots.

By local act the legislature can delegate a narrowly focused authority for the town to consider annexing these 69 properties. The authority would sunset in ten years but would permit the town to annex the properties provided the area being annexed is completely surrounded by Morrisville incorporated boundary. The current statutory tests to demonstrate areas being qualified and considered for annexation as being developed for

urban purposes narrowly addresses population density and/or subdivision and development. Within the statutory limitations these 28 areas cannot ever qualify for town initiated annexation. Yet, the property owners directly benefit from town provided services that other property owners are providing the resources for these services.

Examples:

Area 07-08
Lots: 1
Acreage: .11 (4,792 square feet)
Owner: Carter and Associates, Tampa, Florida
Description: Undeveloped irregular shaped land-locked lot left over from development and plating
Value: $1,650
Wake County Property Tax: $10.46
Wake County Fire District Property Tax: $1.65
Total pre-annexation tax: $12.11
Morrisville Performa Property Tax: $7.72
Total post-annexation tax (add Morrisville and deduct Fire District): $18.18
Tax increase: $6.07

Area 07-04
Lots: 2
First lot:
Acreage: .35 (15,246 square feet)
Owner: Cora Currie, Durham
Description: Undeveloped rectangular shaped at the corner of NC 54 and Lichtin Boulevard.
Value: $15,000
Wake County Property Tax: $95.10
Wake County Fire District Property Tax: $15.00
Total pre-annexation tax: $110.10
Morrisville Performa Property Tax: $70.16
Total post-annexation tax (add Morrisville and deduct Fire District): $165.26
Tax increase: $56.16

Second lot:
Acreage: .22 (9,583 square feet)
Owner: Duke Realty, Morrisville
Description: Undeveloped rectangular shaped at the corner of NC 54 and Lichtin Boulevard.
Value: $3,833
Wake County Property Tax: $24.30
Wake County Fire District Property Tax: $3.83
Total pre-annexation tax: $28.13
Morrisville Performa Property Tax: $17.93

Total post-annexation tax (add Morrisville and deduct Fire District): $42.23
Tax increase: $14.10

Area 07-20
Lots: 1
Acreage: .53 (23,087 square feet)
Owner: Tony and Terry Barber, Morrisville
Description: Lot with Single-Family Detached home on NC 54 south of Airport Boulevard occupied by owner
Value: $69,603
Per Property Vehicle Value: $1,840
Wake County Property Tax: $441.28
Wake County Fire District Property Tax: $69.60
Wake County Personal Property Tax: $12.95
Total pre-annexation tax: $523.83
Morrisville Performa Property Tax: $325.53
Morrisville Performa Personal Property Tax: $8.61
Morrisville Performa Vehicle Tags Fee: $10.00
Total post-annexation tax (add Morrisville and deduct Fire District): $798.37
Tax increase: $274.54

Summary of Areas to be Considered for Annexation

69 Lots
28 Areas

Smallest Area: Area 12: 1 lot at .02 acres (871.2 square feet)
Largest Area: Area 16: 12 lots at 172.97 acres

Smallest Lot: Area 12: 1 lot at .02 acres (871.2 square feet)
Largest Lot: Area 16, Lot 31 at 74.05 acres

Highest property value (single lot): Area 16, Lot 31 at $1,641,630
Lowest property value (single lot): Area 12, Lot 20 at $150
Total property value (all lots and areas): $6,280,378

Number of lots one acre or less: 40

Number of occupied homes: 13
Areas with occupied homes: 6

Authority to sunset after 10 years

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S 1

SENATE BILL 491

Short Title:	Morrisville Annexations.	(Local)
Sponsors:	Senator Cowell.	
Referred to:	Finance.	

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MORRISVILLE TO ANNEX CERTAIN PROPERTIES CURRENTLY TOTALLY SURROUNDED BY THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-48, a municipality to which that section applies may adopt ordinances annexing property that, on February 15, 2007, was completely enclosed by the corporate limits of the municipality, if the ordinance makes a finding that the total acreage being annexed is less than five percent (5%) of the total acreage within the corporate limits of the municipality prior to the annexation and also either:

(1) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation is necessary for the orderly growth and development of the municipality; or

(2) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation improves the ability to provide public safety services.

SECTION 2. The procedure for recording any annexation under this act is as provided in G.S. 160A-51.

SECTION 3. Any annexation ordinance adopted under this act shall be adopted before December 31, 2017.

SECTION 4. This act applies only to the Town of Morrisville.

SECTION 5. This act is effective when it becomes law.

Morrisville Doughnut Hole Properties (Wake County properties encirc[illegible] Morrisville Corpor[illegible]undaries) [69 lots in 28 areas identified on the attached town map]

Lot	Area	Property	Property Address	Owner	City Mailing Address	Acres	Property Value	Personal Property Value	Zoned	Use	Residential Owner Occupied	Pre-Annexation Taxes and Fees: Wake Property Tax	Wake Fire District Tax	Wake Personal Property Tax	Wake County Annexation Taxes	Total Pre-Annexation Taxes and Fees	Post-Annexation Taxes and Fees: Wake Property Tax	Wake Fire District Tax	Wake Personal Property Tax	Morrisville Property Tax	Morrisville Personal Property Tax	Morrisville Vehicle Tag Tax	Total Morrisville Tax/Fee	Total Wake County Tax/Fee	Post-Annexation Taxes/Fees	Taxes/Fees Increase
1	1	1	0 Church Street	Nathaniel Mayo, Heirs	Morrisville NC 27560-9360	3.82	$ 57,300	$ -	AD	Vacant		$ 363.28	$ 57.30	$ -	$ 420.58	$ 363.28	$ -	$ -	$ 267.99	$ -	$ -	$ 267.99	$ 363.28	$ 631.27	$ 210.69
2	2	1	6300 Weaver Rd	Ena Louise, Merlin etal Jr, Johnnie D Bass, and Mary L. Joyner	Morrisville NC 27560-9354	16.82	$ 165,951	$ -	AD	Vacant		$ 1,052.13	$ 165.95	$ -	$ 1,218.08	$ 1,052.13	$ -	$ -	$ 776.15	$ -	$ -	$ 776.15	$ 1,052.13	$ 1,828.28	$ 610.20
3	3	1	0 Chapel Hill Rd	Vacilious A & Marie P Chiotakis	Morehead City NC 28557-3114	2.17	$ 24,412	$ -	AD	Vacant		$ 154.77	$ 24.41	$ -	$ 179.18	$ 154.77	$ -	$ -	$ 114.17	$ -	$ -	$ 114.17	$ 154.77	$ 268.94	$ 89.76
4	3	2	0 Chapel Hill Rd	Vacilious A & Juanita M Chiotakis	Morehead City NC 28557-3114	1.79	$ 18,982	$ -	AD	Vacant		$ 120.35	$ 19.98	$ -	$ 140.33	$ 120.35	$ -	$ -	$ 88.78	$ -	$ -	$ 88.78	$ 120.35	$ 209.13	$ 68.80
5	3	3	0 Chapel Hill Rd	Abel & Wife Whitley c/o Affa Whitley	Baltimore MD 21212-6633	0.32	$ 22,500	$ -	AD	Vacant		$ 142.65	$ 22.50	$ -	$ 165.15	$ 142.65	$ -	$ -	$ 105.23	$ -	$ -	$ 105.23	$ 142.65	$ 247.88	$ 82.73
6	4	1	0 Chapel Hill Rd	Cora H Currie	Durham NC 27703-8188	0.35	$ 15,000	$ -	AD	Vacant		$ 95.10	$ 15.00	$ -	$ 110.10	$ 95.10	$ -	$ -	$ 70.16	$ -	$ -	$ 70.16	$ 95.10	$ 165.26	$ 55.16
7	4	2	0 Chapel Hill Rd	Duke Realty Limited Partnership	Morrisville NC 27560-8464	0.22	$ 3,833	$ -	O & I	Vacant		$ 24.30	$ 3.83	$ -	$ 28.13	$ 24.30	$ -	$ -	$ 17.93	$ -	$ -	$ 17.93	$ 24.30	$ 42.23	$ 14.10
8	5	1	0 Lichtin Blvd	Duke Realty Limited Partnership	Morrisville NC 27560-8464	0.65	$ 56,628	$ -	GB	Vacant		$ 359.02	$ 56.63	$ -	$ 415.65	$ 359.02	$ -	$ -	$ 264.85	$ -	$ -	$ 264.85	$ 359.02	$ 623.87	$ 208.22
9	5	2	0 Chapel Hill Rd	Duke Construction LTD Partnership	Morrisville NC 27560-8408	0.38	$ 33,106	$ -	GB	Vacant		$ 209.89	$ 33.11	$ -	$ 243.00	$ 209.89	$ -	$ -	$ 154.84	$ -	$ -	$ 154.84	$ 209.89	$ 364.73	$ 121.73
10	5	3	0 Chapel Hill Rd	Duke Construction LTD Partnership	Morrisville NC 27560-8464	0.39	$ 33,996	$ -	GB	Vacant		$ 215.53	$ 34.00	$ -	$ 249.53	$ 215.53	$ -	$ -	$ 159.00	$ -	$ -	$ 159.00	$ 215.53	$ 374.53	$ 125.00
11	6	1	0 Chapel Hill Rd	Duke Construction LTD Partnership c/o Duke Realty Corp	Morrisville NC 27560-8464	1.05	$ 68,607	$ -	O&I PUD	Vacant		$ 434.97	$ 68.61	$ -	$ 503.58	$ 434.97	$ -	$ -	$ 320.87	$ -	$ -	$ 320.87	$ 434.97	$ 755.84	$ 252.26
12	7	1	2500 Lichtin Blvd	Duke Realty Limited Partnership	Morrisville NC 27560-8408	2.58	$ 449,540	$ -	O&I PUD	Vacant		$ 2,850.08	$ 449.54	$ -	$ 3,299.62	$ 2,850.08	$ -	$ -	$ 2,102.50	$ -	$ -	$ 2,102.50	$ 2,850.08	$ 4,952.58	$ 1,652.96
13	7	2	2000 Lichtin Blvd	Duke Realty Limited Partnership	Morrisville NC 27560-8408	1.25	$ 217,800	$ -	O&I PUD	Vacant		$ 1,380.85	$ 217.80	$ -	$ 1,598.65	$ 1,380.85	$ -	$ -	$ 1,018.65	$ -	$ -	$ 1,018.65	$ 1,380.85	$ 2,399.50	$ 800.85
14	7	3	0 Lichtin Blvd	Duke Realty Limited Partnership	Morrisville NC 27560-8464	0.18	$ 7,841	$ -	O&I PUD	Vacant		$ 49.71	$ 7.84	$ -	$ 57.55	$ 49.71	$ -	$ -	$ 36.67	$ -	$ -	$ 36.67	$ 49.71	$ 86.38	$ 28.83
15	8	1	0 Sorrell Grove Church Rd	Lakeside Two Owner Corp Carter & Associates	Tampa FL 33607-3883	0.11	$ 1,650	$ -	AD	Vacant		$ 10.46	$ 1.65	$ -	$ 12.11	$ 10.46	$ -	$ -	$ 7.72	$ -	$ -	$ 7.72	$ 10.46	$ 18.18	$ 6.07
16	9	1	0 Slater Rd	Lakeside Two Owner Corp Carter & Associates	Tampa FL 33607-3883	0.13	$ 1,950	$ -	AD	Vacant		$ 12.36	$ 1.95	$ -	$ 14.31	$ 12.36	$ -	$ -	$ 9.12	$ -	$ -	$ 9.12	$ 12.36	$ 21.48	$ 7.17
17	10	1	0 Slater Rd	Lakeside Two Owner Corp Carter & Associates	Tampa FL 33607-3883	0.32	$ 4,800	$ -	AD	Vacant		$ 30.43	$ 4.80	$ -	$ 35.23	$ 30.43	$ -	$ -	$ 22.45	$ -	$ -	$ 22.45	$ 30.43	$ 52.88	$ 17.65
18	11	1	0 Slater Rd	Lakeside Two Owner Corp Carter & Associates	Tampa FL 33607-3883	0.09	$ 1,080	$ -	AD	Vacant		$ 6.85	$ 1.08	$ -	$ 7.93	$ 6.85	$ -	$ -	$ 5.05	$ -	$ -	$ 5.05	$ 6.85	$ 11.90	$ 3.97
19	11	2	0 Sorrell Grove Church Rd	Lakeside Two Owner Corp Carter & Associates	Tampa FL 33607-3883	0.12	$ 1,800	$ -	AD	Vacant		$ 11.41	$ 1.80	$ -	$ 13.21	$ 11.41	$ -	$ -	$ 8.42	$ -	$ -	$ 8.42	$ 11.41	$ 19.83	$ 6.62
20	12	1	0 Sorrell Grove Church Rd	Lakeside Two Owner Corp Carter & Associates	Tampa FL 33607-3883	0.02	$ 150	$ -	AD	Vacant		$ 0.95	$ 0.15	$ -	$ 1.10	$ 0.95	$ -	$ -	$ 0.70	$ -	$ -	$ 0.70	$ 0.95	$ 1.65	$ 0.55
21	13	1	0 Church St	Otto Lyons	Morrisville NC 27560	0.48	$ 7,200	$ -	AD	Vacant		$ 45.65	$ 7.20	$ -	$ 52.85	$ 45.65	$ -	$ -	$ 33.67	$ -	$ -	$ 33.67	$ 45.65	$ 79.32	$ 26.47
22	14	1	0 Barbee Rd	Rabindra Karki & Kiriti Suvedi	Morrisville NC 27560-5715	2.12	$ 31,800	$ -	AD	Vacant		$ 201.61	$ 31.80	$ -	$ 233.41	$ 201.61	$ -	$ -	$ 148.73	$ -	$ -	$ 148.73	$ 201.61	$ 350.34	$ 116.93
23	14	2	0 Church St	Mary E Barbee	Morrisville NC 27560-8728	0.72	$ 25,000	$ -	AD	Vacant		$ 158.50	$ 25.00	$ -	$ 183.50	$ 158.50	$ -	$ -	$ 116.93	$ -	$ -	$ 116.93	$ 158.50	$ 275.43	$ 91.93
24	14	3	0 Church St	Shiloh Baptist Church	Cary NC 27511	1.00	$ -	$ -	AD	Exempt		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
25	15	1	610 Airport Blvd	Charles William Myers	Rocky Mount NC 27801-5945	2.63	$ 81,161	$ -	AD	Vacant		$ 514.56	$ 81.16	$ -	$ 595.72	$ 514.56	$ -	$ -	$ 514.56	$ -	$ -	$ 514.56	$ 514.56	$ 1,029.12	$ 433.40
26	16	1	0 Airport Blvd	Mildred Perdue Watkins	Morrisville NC 27560-9189	20.55	$ 30,141	$ -	AD ($311,162)	Vacant (Floriculture-Farm)		$ 191.09	$ 30.14	$ -	$ 221.23	$ 191.09	$ -	$ -	$ 140.97	$ -	$ -	$ 140.97	$ 191.09	$ 332.06	$ 110.83
27	16	2	0 Airport Blvd	Watkins Associates LP1	Morrisville NC 27560-9189	23.57	$ 6,199	$ -	AD ($424,260)	Vacant (Floriculture-Farm)		$ 39.30	$ 6.20	$ -	$ 45.50	$ 39.30	$ -	$ -	$ 28.99	$ -	$ -	$ 28.99	$ 39.30	$ 68.29	$ 22.79
28	16	3	514 Airport Blvd	C W & Wanda Conkling	Morrisville NC 27560-0168	2.00	$ 161,752	$ 24,836	AD	Single Family	1	$ 1,025.51	$ 161.75	$ 184.56	$ 1,371.82	$ 1,025.51	$ -	$ 161.75	$ 756.51	$ 116.16	$ 15.00	$ 887.67	$ 1,187.26	$ 2,074.93	$ 703.11
29	16	4	0 Airport Blvd	B F McLeod Jr et al R Terry Bass Trustee	Fuquay Varina NC 27526-2039	14.00	$ 3,682	$ -	AD ($126,000)	Vacant (Floriculture-Farm)		$ 23.34	$ 3.68	$ -	$ 27.02	$ 23.34	$ -	$ -	$ 17.22	$ -	$ -	$ 17.22	$ 23.34	$ 40.56	$ 13.54
30	16	5	0 Airport Blvd	Algie I & Clara G Stephens	Raleigh NC 27603-3433	13.08	$ 600,791	$ -	IM	Vacant		$ 3,809.01	$ 600.79	$ -	$ 4,409.80	$ 3,809.01	$ -	$ -	$ 2,809.90	$ -	$ -	$ 2,809.90	$ 3,809.01	$ 6,618.91	$ 2,209.11
31	16	6	0 Airport Blvd	Stephens Enterprises LLC	Raleigh NC 27603-3433	74.05	$1,641,630	$ -	IM	Vacant		$ 10,407.93	$1,641.63	$ -	$ 12,049.56	$ 10,407.93	$ -	$ -	$ 7,677.90	$ -	$ -	$ 7,677.90	$ 10,407.93	$ 18,085.83	$ 6,036.27
32	16	7	0 Airport Blvd	Minesh Inc et al Kiran K Randery	Morrisville NC 27615-2323	2.88	$ 185,392	$ -	IM	Vacant		$ 1,175.39	$ 185.39	$ -	$ 1,360.78	$ 1,175.39	$ -	$ -	$ 867.08	$ -	$ -	$ 867.08	$ 1,175.39	$ 2,042.47	$ 681.69
33	16	8	415 Airport Blvd	Linda W Moore and Richard Larry Watkins	Durham NC 27704-2438	2.54	$ 78,543	$ 21,090	AD	Single Family		$ 497.96	$ 78.54	$ 148.48	$ 724.98	$ 497.96	$ -	$ 148.48	$ 367.35	$ 98.64	$ 10.00	$ 475.99	$ 646.44	$ 1,122.43	$ 397.45
34	16	9	417 Airport Blvd	Richard Larry Watkins	Morrisville NC 27560-9186	0.72	$ 86,916	$ 2,680	O[illegible]	Single Family		$ 551.05	$ 86.92	$ 19.29	$ 657.26	$ 551.05	$ -	$ 19.29	$ 406.51	$ 12.53	$ 10.00	$ 429.04	$ 570.34	$ 999.38	$ 342.12
35	16	10	0 Airport Blvd	G I C	Raleigh NC 27615-1168	9.05	$ 95,025	$ -	O[illegible]	Vacant		$ 602.46	$ 95.03	$ -	$ 697.49	$ 602.46	$ -	$ -	$ 444.43	$ -	$ -	$ 444.43	$ 602.46	$ 1,046.89	$ 349.40
36	16	11	0 Airport Blvd	Edward E Hollowell Trustee for Dove Investment Assoc III c/o Watson @ Pelt PA	Cary NC 27511-4447	8.61	$ 109,800	$ -	O & I	Vacant		$ 696.13	$ 109.80	$ -	$ 805.93	$ 696.13	$ -	$ -	$ 513.53	$ -	$ -	$ 513.53	$ 696.13	$ 1,209.66	$ 403.73
37	16	12	505 Airport Blvd	Gloria M Moss	Morrisville NC 27560-7212	1.92	$ 68,412	$ 14,973	O & I	Single Family	1	$ 433.73	$ 68.41	$ 105.40	$ 607.54	$ 433.73	$ -	$ 105.40	$ 319.96	$ 70.03	$ 10.00	$ 399.99	$ 539.13	$ 939.12	$ 331.58
38	17	1	0 McCrimmon Pkwy	Town Hall Commons LLC	Durham NC 27703-8046	0.29	$ 4,350	$ -	AD	Vacant		$ 27.58	$ 4.35	$ -	$ 31.93	$ 27.58	$ -	$ -	$ 20.34	$ -	$ -	$ 20.34	$ 27.58	$ 47.92	$ 15.99
39	18	1	0 McCrimmon Pkwy	Town Hall Commons LLC	Durham NC 27703-8046	0.41	$ 7,935	$ -	AD	Vacant		$ 50.31	$ 7.94	$ -	$ 58.25	$ 50.31	$ -	$ -	$ 37.11	$ -	$ -	$ 37.11	$ 50.31	$ 87.42	$ 29.17
40	19	1	403 Airport Blvd	Lee Moore Oil Company	Sanford NC 27331-0009	0.23	$ 40,076	$ -	GB	Commercial		$ 254.08	$ 40.08	$ -	$ 294.16	$ 254.08	$ -	$ -	$ 187.44	$ -	$ -	$ 187.44	$ 254.08	$ 441.52	$ 147.36
41	20	1	10414 Chapel Hill Rd	Tony A & Terry W Barber	Morrisville NC 27560-8709	0.53	$ 69,603	$ 1,840	IM	Single Family	1	$ 441.28	$ 69.60	$ 12.95	$ 523.83	$ 441.28	$ -	$ 12.95	$ 325.53	$ 8.61	$ 10.00	$ 344.14	$ 454.23	$ 798.37	$ 274.54
42	21	1	0 Church St	Martha Hicks Brandon	Bunnlevel NC 28323-8744	0.45	$ 20,650	$ -	AD	Vacant		$ 130.92	$ 20.65	$ -	$ 151.57	$ 130.92	$ -	$ -	$ 96.58	$ -	$ -	$ 96.58	$ 130.92	$ 227.50	$ 75.93
43	22	1	830 Church St	Otto Lyons	Morrisville NC 27560-9177	0.51	$ 70,889	$ -	AD	Single Family		$ 449.44	$ 70.89	$ -	$ 520.33	$ 449.44	$ -	$ -	$ 331.55	$ -	$ -	$ 331.55	$ 449.44	$ 780.99	$ 260.66
44	22	2	0 Church St	Otto Lyons	Morrisville NC 27560-9177	0.51	$ 22,500	$ -	AD	Vacant		$ 142.65	$ 22.50	$ -	$ 165.15	$ 142.65	$ -	$ -	$ 105.23	$ -	$ -	$ 105.23	$ 142.65	$ 247.88	$ 82.73
45	22	3	0 Church St	Otto Lyons	Morrisville NC 27560-9177	0.51	$ 22,500	$ -	AD	Vacant		$ 142.65	$ 22.50	$ -	$ 165.15	$ 142.65	$ -	$ -	$ 105.23	$ -	$ -	$ 105.23	$ 142.65	$ 247.88	$ 82.73
46	22	4	814 Church St	Otto Lyons	Morrisville NC 27560-9177	0.51	$ 65,903	$ -	AD	Single Family		$ 417.83	$ 65.90	$ -	$ 483.73	$ 417.83	$ -	$ -	$ 308.23	$ -	$ -	$ 308.23	$ 417.83	$ 726.06	$ 242.33
47	22	5	808 Church St	Mack C Baker and William F Jones and Wife	Morrisville NC 27560-9177	0.50	$ 118,232	$ 16,380	AD	Single Family	1	$ 749.59	$ 118.23	$ 107.73	$ 975.55	$ 749.59	$ -	$ 107.73	$ 552.97	$ 76.61	$ 40.00	$ 669.58	$ 857.32	$ 1,526.90	$ 551.35
48	22	6	0 Church St	Mack C & Bessie J Baker	Morrisville NC 27560-9177	0.51	$ 27,330	$ -	AD	Vacant		$ 173.27	$ 27.33	$ -	$ 200.60	$ 173.27	$ -	$ -	$ 127.82	$ -	$ -	$ 127.82	$ 173.27	$ 301.09	$ 100.49
49	22	7	0 Church St	Mark C & Bessie J Baker, Zola B Jones, and Leory Williamson	Morrisville NC 27560-9177	1.52	$ 15,000	$ -	AD	Vacant		$ 95.10	$ 15.00	$ -	$ 110.10	$ 95.10	$ -	$ -	$ 70.16	$ -	$ -	$ 70.16	$ 95.10	$ 165.26	$ 55.16
50	22	8	0 Church St	Dallas C Marshburn Heirs	Morrisville NC 27560-8340	16.15	$ 3,737	$ -	AD ($209,175)	Vacant		$ 23.69	$ 3.74	$ -	$ 27.43	$ 23.69	$ -	$ -	$ 17.48	$ -	$ -	$ 17.48	$ 23.69	$ 41.17	$ 13.74
51	22	9	704 Church St	Helen M Marshburn	Morrisville NC 27560-9175	7.44	$ 61,829	$ -	AD ($156,858)	Single Family	1	$ 392.00	$ 61.83	$ -	$ 453.83	$ 392.00	$ -	$ -	$ 289.17	$ -	$ -	$ 289.17	$ 392.00	$ 681.17	$ 227.34
52	22	10	711 Church St	Robert G & Betty L Marshburn	Morrisville NC 27560-9176	0.43	$ 27,500	$ -	AD	Vacant		$ 174.35	$ 27.50	$ -	$ 201.85	$ 174.35	$ -	$ -	$ 128.62	$ -	$ -	$ 128.62	$ 174.35	$ 302.97	$ 101.12
53	22	11	701 Church St	Robert G & Betty L Marshburn	Morrisville NC 27560-9176	0.66	$ 30,500	$ -	AD	Vacant		$ 193.37	$ 30.50	$ -	$ 223.87	$ 193.37	$ -	$ -	$ 142.65	$ -	$ -	$ 142.65	$ 193.37	$ 336.02	$ 112.15
54	22	12	703 Church St	Rickey Marshburn	Morrisville NC 27560-9176	0.66	$ 112,181	$ -	AD	Single Family	1	$ 711.23	$ 112.18	$ -	$ 823.41	$ 711.23	$ -	$ -	$ 524.67	$ -	$ -	$ 524.67	$ 711.23	$ 1,235.90	$ 412.49
55	23	1	0 Church St	Shemin Nurseries Inc	Danbury CT 06810-5129	1.00	$ 25,000	$ -	AD	Vacant		$ 158.50	$ 25.00	$ -	$ 183.50	$ 158.50	$ -	$ -	$ 116.93	$ -	$ -	$ 116.93	$ 158.50	$ 275.43	$ 91.93
56	23	2	0 Church St	Islamic Association of Raleigh	Raleigh NC 27607-5308	1.00	$ 25,000	$ -	AD	Vacant		$ 158.50	$ 25.00	$ -	$ 183.50	$ 158.50	$ -	$ -	$ 116.93	$ -	$ -	$ 116.93	$ 158.50	$ 275.43	$ 91.93
57	23	3	0 Church St	Islamic Association of Raleigh	Raleigh NC 27607-5308	6.60	$ 109,000	$ -	AD	Vacant		$ 691.06	$ 109.00	$ -	$ 800.06	$ 691.06	$ -	$ -	$ 509.79	$ -	$ -	$ 509.79	$ 691.06	$ 1,200.85	$ 400.79
58	23	4	0 Church St	Islamic Association of Raleigh	Raleigh NC 27607-5308	1.00	$ 25,000	$ -	AD	Vacant		$ 158.50	$ 25.00	$ -	$ 183.50	$ 158.50	$ -	$ -	$ 116.93	$ -	$ -	$ 116.93	$ 158.50	$ 275.43	$ 91.93
59	24	1	0 Carolina Ave	James M Upchurch	Morrisville NC 27560-0331	2.72	$ 24,480	$ -	R-12	Vacant		$ 155.20	$ 24.48	$ -	$ 179.68	$ 155.20	$ -	$ -	$ 114.49	$ -	$ -	$ 114.49	$ 155.20	$ 269.69	$ 90.01
60	24	2	0 Carolina Ave	James M Upchurch	Morrisville NC 27560-0331	1.47	$ 359	$ -	AD ($13,230)	Vacant		$ 2.28	$ 0.36	$ -	$ 2.64	$ 2.28	$ -	$ -	$ 1.68	$ -	$ -	$ 1.68	$ 2.28	$ 3.96	$ 1.32
61	25	1	0 Morrisville Carpenter Rd	Hans H & Gerda Stadelmaier	Raleigh NC 27607-4135	18.39	$ 275,850	$ -	AD	Vacant		$ 1,748.89	$ 275.85	$ -	$ 2,024.74	$ 1,748.89	$ -	$ -	$ 1,290.15	$ -	$ -	$ 1,290.15	$ 1,748.89	$ 3,039.04	$ 1,014.30
62	25	2	0 Morrisville Carpenter Rd	Kathy Adams White, Stuart E White, and R D Adams	Raleigh NC 27619-8506	2.32	$ 150,800	$ -	O & I	Vacant		$ 956.07	$ 150.80	$ -	$ 1,106.87	$ 956.07	$ -	$ -	$ 705.29	$ -	$ -	$ 705.29	$ 956.07	$ 1,661.36	$ 554.49
63	26	1	0 Aviation Pkwy	The Hindu Society of NC Inc	Morrisville NC 27560-9152	0.94	$ 25,000	$ -	R-12	Vacant		$ 158.50	$ 25.00	$ -	$ 183.50	$ 158.50	$ -	$ -	$ 116.93	$ -	$ -	$ 116.93	$ 158.50	$ 275.43	$ 91.93
64	26	2	329 Aviation Pkwy	The Hindu Society of NC Inc	Morrisville NC 27560-9152	0.99	$ 46,215	$ -	R-12	Single Family		$ 293.00	$ 46.22	$ -	$ 339.22	$ 293.00	$ -	$ -	$ 216.15	$ -	$ -	$ 216.15	$ 293.00	$ 509.15	$ 169.93
65	26	3	315 Aviation Pkwy	Donald Lee & Sharon C Luquire	Carolina Beach NC 28428-5325	1.00	$ 49,929	$ -	R-12	Single Family		$ 316.55	$ 49.93	$ -	$ 366.48	$ 316.55	$ -	$ -	$ 233.52	$ -	$ -	$ 233.52	$ 316.55	$ 550.07	$ 183.59
66	26	4	337 Aviation Pkwy	Marian Hooks	Morrisville NC 27560-9152	1.00	$ 125,318	$ -	R-12	Single Family	1	$ 794.52	$ 125.32	$ -	$ 919.84	$ 794.52	$ -	$ -	$ 586.11	$ -	$ -	$ 586.11	$ 794.52	$ 1,380.63	$ 460.79
67	27	1	269 Aviation Pkwy	Terena C Powell TR c/o Terena Powell	Morrisville NC 27560-9149	0.86	$ 25,000	$ -	R-12	Vacant		$ 158.50	$ 25.00	$ -	$ 183.50	$ 158.50	$ -	$ -	$ 116.93	$ -	$ -	$ 116.93	$ 158.50	$ 275.43	$ 91.93
68	27	2	272 Aviation Pkwy	Bethel S Jr & Bertha M Howell	Morrisville NC 27560-9149	1.26	$ 54,517	$ -	R-12	Single Family	1	$ 345.64	$ 54.52	$ -	$ 400.16	$ 345.64	$ -	$ -	$ 254.98	$ -	$ -	$ 254.98	$ 345.64	$ 600.62	$ 200.46
69	28	1	9666 Chapel Hill Rd	LDM Investments LLC	Cary NC 27518-8116	1.50	$ 197,825	$ -	O & I	Single Family		$ 1,254.21	$ 197.83	$ -	$ 1,452.04	$ 1,254.21	$ -	$ -	$ 925.23	$ -	$ -	$ 925.23	$ 1,254.21	$ 2,179.44	$ 727.41
Totals						286.55	$6,280,378	$ 81,799			9	$ 39,817.57	$6,281.40	$ 578.41	$ 46,677.38	$ 39,817.57	$ -	$ 555.60	$ 29,508.31	$ 382.57	$ 95.00	$ 29,985.88	$ 40,373.17	$ 70,359.05	$ 23,681.68

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 496

Short Title:	Perquimans County Occupancy Tax.	(Local)
Sponsors:	Senator Jones.	
Referred to:	Finance.	

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PERQUIMANS COUNTY TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Perquimans County may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Perquimans County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or

convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Perquimans County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Perquimans County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Perquimans County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Perquimans County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Perquimans County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Perquimans County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. Administrative provisions. – G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

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

SENATE BILL 496:
Perquimans County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 12, 2007
Introduced by:	Sen. Jones	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 496 authorizes Perquimans County to levy a 6% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.

CURRENT LAW: Currently, Perquimans County does not have authority to levy a room occupancy tax.

BILL ANALYSIS: Senate Bill 496 authorizes Perquimans County to levy a room occupancy tax of up to 6%. The proceeds must be remitted to a county Tourism Development Authority (TDA), which must use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: March 14, 2007

TO: Senate Finance Committee

FROM: Joe Futima
Rodney Bizzell
Fiscal Research Division

RE: SB 496

FISCAL IMPACT

	Yes ( )	No ( )	No Estimate Available ( )		
	FY 2007-08	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
REVENUES:					
Perquimans County	$27,594	$28,173	$28,765	$29,398	$30,074
EXPENDITURES:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Perquimans County

EFFECTIVE DATE: When bill becomes law

BILL SUMMARY: Senate Bill 496 authorizes Perquimans County to levy a 6% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.

ASSUMPTIONS AND METHODOLOGY:

County officials were unavailable to provide estimates for this analysis. According to the economic census there is one motel in the county. Assuming that there are 35 rooms, an average occupancy of 60% and an average room rate of $60 a night we determined the base estimate. The figure was then grown using consumer price index estimates from Moody's to give this revenue stream:

Fiscal Year	Proposed 6% Tax	Each 1%
2007-08	$27,594	$9,198
2008-09	$28,173	$9,391
2009-10	$28,765	$9,588
2010-11	$29,398	$9,799
2011-12	$30,074	$10,025

SOURCES OF DATA: US Census Bureau and Moody's Economy.com

TECHNICAL CONSIDERATIONS: None

SENATE FINANCE COMMITTEE
Wednesday, March 21, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, March 21, 2007, in room 544 of the Legislative Office Building. Twenty-six members of the committee were present. Senator Dan Clodfelter presided. Chauncey Feinster and Steven Horne of Gastonia served as pages.

S.B. 16 – Wheel Locks/Boiling Springs

Senator Dalton was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 224 – Ocean Isle Beach/Canal Dredging

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Soles was recognized to explain the proposed committee substitute. Senator Brown moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary is attached.

S.B. 382 – Sunset Beach Annexation

Senator Soles was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 570 Watha Satellite Annexations

Senator Soles explained the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 616 – River Bend Annexations

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Preston was recognized to explain the proposed committee substitute. Senators Dannelly and Stevens moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary is attached.

S.B. 624 – Gates/Delinquent Tax – Deny Building Permit

Senator Jones was recognized to explain the bill. Senator Hunt moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 645 – Sampson County Occupancy Tax

Senator Albertson was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 1:15 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

SENATE FINANCE COMMITTEE
Wednesday, March 14, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, March 14, 2007, in room 544 of the Legislative Office Building. Twenty-two members of the committee were present. Senator John Kerr presided. Jessica Smith of Winterville and Amber Nead of Carteret County served as pages.

S.B. 432 – Greensboro Deannexation

Senator Hagan was recognized to explain the bill. Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 336 – Occupancy Tax Modifications for Swain County

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Snow was recognized to explain the proposed committee substitute. Senator Apodaca moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary are attached.

S.B. 220 – Roanoke Rapids/Weldon/Ahoskie Annexations

Senator Jones was recognized to explain the bill. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 496 – Perquimans Occupancy Tax

Senator Jones explained the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 284 – Sanford Annexations

Senator Atwater was recognized to explain the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 398 – Norwood Satellite Annexations

Senator Purcell was recognized to explain the bill. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 443 – Yanceyville Annexation

Senator Foriest was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 442 – Caswell County Occupancy Tax

Senator Foriest explained the bill. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note are attached.

S.B. 439 – Extend Magnolia ETJ

Senator Albertson was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 465 – Amend Carteret County Occupancy Tax

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Preston was recognized to explain the PCS. Senator Hoyle moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, the fiscal note, and the summary are attached.

S.B. 491 – Morrisville Annexations

Senator Cowell was recognized to explain the bill. She recognized the Honorable Jan Faulkner, Mayor of Morrisville, and John Whitson, Morrisville Town Manager. They distributed an informational memo, spreadsheet and map outlining the bill's effects (attached). Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

The meeting adjourned at 1:22 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Senate Finance Committee
Wednesday, March 21, 2007, 1:00 PM
544

AGENDA

Welcome and Approval of Minutes

Introduction of Pages

Bills

SB 16	Wheel Locks/Boiling Springs.	Senator Dalton
SB 224	Ocean Isle Beach/Canal Dredging.	Senator Soles, Jr.
SB 382	Sunset Beach/ Annexation.	Senator Soles, Jr.
SB 570	Watha Satellite Annexations.	Senator Soles, Jr.
SB 616	River Bend Annexations.	Senator Preston
SB 624	Gates/Delinquent Tax - Deny Building Permit.	Senator Jones
SB 645	Sampson County Occupancy Tax.	Senator Albertson

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 21, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tim Russell	Gates County 202 Court St Gatesville NC 27938
Judy McConnell	JOG
Andy Munn	REBIC
David McGowan	NC Realtors
[signature]	NCAHA
DAVID BARNES	Pioneer-Sprill
Andy Romanet	NCLM
Ken Melton	N.C. DOR
JE Hobbs	HANC
Alastair Macaulay	NCHBA
Elizabeth Dalton	MCRMA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 16

State & Local Government Committee Substitute Adopted 3/7/07

Short Title: Wheel Locks/Boiling Springs. (Local)

Sponsors:

Referred to:

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF BOILING SPRINGS TO USE WHEEL LOCKS TO ENFORCE PARKING REGULATIONS ON PROPERTY OWNED, LEASED, OR OCCUPIED BY THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2003-240 reads as rewritten:

"**SECTION 3.** Section 1 of this act applies to the Towns of Boiling Springs, ~~Carolina Beach~~ Carolina Beach, and Wrightsville Beach only."

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

SENATE BILL 16:
Wheel Locks/Boiling Springs

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 21, 2007
Introduced by:	Sen. Dalton	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: ***Senate Bill 16 allows the Town of Boiling Springs council to adopt an ordinance permitting wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets issued on at least three separate days. The Proposed Committee Substitute (PCS) to the First Edition of SB 16, correcting the bill long title and making a technical change, received a favorable report from Senate State & Local Government Committee on March 7, 2007.***

CURRENT LAW:

Section 1 of S.L. 2003-240 allows a council of a city to provide, by ordinance, for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets issued on at least three separate days. The ordinance must provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars, and charges for towing and storage. It further provides that the city is not responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

Section 3 of S.L. 2003-240 provided that Section 1 of the act applied to the Towns of Carolina Beach and Wrightsvile Beach.

BILL ANALYSIS:

Senate Bill 16 amends Section 3 of S.L. 2003-240 to add the Town of Boiling Springs to other municipalities that are authorized to adopt a wheel lock ordinance in accordance with Section 1 of S.L. 2003-240.

This act is effective when it becomes law.

S0016e2-SMRE

Theresa Matula, staff to Senate State & Local Government Committee substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 224
PROPOSED COMMITTEE SUBSTITUTE S224-CSSVf-5 [v.3]

3/21/2007 8:09:34 AM

Short Title: Beach Towns/Canal Dredging. (Local)

Sponsors:

Referred to:

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWNS OF OCEAN ISLE BEACH, EMERALD ISLE, AND HOLDEN BEACH TO SET CANAL DREDGING FEES BASED ON A PROPERTY OWNER'S FRONTAGE ABUTTING A DREDGING PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2004-104 reads as rewritten:

"**SECTION 3.** Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system on the ~~island.~~ island and shall be made on the basis of one of the following:

(1) The frontage abutting the project at an equal rate per foot of frontage.

(2) Per unit or parcel of property."

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

SENATE BILL 224:
Ocean Isle Beach/Canal Dredging

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 21, 2007
Introduced by:	Sen. Soles	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S224-CSSVf-5		Committee Counsel

SUMMARY: Senate Bill 224 modifies the authority of the Towns of Ocean Isle Beach, Emerald Isle, and Holden Beach to assess canal dredging fees using the same procedures as for making special assessments.

The Proposed Committee Substitute gives the towns the option of basing the fee amount either on a per unit or per parcel basis or based on frontage abutting the dredging project. It also corrects the long title to accurately reflect the fact that the bill applies to Ocean Isle, Emerald Isle, and Holden Beach.

CURRENT LAW: In 2004, the General Assembly authorized the Town of Ocean Isle Beach to create a fee-supported canal dredging district for properties that are contiguous to a canal within the town limits (S.L. 2004-104). In 2005, the General Assembly extended this same authority to the Towns of Emerald Isle (S.L. 2005-47) and Holden Beach (S.L. 2005-90). The legislation provided the following:

- The annual fee may not exceed the cost of providing for the dredging of canals, both natural and concrete.
- The fee would be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system.
- The dredging fee may be included on the property tax bill and collected in the same manner as property taxes. The remedies for collection of taxes will also apply to the collection of these fees.
- The fees collected shall be placed in a separate fund to be used only to pay the bill for canal dredging.

This legislation was proposed to provide the means to remove the silt and sand that have flowed into the canals in the towns impeding the navigability of the canals. These canals provide water access from the Intracoastal Waterway to lots and rights-of-way within the towns' limits.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 224 would give Ocean Isle, Emerald Isle, and Holden Beach an option with regard to setting the annual fee amount to be assessed on owners of property who benefit from a canal dredging project. The fee amount would be determined based upon one of the following:

- The frontage abutting the project at an equal rate per foot of frontage.
- Per unit or parcel of property.

Under current law, the towns may base fees only on a per unit or per parcel basis. This bill offers an additional option based on frontage. The bill does not change the manner in which the fees are collected. The fees may be imposed annually, must be established by July 1 of each year, and are collected in the same manner as property tax.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The current legislation was patterned after fire fee district legislation. Under that type of legislation, fees are based on a per unit or per parcel basis. Ocean Isle has requested that it be able to set fees based on the frontage abutting the canal dredging project because it more fairly apportions the cost among the property owners. Thus, a property owner who owns two lots equaling 500 feet would pay less than a property owner with one lot measuring over 1,000 feet. This method of determining fees is similar to the basis for determining special assessments. However, Ocean Isle would like to continue collecting the fees in the same manner as it is currently collecting them and not under the procedures for special assessments.

Emerald Isle would like to retain the option of basing the fees on a per unit or per parcel basis. Since all three towns derive their fee authority for canal dredging projects from the same local act, the bill has been amended to provide both options for setting fees to all three towns.

S0224e1-SMSV-CSSVf-5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 224

Short Title:	Ocean Isle Beach/Canal Dredging.	(Local)
Sponsors:	Senator Soles.	
Referred to:	Finance.	

February 21, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF OCEAN ISLE BEACH TO ASSESS CANAL DREDGING FEES ON THE SAME BASIS AS SPECIAL ASSESSMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2004-104 reads as rewritten:

"**SECTION 3.** Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system on the ~~island.~~ island by using the basis and procedures for making special assessments authorized in G.S. 160A-218."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 382

Short Title:	Sunset Beach/ Annexation.	(Local)
Sponsors:	Senator Soles.	
Referred to:	Finance.	

February 28, 2007

A BILL TO BE ENTITLED

AN ACT TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF SUNSET BEACH.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Sunset Beach:

Beginning at a point in the north right-of-way of Georgetown Road located North 79 degrees 32 minutes 53 seconds West a distance of 95.27 feet from the center line intersection of Seaside Road (NC 904) and Georgetown Road (SR1163), thence with the northern R/W of Georgetown Road South 81 degrees 56 minutes 12 seconds West for a distance of 1,024.11 feet to a point, thence South 82 degrees 08 minutes 23 seconds West for a distance of 139.29 feet to a point, thence South 81 degrees 09 minutes 00 seconds West for a distance of 159.73 feet, thence South 80 degrees 10 minutes 31 seconds West for a distance of 159.00 feet to a point, thence South 78 degrees 09 minutes 42 seconds West for a distance of 157.68 feet to a point, thence South 76 degrees 24 minutes 45 seconds West for a distance of 157.94 feet to a point, thence South 74 degrees 26 minutes 42 seconds West for a distance of 2,453.76 feet to a point, thence South 75 degrees 28 minutes 13 seconds West for a distance of 156.58 feet to a point, thence South 78 degrees 43 minutes 11 seconds West for a distance of 155.90 feet to a point, thence South 82 degrees 47 minutes 55 seconds West for a distance of 79.57 feet to a point, thence South 86 degrees 29 minutes 57 seconds West for a distance of 157.42 feet to a point, thence North 89 degrees 33 minutes 53 seconds West for a distance of 157.75 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 99.91 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 57.62 feet to a point, thence North 86 degrees 58 minutes 35 seconds West for a distance of 1,661.70 feet to a point, thence North 87 degrees 54 minutes 16 seconds West for a distance of 108.52 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 67.24 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 34.74 feet to a point, thence

North 89 degrees 56 minutes 20 seconds West for a distance of 108.75 feet to a point, thence South 87 degrees 10 minutes 26 seconds West for a distance of 104.83 feet to a point, thence South 84 degrees 13 minutes 54 seconds West for a distance of 104.22 feet to a point, thence South 81 degrees 54 minutes 06 seconds West for a distance of 703.32 feet to a point, thence South 78 degrees 01 minutes 09 seconds West for a distance of 160.86 feet to a point, thence South 75 degrees 17 minutes 01 seconds West for a distance of 117.18 feet to a point, thence leaving said R/W, with Williamson North 03 degrees 50 minutes 58 seconds East for a distance of 738.01 feet to a point, North 25 degrees 45 minutes 58 seconds East for a distance of 379.29 feet to a point, thence South 80 degrees 26 minutes 00 seconds East for a distance of 332.90 feet to a point, thence North 46 degrees 22 minutes 35 seconds East for a distance of 445.80 feet to a point, thence North 20 degrees 01 minutes 05 seconds East for a distance of 119.23 feet to a point, thence North 02 degrees 44 minutes 00 seconds East for a distance of 231.08 feet to a point, thence North 20 degrees 13 minutes 54 seconds West for a distance of 858.54 feet to a point, thence North 40 degrees 56 minutes 31 seconds West for a distance of 754.87 feet to a point, thence North 69 degrees 23 minutes 17 seconds West for a distance of 383.85 feet to a point, thence North 59 degrees 08 minutes 03 seconds West for a distance of 506.14 feet to a point, thence South 82 degrees 02 minutes 41 seconds West for a distance of 392.44 feet to a point, thence North 00 degrees 47 minutes 36 seconds East for a distance of 289.29 feet to a point, thence North 32 degrees 44 minutes 13 seconds West for a distance of 567.68 feet to a point, thence North 14 degrees 46 minutes 26 seconds East for a distance of 527.71 feet to a point, thence North 13 degrees 23 minutes 20 seconds West for a distance of 552.27 feet to a point, thence leaving Williamson and with Gore North 48 degrees 36 minutes 29 seconds East for a distance of 522.27 feet to a point, thence South 81 degrees 15 minutes 47 seconds East for a distance of 1,917.49 feet to a point, thence North 33 degrees 44 minutes 54 seconds East for a distance of 987.09 feet to a point, thence South 18 degrees 09 minutes 22 seconds East for a distance of 656.05 feet to a point, thence North 78 degrees 50 minutes 37 seconds East for a distance of 544.98 feet to a point, thence North 42 degrees 45 minutes 00 seconds East for a distance of 428.97 feet to a point, thence South 46 degrees 38 minutes 41 seconds East for a distance of 387.97 feet to a point, thence South 17 degrees 01 minutes 51 seconds West for a distance of 875.25 feet to a point, thence South 18 degrees 38 minutes 02 seconds East for a distance of 1,154.75 feet to a point, thence South 46 degrees 45 minutes 07 seconds East for a distance of 1,261.28 feet to a point, thence South 44 degrees 09 minutes 11 seconds West for a distance of 550.01 feet to a point, thence South 39 degrees 27 minutes 18 seconds East for a distance of 1,023.06 feet to a point, thence South 57 degrees 26 minutes 17 seconds East for a distance of 981.14 feet to a point, thence South 80 degrees 10 minutes 49 seconds East for a distance of 1,103.46 feet to a point, thence North 72 degrees 10 minutes 18 seconds East for a distance of 560.50 feet to a point, thence North 22 degrees 54 minutes 21 seconds East for a distance of 718.74 feet to a point, thence North 09 degrees 49 minutes 10 seconds West for a distance of 674.30 feet to a point, thence North 28 degrees 34 minutes 02 seconds East for a distance of 409.31 feet to a point, thence North 17 degrees 07 minutes 01 seconds West for a

distance of 304.01 feet to a point, thence North 34 degrees 02 minutes 59 seconds East for a distance of 168.11 feet to a point in western R/W of Seaside Rd., thence with R/W South 31 degrees 17 minutes 20 seconds East for a distance of 553.49 feet to a point, thence South 32 degrees 32 minutes 57 seconds East for a distance of 669.63 feet to a point, thence South 32 degrees 14 minutes 51 seconds East for a distance of 940.15 feet to a point, thence South 31 degrees 35 minutes 35 seconds East for a distance of 102.55 feet to a point, thence South 28 degrees 17 minutes 50 seconds East for a distance of 135.97 feet to a point, thence South 25 degrees 33 minutes 45 seconds West for a distance of 59.96 feet to the place and point of beginning, containing 529.72 acres, more or less.

This description is based on maps of record and is for annexation purposes only.

SECTION 2. This act becomes effective July 1, 2007.

SENATE BILL 382:
Sunset Beach/ Annexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 21, 2007
Introduced by:	Sen. Soles	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 382 would annex the Sandpiper Bay subdivision to the Town of Sunset Beach, effective July 1, 2007.

CURRENT LAW: North Carolina law sets forth four (4) basic ways in which a town or city may annex an area.

1. **Voluntary Annexation**. The owners of all real property in the area desiring to be annexed sign a petition requesting annexation. Part 1 of Article 4 of Chapter 160A.
2. **Legislative Act**. The General Assembly has the authority to extend the boundaries of any town or city. This method is most helpful to a town or city trying to annex an area that they could not otherwise.
3. **Satellite Annexation**. This method allows a town or city to annex certain non-contiguous areas meeting the statutory standards into the town or city limits. Part 4 of Article 4 of Chapter 160A.
4. **Nonvoluntary Annexation**. The town or city brings into the corporate limits an area that has not voluntarily agreed to be annexed. Parts 2 and 3 of Article 4 of Chapter 160A.

BILL ANALYSIS: Senate Bill 382 would annex certain described property totaling approximately 530 acres into the Town of Sunset Beach. The property being annexed is Sandpiper Bay/Wyndfall Subdivision. According to the resolution requesting the legislation, the residents of the subdivision avail themselves of municipal, law enforcement, recreational, and cultural services provided by the town but do not share in the costs of these services. The area does not otherwise meet the requirements for nonvoluntary annexation under Part 2 of Article 4A of Chapter 160A.

EFFECTIVE DATE: This act becomes effective July 1, 2007.

S0382e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S 1

SENATE BILL 570

Short Title:	Watha Satellite Annexations.	(Local)
Sponsors:	Senator Soles.	
Referred to:	Finance.	

March 7, 2007

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF WATHA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Watha, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

SENATE BILL 570:
Watha Satellite Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 21, 2007
Introduced by:	Sen. Soles	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 570 would exempt the Town of Watha from the requirement for satellite annexation that the area to be annexed, when added to the area within all other satellite corporate limits, does not exceed 10% of the area within the primary corporate limits of the annexing city.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: Senate Bill 570 would permanently exempt the Town of Watha from the 5th requirement, which requires that the proposed area for satellite annexation, when added to the area within all other satellite corporate limits, not exceed 10% of the area within the primary corporate limits of the annexing city.

With the 10% limit in place, the Town may only annex a maximum of 64 acres to its primary corporate limits. As of February 5, 2007, the Town has already annexed 59 acres of satellite area. A number of landowners have requested voluntary satellite annexation and the Town would like to accommodate them.

The purpose of the 5th requirement is designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. In practice, however, the standard has proved to be a problem for many smaller cities, because one large development by itself may easily exceed the 10% limit. Because of this, the General Assembly has exempted a significant number of cities and towns (over 70) from this 10% rule by local act.

EFFECTIVE DATE: This act is effective when it becomes law.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 624

Short Title:	Gates/Delinquent Tax - Deny Building Permit.	(Local)
Sponsors:	Senator Jones.	
Referred to:	Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT GATES COUNTY MAY PROHIBIT THE ISSUANCE OF A BUILDING PERMIT TO A DELINQUENT TAXPAYER.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3(b) of S.L. 2005-433, as amended by Section 2 of S.L. 2006-150, reads as rewritten:

"**SECTION 3.(b)** This section applies to Davie, Gates, Greene, Lenoir, Lincoln, Iredell, Wayne, and Yadkin Counties only."

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

SENATE BILL 624:
Gates/Delinquent Tax - Deny Building Permit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 21, 2007
Introduced by:	Sen. Jones	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 624 adds Gates County to the list of counties that have the authority to pass an ordinance prohibiting the issuance of a building permit to a person who owes delinquent property taxes on property owned by the person. This act is effective when it becomes law.

CURRENT LAW: S.L. 2005-433, Sec. 3.(a), provides that a county may by ordinance provide that a building permit may not be issued to a person who owes delinquent property taxes on property owned by the person. The ordinance may provide that a building permit may be issued to a person protesting the assessment or collection of property taxes. This law is applicable to Davie, Greene, Lenoir, Lincoln, Iredell, Wayne, and Yadkin Counties.

BILL ANALYSIS: Senate Bill 624 adds Gates County to the counties that may by ordinance prohibit the issuance of a building permit to a person who owes delinquent property taxes.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The General Assembly has enacted legislation authorizing counties to pass an ordinance prohibiting the issuance of a building permit to a person who owes delinquent property taxes on property owned by the person as follows:

1)	Davie	S.L. 1991-194 S.L. 2006-150
2)	Greene	S.L. 2005-433
3)	Lenoir	S.L. 2005-433
4)	Lincoln	S.L. 2006-150
5)	Iredell	S.L. 2005-433
6)	Wayne	S.L. 2005-433
7)	Yadkin	S.L. 2005-433

S0624e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 616
PROPOSED COMMITTEE SUBSTITUTE S616-CSRBx-2 [v.1]

3/21/2007 12:22:14 PM

Short Title: River Bend Annexations/ETJ. (Local)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF RIVER BEND TO ANNEX AND EXERCISE EXTRATERRITORIAL JURISDICTION AS PROVIDED UNDER GENERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Section VI of the Charter of the Town of River Bend, being that Charter approved by the Municipal Board of Control and filed with the Secretary of State on January 14, 1981, as enacted by Chapter 26 of the Session Laws of 1987, and as rewritten by Section 1 of S.L. 1997-363, is repealed.

SECTION 2. This act does not invalidate any action taken by the Town of River Bend under subsection (c) of Section VI of the Charter of the Town of River Bend before the effective date of the repeal of Section VI of the Charter, as enacted by Section 1 of this act.

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

SENATE BILL 616:
River Bend Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 21, 2007
Introduced by:	Sen. Preston	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S616-CCSRBx-2		Committee Counsel

SUMMARY: Senate Bill 616 is a local bill that would restore the Town of River Bend's authority to annex property as provided under general law. The proposed committee substitute also removes the restrictions placed on the Town's extraterritorial jurisdiction (ETJ). This act is effective when it becomes law.

CURRENT LAW: The Town of River Bend's charter limits its ability to exercise extraterritorial jurisdiction and restricts its ability to annex property.

BILL ANALYSIS: Senate Bill 616 repeals Section VI of the Charter of the Town of River Bend. Subsections (a) and (b) of Section VI require the Town to hold a binding referendum on the issue of annexation if it receives a petition opposing the annexation signed by 25% of the registered voters who own real property in the area proposed to be annexed. The repeal of these subsections means that the general law regarding annexations would apply to the Town of River Bend. Under general law, a municipality must hold a public hearing concerning a proposed annexation and it must provide services to the newly annexed area. Subsection (c) of Section VI limits the Town's ETJ to two specifically described tracts of property. The repeal of this section means the general law regarding ETJ applies to the Town of River Bend. Under general law, a municipality may exercise its planning and zoning authority within a defined area extending not more than one mile beyond its limits. A municipality planning to exercise its ETJ must notify property owners of its plans and hold a public hearing prior to the adoption of any ordinance extending the area of ETJ.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: In 1987 the Charter of the Town of River Bend was amended to provide that the Town could not exercise any extraterritorial jurisdiction or powers. In 1997, the General Assembly restored this planning power to the Town of River Bend for a specifically described area. The legislation also restricted the Town's ability to make involuntary annexations.

Presently, the Town is working with Jones and Craven Counties and the Town of Pollocksville in an effort to establish a regional wastewater collection and treatment system that will solve a critical need to provide this service to an area where soil conditions will not support on-site treatment. Having this capability will permit development in undeveloped or underdeveloped portions of Craven and Jones Counties. Recognizing the need for planning and regulation of anticipated development, the Town is seeking the repeal of Section VI of the Town Charter. The River Bend Town Council unanimously adopted a Resolution in support of this measure on February 21, 2007.

Judy Collier, Research Assistant to the Senate Finance Committee, substantially contributed to this summary.

S0616e1-SMRB-CCSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 645

Short Title:	Sampson County Occupancy Tax.	(Local)
Sponsors:	Senator Albertson.	
Referred to:	Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SAMPSON COUNTY TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Sampson County may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Sampson County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention

facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Sampson County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sampson County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Sampson County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Sampson County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Sampson County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Sampson County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. Administrative provisions. – G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

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

SENATE BILL 645:
Sampson County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	March 21, 2007
Introduced by:	Sen. Albertson	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: ***Senate Bill 645 authorizes Sampson County to levy a 3% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.***

CURRENT LAW: Currently, Sampson County does not have authority to levy a room occupancy tax.

BILL ANALYSIS: Senate Bill 645 authorizes Sampson County to levy a room occupancy tax of up to 3%. The proceeds must be remitted to a county Tourism Development Authority (TDA), which must use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

S0645e1-SMRE

Trina Griffin, Committee Counsel to Senate Finance substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: March 21, 2007

TO: Senator Albertson

FROM: Joseph Futima
Rodney Bizzell
Fiscal Research Division

RE: SB 645

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Sampson County	$ 68,985	$ 70,434	$ 71,913	$ 73,495	$ 75,185
EXPENDITURES:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Sampson County

EFFECTIVE DATE: When law

BILL SUMMARY: Senate Bill 645 authorizes Sampson County to levy a 3% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.

ASSUMPTIONS AND METHODOLOGY:

The Sampson County tax assessor's office advised that there are 5 lodgings that would be subject to the proposed occupancy tax. Assuming that there are 35 rooms, an average occupancy of 60% and an average room rate of $60 a night we determined the base estimate. The figure was then grown using consumer price index estimates from Moody's to give this revenue stream:

Fiscal Year	Proposed 3% Tax	Each 1%
2007-08	$ 68,985	$22,995
2008-09	$ 70,434	$23,478
2009-10	$ 71,913	$23,971
2010-11	$ 73,495	$24,498
2011-12	$ 75,185	$25,062

SOURCES OF DATA: Sampson County tax assessor, Moody's economy.com

TECHNICAL CONSIDERATIONS: None

SENATE FINANCE COMMITTEE
Wednesday, April 4, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, April 4, 2007, in room 544 of the Legislative Office Building. Twenty-seven members of the committee were present. Senator John Kerr presided. Kimberly Webb (Sen. Dorsett), Kevin Bradley (Sen. Malone) and Robert Vance (Sen. Foriest) served as pages.

S.B. 1196 – Modifications to Project Dev. Financing Act.

Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Clodfelter was recognized to explain the proposed committee substitute. Senator Hartsell moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary is attached.

S.B. 658 – Amend Bank & Trust Company Assessments

Senator Soles was recognized to explain the bill. Senator Tillman moved for a favorable report and the motion carried. Senator Smith recused himself from the vote. A copy of the bill, the summary, and the fiscal note is attached.

The meeting adjourned at 1:25 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Senate Finance Committee
Wednesday, April 4, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 658	Amend Bank and Trust Company Assessments.	Senator Rand
SB 1196	Modifications to Project Dev. Financing Act.	Senator Clodfelter

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 4, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Amy Schilder	HANC
Elizabeth Hammond	COCB.
David Hanson	OCOB
Becki Gray	John Locke Foundation
Lindsey Wakely	NCICL
David Baker	NC DOR
Rebecca Troxler	NCACC
Alastair Maccaley	NCLCV

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 4, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Judy McConnell	IOG
DAVID BARNES	Poyner + Spruill
Ken Melton	N.C. D.O.R.
Joseph A. Smith Jr	NCCOB
Andy Munn	
Murphy Sullivan	Charlotte Chamber
Daniel Blum	Kennedy Covington
Dennis Patterson	OSC
Gene Ainsworth	A & A
Chris Pahl	CAPPS
Paul Gosh	NCBH

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 4, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Don Hughes	NC DOC
J. Quinterno	NC BIC

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Eddie Caldwell	NC Sheriffs' Assn.

SENATE FINANCE COMMITTEE
Wednesday, March 21, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, March 21, 2007, in room 544 of the Legislative Office Building. Twenty-six members of the committee were present. Senator Dan Clodfelter presided. Chauncey Feinster and Steven Horne of Gastonia served as pages.

S.B. 16 – Wheel Locks/Boiling Springs

Senator Dalton was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 224 – Ocean Isle Beach/Canal Dredging

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Soles was recognized to explain the proposed committee substitute. Senator Brown moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary are attached.

S.B. 382 – Sunset Beach Annexation

Senator Soles was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 570 Watha Satellite Annexations

Senator Soles explained the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 616 – River Bend Annexations

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Preston was recognized to explain the proposed committee substitute. Senators Dannelly and Stevens moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary are attached.

S.B. 624 – Gates/Delinquent Tax – Deny Building Permit

Senator Jones was recognized to explain the bill. Senator Hunt moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 645 – Sampson County Occupancy Tax

Senator Albertson was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

The meeting adjourned at 1:15 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 658

Short Title:	Amend Bank and Trust Company Assessments.	(Public)
Sponsors:	Senators Rand; Hoyle, Soles, and Weinstein.	
Referred to:	Commerce, Small Business and Entrepreneurship.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA FOR THE ASSESSMENT OF BANKS AND STATE TRUST COMPANIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-122(a)(1) reads as rewritten:

"(1) Banks. – Each bank shall pay a cumulative assessment based on its total assets, as shown on its report of condition made to the Commissioner of Banks as of December 31 each year or the date most nearly approximating the same, not to exceed the amount determined by applying the following schedule: (i) on the first fifty million dollars ($50,000,000) of assets, or fraction thereof, ~~six thousand dollars ($6,000);~~ ten thousand dollars ($10,000); (ii) on assets over fifty million dollars ($50,000,000), but not more than two hundred fifty million dollars ($250,000,000), ~~twelve dollars ($12.00)~~ fourteen dollars ($14.00) per one hundred thousand dollars ($100,000), or fraction thereof; (iii) on assets over two hundred fifty million dollars ($250,000,000), but not more than five hundred million dollars ($500,000,000), ~~nine dollars ($9.00)~~ eleven dollars ($11.00) per one hundred thousand dollars ($100,000), or fraction thereof; (iv) on assets over five hundred million dollars ($500,000,000), but not more than one billion dollars ($1,000,000,000), seven dollars ($7.00) per one hundred thousand dollars ($100,000), or fraction thereof; (v) on assets over one billion dollars ($1,000,000,000), but not more than ten billion dollars ($10,000,000,000), ~~five dollars ($5.00)~~ four dollars ($4.00) per one hundred thousand dollars ($100,000), or fraction thereof; and (vi) on assets over ten billion dollars ($10,000,000,000), ~~three dollars ($3.00)~~ two dollars ($2.00) per one hundred thousand dollars ($100,000), or fraction thereof. Additionally, each bank shall pay an assessment on trust assets held by it in the amount of one dollar

($1.00) per one hundred thousand dollars ($100,000) of the assets, or fraction thereof; except that banks are not required to pay assessments on real estate held as trust assets."

SECTION 2. G.S. 53-368(a) reads as rewritten:

"(a) For the purpose of operating and maintaining the office of the Commissioner, each State trust company shall pay into the office of the Commissioner, within 10 days after notice, an annual assessment of ~~six thousand dollars ($6,000)~~ ten thousand dollars ($10,000) plus one dollar ($1.00) per one hundred thousand dollars ($100,000) of assets held for its accounts, exclusive of nonsecuritized real estate interests. For purposes of this assessment, the amount of assets held for accounts shall be determined as of the close of business on December 31 of each year."

SECTION 3. This act is effective when it becomes law and applies to assessments made on or after that date.

SENATE BILL 658:
Amend Bank and Trust Company Assessments

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 4, 2007
Introduced by:	Sen. Rand	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 658 amends the cumulative assessments that state-chartered banks and trust companies have to pay for the operation and maintenance of the Office of the Commissioner of Banks by increasing the rate of assessments on bank assets of $500 million or less and decreasing the rate of assessments on bank assets of $1 billion or more. The bill also increases the minimum assessment for State trust companies from $6000 to $10,000 per year.

CURRENT LAW: The Office of the Commissioner of Banks is authorized to levy assessments on state-chartered banks and consumer finance licensees for the purpose of operating and maintaining the Office. The amount of the assessment is based on total assets shown on an entity's report of condition made to the Commissioner as of December 31 and is cumulative. The Office has statutory authority to collect the assessments annually or in periodic installments as approved by the State Banking Commission. As a practical matter, the Office collects 50% of their estimated costs on July 1 and bills for the remainder the following January. The Commissioner is also authorized to reduce the assessments based on actual costs. For the last several years, banks have not had to pay the full statutory rate. The rates were last revised in 1997.

The current and proposed rates are as follows:

Amount of Assets	Current Rates	Proposed New Rates
1st $50 million	$6,000	$10,000
$50 to $250 million	$12/ $100,000	$14/ $100,000
$250 to $500 million	$9/$100,000	$11/$100,000
$500 million to $1 billion	$7/$100,000	Same
$1 to $10 billion	$5/$100,000	$4/$100,000
Over $10 billion	$3/$100,000	$2/$100,000

BILL ANALYSIS: Section 1 of Senate Bill 658 amends the assessment rates charged to banks to fund the operations of the Office of Commissioner of Banks as set forth above. Section 2 amends the base assessment rate charged to State trust companies from $6,000 to $10,000.

The purpose of the rate adjustment is to reduce the agency's dependence on fees collected from the largest banks and more evenly spreads the revenue across all the banks and trust companies. According to the Office of the Commissioner, the proposed assessment schedule more accurately reflects the cost of supervision where, for example, the Commissioner's office spends substantial time on small and developing banks yet they pay only a minimum fee of $6,000 annually.

EFFECTIVE DATE: The bill is effective when it becomes law and applies to assessments made on or after that date.

O. Walker Reagan, co- counsel to Senate Commerce, substantially contributed to this summary.

S0658e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 658 (First Edition)

SHORT TITLE: Amend Bank and Trust Company Assessments.

SPONSOR(S): Senator Rand

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

[$ dollars]

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
NC Commission of Banks	**(791,078)**	**(791,078)**	**(791,078)**	**(791,078)**	**(791,078)**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Commission of Banks

EFFECTIVE DATE: When law

BILL SUMMARY:

Senate Bill 658 amends how bank and trust companies fees are assessed based on cumulative assets.

- Increases flat fee on first $50 million in assets from $6,000 to $10,000
- Increases rate on assets of $50 - $250 million from $12 to $14 per $100,000
- Increases rate on assets of $250 - $500 million from $9 to $11 per $100,000
- Decreases rate on assets of $1- $10 billion from $5 to $4 per $100,000
- Decreases rate on assets over $10 billion from $3 to $2 per $100,000
- Increases annual amount paid by a state trust company from $6,000 to $10,000 plus $1 per $100,000 in assets.

ASSUMPTIONS AND METHODOLOGY:

The Office of the Commissioner of Banks, together with the North Carolina Banking Commission, is responsible for the chartering and regulation of North Carolina's state banks and trust companies, as well as registration/licensing of various financial institutions operating in North Carolina.

The current and proposed fee structure is as follows:

Asset Class (millions)	Current Fee per $100,000 in Assets	Proposed Fee per $100,000 in Assets
First $50 (flat)	$6,000	$10,000
$50-250	$12	$14
$250-500	$9	$11
$500 – 1,000	$7	$7 (no change)
$1,000-10,000	$5	$4
$10,000+	$3	$2

Revenues and percentage share of total revenues under the current and proposed structure are as follows:

Asset Class (millions)	Revenues Current Structure	Current % Share	Revenues Proposed Structure	Proposed % Share	$Difference	% Difference in % Share
<$100	$264,826	3%	$ 410,610	5%	**$145,784**	2%
$100-500	$1,134,414	12%	$ 1,445,690	17%	**$311,276**	5%
$500-1,000	$764,414	8%	$907,624	11%	**$143,210**	3%
$1,000-10,000	$1,363,714	15%	$1,457,807	18%	**$94,093**	3%
$10,000+	$5,591,193	62%	$4,105,752	49%	**$(1,485,441)**	-13%
Totals	$9,118,561	100%	$8,327,483	100%	**$ (791,078)**	

SOURCES OF DATA: NC Commissioner of Banks.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Joseph Futima & Brenna Erford
Fiscal Research Division

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: March 30, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1196
PROPOSED COMMITTEE SUBSTITUTE S1196-CSSVx-7 [v.2]

4/2/2007 12:54:20 PM

Short Title: Modifications to Project Dev. Financing Act. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PROJECT DEVELOPMENT FINANCING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-103(a) reads as rewritten:

"(a) Each unit of local government may issue project development financing debt instruments pursuant to this Article and use the proceeds for one or more of the purposes for which the unit may issue general obligation bonds pursuant to the following subdivisions of G.S. 159-48: (b)(1), (3), (7), (11), (12), (13), (16), (17), (19), (21), (23), (24), or (25), (c)(4a) or (6), or (d)(3), (4), (5), (6) or (7). In addition, the proceeds may be used for any service or facility authorized by G.S. 160A-536 ~~and~~ to be provided in a municipal service ~~district.~~district, but no such district need be created.

For the purpose of this Article, the term "capital costs" as defined in G.S. 159-48(h) also includes (i) interest on the debt instruments being issued or on notes issued in anticipation of the instruments during construction and for a period not exceeding seven years after the estimated date of completion of construction and (ii) the establishment of debt service reserves and any other reserves reasonably required by the financing documents. The proceeds of the debt instruments may be used either in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use directly benefits private development forecast by the development financing plan for the district, outside the development financing district. The proceeds may be used only for projects that enable, facilitate, or benefit private development within the development financing district, the revenue increment of which is pledged as security for the debt instruments. This subsection does not prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a private development in a project development financing district."

SECTION 2. G.S. 159-107(b) reads as rewritten:

"(b) Adjustments to the Base Valuation. – During the lifetime of the development financing district, the base valuation shall be adjusted as follows:

(1) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to remove property from the development financing district, on the succeeding January 1, that property shall be removed from the district and the base valuation reduced accordingly.

(2) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to expand the district, the new property shall be added to the district immediately. The base valuation of the district shall be increased by the assessed value of the taxable property situated in the added territory on the January 1 immediately preceding the effective date of the district.

~~(3) If, at the time of revaluation pursuant to G.S. 105-286 of property in the county in which the district is located, it appears that, based on the schedule of values, standards, and rules approved by the board of county commissioners pursuant to G.S. 105-317, the property values of the district as they existed on the January 1 immediately preceding the effective date of the district would be increased because of the revaluation, then the base valuation shall be increased accordingly.~~

Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located."

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

SENATE BILL 1196:
Modifications to Project Dev. Financing Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 2, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S1196-CSSVx-7		Committee Counsel

SUMMARY: ***Senate Bill 1196 would allow local governments to use the proceeds of project development financing debt instruments to provide parks and recreation facilities and it removes the requirement that the base valuation of a development financing district be increased as the result of an increase in valuation due to revaluation. <u>The Proposed Committee Substitute makes one technical change only.</u>***

CURRENT LAW: In November 2004, the voters approved a constitutional amendment that has enabled counties, cities, and towns to use project development financing for the public portion of certain economic development projects within a defined territorial area. Project development financing, also known as tax increment financing, allows a local government to issue bonds secured by the incremental property tax increase generated by the development financed. This financing mechanism can be used for airports, auditoriums and arenas, hospitals, museums, parking facilities, sewer systems, storm sewers and flood control facilities, water systems, street improvements, public transportation facilities, railroads, affordable housing, land development for industrial or commercial purposes, utilities, and redevelopment. Prior to the bonds being issued, the local government must adopt a development financing plan describing the projects to be financed and how the tax proceeds will be used. The local government must also obtain approval from the Local Government Commission.

Once the district has been established and the project development financing debt instruments have been approved, the local government must notify the county tax assessor who must determine the base valuation of the district. The base valuation is the assessed value of all taxable property located in the district on the January 1 immediately preceding the effective date of the district. The base valuation may be adjusted if property is removed or added to the district. The base value may also be increased if the property values of the district increase as the result of a revaluation. Each year the tax assessor must determine the current assessed value of taxable property in the district. To the extent the current value exceeds the base value, the difference is the incremental valuation of the district. Property taxes levied on the incremental valuation of the district are placed in a separate fund and may be used to finance capital expenditures in the district, to meet principal and interest requirements on project development financing debt instruments, to repay moneys expended on debt service of project development financing debt instruments, and to establish and maintain debt service reserves.

BILL ANALYSIS: The Proposed Committee Substitute for SB 1196 does three things:

- It includes parks and recreation facilities among the purposes for which project development financing may be used. Included in this category, by reference, are the following: athletic fields, parks, playgrounds, recreation centers, shelters, stadiums, arenas, permanent and temporary stands, golf courses, swimming pools, wading pools, marinas, and lighting.
- It allows project development financing to be used for services and facilities authorized to be provided in a municipal service district without the creation of such a district. Under current law, the proceeds of project development financing may be used for any service or facility authorized by

G.S. 160A-536 and provided in a municipal service district.[1] This bill provides that no municipal service district would need to be created for the purpose of expending the funds. The formation of a municipal service district requires substantially the same steps as are required in the creation of a development financing district and is unnecessary duplication.

- It removes the requirement to increase the base valuation of a development financing district if property values of the district as they existed on the January 1 immediately preceding the effective date of the district are increased by a revaluation. The rationale for the removal of this requirement is that the statute already requires any excess revenues be paid to the taxing entities and that the benefit, if any, to the taxing entity as the result of the adjustment is outweighed by the complicated and unclear procedure regarding how the adjustment should be made.

EFFECTIVE DATE: This act is effective when it becomes law.

S1196e1-SMSV-CSSVx-7

[1] G.S. 160A-536 sets out the purposes for which cities may create service districts, which includes beach erosion control, flood and hurricane protection, right-of-way improvements that preserve the character of an historic district, urban revitalization projects, transit-oriented development projects, parking facilities, drainage projects, sewage collection and disposal, watershed improvements

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1196

Short Title:	Modifications to Project Dev. Financing Act.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Finance.	

March 26, 2007

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Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located."

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

(1)

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 11, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Cathy Matthews	DMV
Gordon Zeigler	DMV
Emily Atkinson	Capitol
D. Hamm	S.A.
David Barnes	Poyner + Spruill
Joe Stewart	IFNC
Andy Romanet	NCLM
Andy Eller	NCLM
Johanna Reese	DOT
Alison Roach	DMV
Richard Howard	DMV

(2)

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

April 11, 2007 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Doug Byrd	Commerce
Judy McConnell	IOG
Steve Brewer	Embarq
Marty Bocock	Embarq
Kaitlin Kubinsky	NCGA
Erin Schmeltpelz	UNC-GA
Rick Zechini	NC Assn. of Realtors
Angie Harris	Williams Mullen
Karen Brown	Correction Enterprises
Tony Jones	Correction Enterprises

Senate Finance Committee
Wednesday, April 11, 2007, 1:00 PM
544 LOB

AGENDA

Welcome

Introduction of Pages

Bills

H180	Four Oaks Satellite Annexations.	Rep. Langdon
H181	Regulate Golf Carts.	Rep. Langdon
H326	Green Level Satellite Annexations.	Rep. Bordsen
S642	Cramerton/McAdenville Boundary Adjustment.	Senator Hoyle
S758	Limited Driving Privileges - DWLR.	Senator Kerr
S1199	Economic Development Modifications.	Senator Clodfelter

Adjournment

SENATE FINANCE COMMITTEE
Wednesday, April 11, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, April 11, 2007, in room 544 of the Legislative Office Building. Twenty-eight members of the committee were present. Senator David Hoyle presided.

H.B. 326 – Green Level Satellite Annexations.

Senator Kerr moved to adopt the proposed committee substitute for discussion and the motion carried. Representative Bordsen was recognized to explain the proposed committee substitute. Senator Tillman moved for a favorable report and the motion carried. A copy of the committee substitute, the bill and the summary is attached.

H.B. 180 – Four Oaks Satellite Annexations.

Representative Langdon was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 181 – Regulate Golf Carts.

Representative Langdon explained the bill. Senator Albertson moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 1199 – Economic Development Modifications.

Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Clodfelter was recognized to explain the proposed committee substitute and to offer an amendment. Don Hobart, Department of Commerce Counsel, was recognized to speak in favor of the bill and answer questions. After much discussion, the bill was pulled from the agenda. A copy of the proposed committee substitute, the bill, the summary and the amendment is attached.

S.B. 642 – Cramerton/McAdenville Boundary Adjustment.

Senator Weinstein moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Hoyle was recognized to explain the proposed committee substitute. Senator Dannelly moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, the summary and the fiscal note is attached.

S.B. 758 – Limited Driving Privilege – DWLR.

Senator Kerr moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Kerr was then recognized to explain the proposed committee substitute. After much discussion, the bill was pulled from the agenda.

The meeting adjourned at 1:44 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

2007-2008 Biennium

Leg. Day: H-115/S-113

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H0053	Underhill	TOWN OF ORIENTAL ETJ.	S	Ref To Com On Finance	03-22-07	
H0063	Yongue	PROPERTY TAX - SCHOOL CAPITAL LEASES.	SR	Ch. SL 2007-477	04-05-07	07-30-07
H0078	Church	AMEND BURKE COUNTY OCCUPANCY TAX.	*SR	Ch. SL 2007-265	06-28-07	07-18-07
H0099	Blust	TAXPAYER COST RECOVERY.	*S	Ref To Com On Finance	05-21-07	
H0109	Wilkins	CORPORATE OPT OUT CHG/ BUDGET REV CHANGES.	*S	Conf Com Appointed	07-30-07	07-31-07
H0135	Moore	MOTORCYCLE MANUFACTURER PLATES.	*SR	Ch. SL 2007-291	06-27-07	06-28-07
H0162=	Dollar	APEX CONDEMNATION SUNSET/AMENDMENTS.	*S	Ref To Com On Finance	03-28-07	
H0177	Tolson	COMM. COLL./ PARTICIPATE IN ENERGY LOAN PROG.	*SR	Ch. SL 2007-476	03-28-07	07-27-07
H0180	Langdon	FOUR OAKS SATELLITE ANNEXATIONS.	*SR	Ch. SL 2007-17	03-22-07	04-11-07
H0181	Langdon	REGULATE GOLF CARTS.	*SR	Ch. SL 2007-18	03-22-07	04-11-07
H0188=	Allen	ROANOKE RAPIDS/WELDON/ AHOSKIE ANNEXATIONS.	S	Ref To Com On Finance	03-22-07	
H0206	Cleveland	BRONZE STAR SPECIAL PLATE CHANGES.	*SR	Ch. SL 2007-522	07-27-07	08-01-07
H0226	Yongue	ADDITIONAL SCOTLAND COUNTY OCCUPANCY TAX.	*SR	Ch. SL 2007-203	04-23-07	06-27-07
H0257=	Hill	STREAMLINED SALES TAX CHANGES.	*SR	Ch. SL 2007-244	04-26-07	06-27-07
$ H0265	**Insko**	**ESTABLISH HEALTH INSURANCE RISK POOL.**	***SR**	**Ch. SL 2007-532**	**07-23-07**	**07-26-07**
H0291=	Luebke	SUDAN (DARFUR) DIVESTMENT ACT.	*SR	Ch. SL 2007-486	04-05-07	07-26-07
H0326	Bordsen	GREEN LEVEL/OAK ISLAND SATELLITE ANNEXATIONS.	*SR	Ch. SL 2007-26	03-26-07	04-11-07
H0346	Alexander	SALES TAX REFUND FOR TDAS.	*S	Ref To Com On Finance	07-24-07	
H0401	Langdon	COUNTY WATER/SEWER DISTRICT FINANCING.	SR	Ch. SL 2007-226	04-10-07	06-27-07
H0407=	Tucker	EXTEND MAGNOLIA ETJ.	SR	Ch. SL 2007-40	04-02-07	05-08-07
H0429	Stiller	CANAL DREDGING FEE/ BRUNSWICK FIRE FEES.	*SR	Ch. SL 2007-335	04-16-07	07-25-07
H0463=	Luebke	CONSERVATION TAX CREDIT MODIFICATIONS.	*SR	Ch. SL 2007-309	06-11-07	07-11-07
H0464=	McElraft	TAX CERTIFICATION - VARIOUS COUNTIES.	*SR	Ch. SL 2007-221	03-27-07	06-20-07
H0487	Hill	EXEMPTION FOR BALER TWINE FROM SALES TAX.	SR	Ch. SL 2007-500	07-18-07	07-26-07
H0535	Wainwright	CRIMINAL BACKGROUND REVIEWS- EMS PERSONNEL.	*SR	Ch. SL 2007-411	07-03-07	07-09-07
H0535	Wainwright	CRIMINAL BACKGROUND REVIEWS- EMS PERSONNEL.	*SR	Ch. SL 2007-411	07-10-07	07-25-07
H0537=	Almond	NORWOOD SATELLITE ANNEXATIONS.	SR	Ch. SL 2007-71	04-16-07	06-06-07

'$' indicates the bill is an appropriation bill.
A bold line indicates the bill is an appropriation bill.
'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator David W. Hoyle, Co-Chair
Senator Daniel G. Clodfelter, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, April 11, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **180** Four Oaks Satellite Annexations.
Sequential Referral: None
Recommended Referral: None

H.B. **181** Regulate Golf Carts.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **642** Cramerton/McAdenville Boundary Adjustment.
Draft Number: 75376
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **326** Green Level Satellite Annexations.
Draft Number: 60252
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 4

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 326

Second Edition Engrossed 3/22/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H326-PCS60252-LBx-11

Short Title: Green Level/Oak Island Satellite Annexations. (Local)

Sponsors:

Referred to:

February 22, 2007

A BILL TO BE ENTITLED

AN ACT REMOVING THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWN OF GREEN LEVEL AND CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE TOWN OF OAK ISLAND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

SECTION 2.(a) G.S. 160A-58.1(b)(2) and G.S. 160A-58.1(b)(5) do not apply to the Town of Oak Island.

SECTION 2.(b) If the Town of Oak Island receives a petition for voluntary satellite annexation authorized by this section, it shall give the Town of St. James at least 30 days notice of the intent of the Town of Oak Island to consider the petition.

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

HOUSE BILL 326:
Green Level Satellite Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 11, 2007
Introduced by:	Rep. Bordsen	**Summary by:**	Judy Collier
Version:	PCS to Second Edition H326-PCS60252-LBx-11		Research Assistant

SUMMARY: ***House Bill 326 is a local bill that would exempt the Town of Green Level from the requirement for satellite annexation that the area to be annexed, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city. However, the exemption from this general rule would not apply to satellite annexations west of the Haw River township line or west of the Pleasant Grove township line.***[1]

The PCS to the 2nd Edition makes the provision that G.S. 160A-58.1(b)(2) and G.S. 160A-58.1(b)(5) do not apply to the Town of Oak Island. It further stipulates that if the Town of Oak Island receives a petition for voluntary annexation, it shall give the Town of St. James at least 30 days notice of the intent of the Town of Oak Island to consider the petition.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[2] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 326, 2nd edition, would permanently exempt the Town of Green Level from the 5th requirement except as to property located west of the Haw River township line or west of the Pleasant Grove township line.

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[1] Section 2 of the bill was added by a floor amendment adopted by the House of Representatives on March 20, 2007.

[2] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

The 5th requirement requires that the proposed area for satellite annexation, when added to the area within all other satellite corporate limits, not exceed 10% of the area within the primary corporate limits of the annexing city. The purpose of the 5th requirement is designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. In practice, however, the standard has proved to be a problem for many smaller cities, because one large development by itself may easily exceed the 10% limit. Because of this, the General Assembly has exempted a significant number of cities and towns (at least 70) from this 10% rule by local act.

The PCS to the 2nd Edition makes the provision that G.S. 160A-58.1(b)(2) and G.S. 160A-58.1(b)(5) do not apply to the Town of Oak Island. It further stipulates that if the Town of Oak Island receives a petition for voluntary annexation, it shall give the Town of St. James at least 30 days notice of the intent of the Town of Oak Island to consider the petition.

EFFECTIVE DATE: This act would become effective when it becomes law.

BACKGROUND: The Town of Green Level is a small growth-oriented community located in Alamance County. The Town is seeking exemption from the 5th requirement of G.S.160A-58.1(b) because an individual property owner has requested it, a developer stands ready to utilize the exemption in the development of a residential subdivision, and the Town itself is supportive of the measure. There is no opposition to the proposed legislation.

H0326e2-SMRE-PCS60252-LBx-11

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 326
Second Edition Engrossed 3/22/07

Short Title:	Green Level Satellite Annexations.	(Local)
Sponsors:	Representative Bordsen.	
Referred to:	Local Government II, if favorable, Finance.	

February 22, 2007

A BILL TO BE ENTITLED

AN ACT REMOVING THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWN OF GREEN LEVEL AND LIMITING THE AREA IN WHICH THE TOWN MAY MAKE SATELLITE ANNEXATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

SECTION 2. The Town of Green Level Shall not annex any areas under Part 4 of Article 4A of Chapter 160A of the General Statutes that are west of the Haw River township line or west of the Pleasant Grove township line.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 180

Short Title:	Four Oaks Satellite Annexations.	(Local)
Sponsors:	Representatives Langdon; and Daughtry.	
Referred to:	Local Government I.	

February 14, 2007

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWN OF FOUR OAKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

HOUSE BILL 180:
Four Oaks Satellite Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 11, 2007
Introduced by:	Rep. Langdon	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 180 is a local bill that would exempt the Town of Four Oaks from the requirement for satellite annexation that the area to be annexed, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city. HB 180 received favorable reports from House Local Government I Committee on February 28, 2007 and House Finance Committee on March 15, 2007.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 180 would permanently exempt the Town of Four Oaks from the 5th requirement, which requires that the proposed area for satellite annexation, when added to the area within all other satellite corporate limits, not exceed 10% of the area within the primary corporate limits of the annexing city.

The purpose of the 5th requirement is designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. In practice, however, the standard has proved to be a problem for many smaller cities, because one large development by itself may easily exceed the 10% limit. Because of this, the General Assembly has excepted a significant number of cities and towns (over 70) from this 10% rule by local act.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

EFFECTIVE DATE: This act would become effective when it becomes law.

BACKGROUND: The Town of Four Oaks is seeking to join other municipalities in Johnston County that have obtained exemption from the 5th requirement of G.S.160A-58.1(b) as follows:

1. Town of Benson S.L. 2006-122
2. Town of Clayton S.L. 2006-122
3. Town of Kenly S.L. 1987-67
4. Town of Pine Level S.L. 2003-30
5. Town of Princeton S.L. 2006-62
6. Town of Smithfield S.L. 2006-62

H0180e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 181

Committee Substitute Favorable 3/15/07

Short Title: Regulate Golf Carts. (Local)

Sponsors:

Referred to:

February 14, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THOSE GOLF CARTS THAT MAY BE REGULATED IN THE TOWNS OF BENSON, BLADENBORO, CHADBOURN, CLARKTON, ELIZABETHTOWN, ROSE HILL, AND TABOR CITY AND TO AUTHORIZE THE TOWN OF FOUR OAKS TO REGULATE GOLF CARTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2005-11 reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a town may, by ordinance, regulate the operation of ~~electric~~ golf carts on any public street or road within the town.

By ordinance, a town may require the registration of golf carts, charge a fee for the registration, specify the persons authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts."

SECTION 2. Section 3 of S.L. 2005-11, as amended by S.L. 2006-149 and S.L. 2006-152, reads as rewritten:

"**SECTION 3.** Section 1 of this act applies only to the Towns of Benson, Bladenboro, Chadbourn, Clarkton, Elizabethtown, Four Oaks, Rose Hill, and Tabor City. Section 2 of this act applies only to Moore County."

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

HOUSE BILL 181: Regulate Golf Carts

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 11, 2007
Introduced by:	Rep. Langdon	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 181 does two things:

- ***It removes the limitation on the authority of the Towns of Benson, Bladenboro, Chadbourn, Clarkton, Elizabethtown, Rose Hill and Tabor City to regulate only electric powered golf carts and allows those towns to regulate the operation of golf carts, regardless of how they are powered.***
- ***It adds the Town of Four Oaks to the list of municipalities authorized to regulate the operation of golf carts.***

The act is effective when it becomes law.

CURRENT LAW: Under current law, vehicles intended to be operated on the streets and highways of the State must be registered (G.S. 20-50). Golf carts may not be registered (G.S. 20-54), and therefore, may not operate on the streets and highways.

G.S. 20-4.01.(12a) defines a golf cart as a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

In 2005, the General Assembly enacted S.L. 2005-11. That legislation authorized the following municipalities, by ordinance, to regulate the operation of **electric powered golf carts** on any public street or road within the town:

1) Bladenboro
2) Elizabethtown
3) Rose Hill

In 2006, the General Assembly amended the 2005 legislation to add the following municipalities to the list of municipalities that could regulate **electric** powered golf carts:[1]:

1) Benson
2) Chadbourn
3) Tabor City
4) Clarkton

BILL ANALYSIS: House Bill 181 amends S.L. 2005-11, by authorizing the municipalities affected to regulate the operation of golf carts on any public street or road within the town, **regardless of how they are powered**, and adds the Town of Four Oaks to the list of municipalities that may regulate golf carts. In regulating golf carts, the municipality may by ordinance:

- Require registrations,
- Charge a fee for the registration,

[1]S.L. 2006-149 added the Towns of Benson, Chadbourn, and Tabor City. S.L. 2006-152 added the Town of Clarkton.

- Specify who is authorized to operate golf carts,
- Specify the required equipment,
- Specify load limits,
- Specify the hours and methods of operation.

EFFECTIVE DATE: The act is effective when it becomes law.

BACKGROUND:

- The General Assembly has enacted legislation regulating golf carts in the following locations:

1) Town of Lake Waccamaw	S.L. 2001-356
2) Town of Cary	S.L. 2001-485; S.L. 2005-117
3) Village of Whispering Pines	S.L. 2002-82
4) Seven Lakes Community	S.L. 2002-82
5) Village of Bald Head Island	S.L. 2002-129
6) Town of Bladenboro	S.L. 2005-11
7) Town of Elizabethtown	S.L. 2005-11
8) Town of Rose Hill	S.L. 2005-11
9) Town of Caswell Beach	S.L. 2005-58 (repealed by S.L. 2006-149)
10) City of Saluda	S.L. 2006-27
11) Town of Faison	S.L. 2006-27
12) Town of Benson	S.L. 2006-149
13) Town of Caswell Beach	S.L. 2006-149
14) Town of Chadbourn	S.L. 2006-149
15) Town of Tabor City	S.L. 2006-149
16) Town of Clarkton	S.L. 2006-152

- The General Assembly has enacted legislation regulating golf carts and utility vehicles in:

1) Town of Beach Mountain	S.L. 2003-124
2) Town of Seven Devils	S.L. 2004-58

H0181e2-SMRE

Cindy Avrette, Counsel to Senate Finance substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1199
PROPOSED COMMITTEE SUBSTITUTE S1199-CSSVx-8 [v.8]

4/11/2007 11:03:55 AM

Short Title: Economic Development Modifications. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT, TO CLARIFY THE POPULATION REQUIREMENTS FOR AGRARIAN GROWTH ZONES, TO CLARIFY CERTAIN CRITERIA FOR URBAN PROGRESS ZONES, TO AMEND THE REPORTING REQUIREMENT FOR THE DEPARTMENT OF COMMERCE UNDER THE BILL LEE ACT CONSISTENT WITH THE ACT'S REPEAL, AND TO CLARIFY THE EFFECTIVE DATE OF ARTICLE 3J TAX CREDITS FOR GROWING BUSINESSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-7.1(b)(4) reads as rewritten:

"(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

...

(4) A county or city may ~~acquire or construct one or more "shell buildings", which are structures of flexible design adaptable for use by a variety of industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building pursuant to subsection (c) of this section.~~acquire, construct, convey, or lease a building suitable for industrial or commercial use."

SECTION 2. G.S. 143B-437.10(a)(1) reads as rewritten:

"(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census that meets all conditions in this subsection. A county may have no more than one agrarian growth zone.

(1) All land within the zone is located in whole within a county that has no municipality with a population in excess of ~~10,000.~~10,000 according to the most recent annual population estimates certified by the State Budget Officer."

SECTION 3. G.S. 143B-437.09(a) reads as rewritten:

"(a) Urban Progress Zone Defined. – An urban progress zone is an area that meets all of the following conditions:

(1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, ~~or parts thereof,~~ in the most recent federal decennial ~~census that meets all conditions in this subsection.~~census.

~~(1)~~(2) All ~~land within the zone is located in whole~~ of the area is within the primary corporate limits of a municipality with a population of more than 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

~~(2)~~(3) ~~Every~~ The portion of each census tract and census block group that ~~composes part of the zone~~ comprises the area meets at least one of the following conditions:

a. More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. At least fifty percent (50%) of ~~the area of the portion that is within the primary corporate limits of the municipality~~ it is zoned as nonresidential and ~~the census tract or census block group~~ is adjacent to a census tract or block group ~~of which at least twenty percent (20%) of the population is below the poverty level.~~whose population meets the requirement in sub-subdivision a. of this subdivision. The census tracts or census block groups that comprise part of the area as a result of meeting this condition may not exceed thirty-five percent (35%) of the area.

~~(3) The area of the zone zoned as nonresidential does not exceed thirty-five percent (35%) of the total area of the zone.~~"

SECTION 4. G.S. 105-129.2A(d) reads as rewritten:

"(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by April 1, ~~2001.~~2001 and the last report due by June 1, 2007."

SECTION 5. Section 1.5 of S.L. 2006-252 reads as rewritten:

"**SECTION 1.5.** Section 1.1 of this part is effective for taxable years beginning on or after January 1, ~~2007.~~2007, and for business activities that occur on or after January 1, 2007. The remainder of this part is effective when it becomes law."

SECTION 6. This act is effective when it becomes law.

SENATE BILL 1199:
Economic Development Modifications

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 11, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S1199-CSSVx-8		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 1199 does the following:

- ***Clarifies in the Local Development Act a local government's authority to acquire, construct, convey, or lease buildings for industrial or commercial use.***
- ***Amends the provision providing how population is determined for agrarian growth zones.***
- ***Clarifies certain criteria for urban progress zones.***
- ***Requires a final Bill Lee Act report by the Department of Commerce on June 1, 2007, which is consistent with the Act's repeal.***
- ***Clarifies the effective date for tax credits available under the new Article 3J, Tax Credits for Growing Businesses.***

CURRENT LAW & BILL ANALYSIS:

Section 1: Authority to Acquire, Construct, Convey, or Lease Certain Buildings

The Local Development Act of 1925 authorizes counties and cities to undertake specific economic development activities to be funded by the levy of property taxes and by the allocation of other revenues whose use is not otherwise restricted by law. Among those activities is the acquisition, construction, conveyance, or lease of "shell buildings," which are structures of flexible design adaptable for use by a *variety* of industrial or commercial businesses.

In light of a concern that the term "shell building" implies or is limited to buildings for general, nonspecific use only, this section eliminates that term. It clarifies that a local government may acquire, construct, convey, or lease any building for industrial or commercial use, regardless of whether the local government has a specific business entity in mind when it acquires, constructs, conveys, or leases a building.

Section 2: Determining Population in Agrarian Growth Zones

In 2006, the General Assembly created a new package of State tax incentives to replace the Bill Lee Act for most taxpayers. As part of that package, the new Article 3J replaced development zones with urban progress (UP) zones and created a new type of zone called an agrarian growth (AG), which provides those areas with the same benefits provided to UP zones.

An AG zone must satisfy all of the following conditions:

1. It must be composed of contiguous census tracts or block groups located within a single county **that does not have any municipality with a population in excess of 10,000.**
2. Each census tract or block group in the zone must have more than 20% of its population below the poverty level.

3. The area of the zone, less its smallest census tract, may not exceed 5% of the total area of the county.

Section 2 would specify that the population estimate must be based on the most recent annual population estimates certified by the State Budget Officer. This is the same basis for determining population for qualification as an UP zone. This change would make the two statutes consistent with regard to determining population.

Section 3: Clarification of Criteria for Urban Progress Zones

As mentioned above, Article 3J provides enhanced tax credits in "urban progress zones," which were designed to replace the development zones adopted under the Bill Lee Act. Development zones were intended to be areas of high poverty within cities. Over the years, it became clear that the development zones often included areas that were neither high poverty nor particularly urban. Under Article 3J, the intent is for UP zones to be more narrowly focused and subject to more stringent guidelines with respect to poverty.

An urban progress zone is an area comprised of one or more contiguous census tracts, census block groups, or both, or parts thereof, in the most recent federal decennial census that meets all of the following conditions:

(1) All land within the zone is located in whole within the primary corporate limits of a municipality with a population of more than 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

(2) Every census tract and census block group that composes part of the zone meets at least one of the following conditions:

a. More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. At least fifty percent (50%) of the area of the portion that is within the primary corporate limits of the municipality is zoned as nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level.

(3) The area of the zone zoned as nonresidential does not exceed thirty-five percent (35%) of the total area of the zone.

The current wording states that the area zoned as nonresidential may not exceed 35% of the total area of the zone. However, the original intent was not to limit zones to only those areas that have less than 35% nonresidential development, but rather to restrict the size of the zone that did not meet the poverty requirements. According to the Department of Commerce, the current wording makes it very difficult to create a workable zone, and they have requested that the statute be revised to more accurately reflect the original intent when the act passed last year.

Under the bill, that portion of the zone which is required to be at least 50% nonresidential and be adjacent to a tract or block group of which at least 20% of the population is at or below poverty level, cannot exceed 35% of the total area of the zone. Section 3 also rewrites the definition for clarity.

Section 4: Final Bill Lee Act Report by Department of Commerce

The Department of Commerce is required to make biennial reports on tax equity and the impact of the Bill Lee Act. With limited exception applicable to four specific industries, the Bill Lee Act is repealed effective for business activities that occur on or after January 1, 2007. Section 4 of the bill requires the Department of Commerce to provide a final report on June 1, 2007. Since there are only a few specific

businesses that may continue to take Bill Lee credits until 2010, an study of those credits after 2007 would not be representative of the credits' impact or equity.

Section 5: Clarify Effective Date of Article 3J

The repeal of the Bill Lee Act applies to "business activities" occurring on or after January 1, 2007. The effective date of Article 3J, Tax Credits for Growing Businesses, is for "taxable years" beginning on or after January 1, 2007. Section 5 of the bill clarifies the effective date for Article 3J to avoid any possible gap where, for example, a business with its taxable year beginning on July 1 engaged in otherwise eligible "business activities" after January 1, 2007.

EFFECTIVE DATE: This act is effective when it becomes law.

S1199e1-SMSV-CSSVx-8

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1199

Short Title:	Economic Development Modifications.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT AND THE POPULATION REQUIREMENTS FOR AGRARIAN GROWTH ZONES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-7.1(b)(4) reads as rewritten:

"(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

...

(4) A county or city may acquire or construct one or more 'shell buildings', which are structures of flexible design adaptable for use by a variety of industrial or commercial ~~businesses.~~businesses or may construct or acquire one or more buildings intended for use by one or more specific, identified industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building constructed or acquired as provided in this subdivision pursuant to subsection (c) of this section."

SECTION 2. G.S. 143B-437.10(a)(1) reads as rewritten:

"(1) All land within the zone is located in whole within a county that has no municipality with a population in excess of ~~10,000.~~10,000 according to the most recent annual population estimates certified by the State Budget Officer."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1199

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1199-ASV-6 [v.1]

Date _____,2007

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Senator _____

moves to amend the bill on page 2, lines 18-33, read as rewritten:

"(2) ~~Every~~ Each census tract and census block group that ~~composes part of the zone~~ comprises the area meets ~~at least~~ one of the following conditions:

a. More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is adjacent to a census tract or census block group whose population meets the requirement in sub-subdivision a. of this subdivision, and at~~At~~ least fifty percent (50%) of the ~~area of the~~ portion of the tract or block group that is within the primary corporate limits of the municipality is zoned as ~~nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level.~~nonresidential. The census tract or census block groups that comprise part of the area as a result of meeting this condition may not exceed thirty-five (35%) of the area.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1199

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1199-ASV-6 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 642
PROPOSED COMMITTEE SUBSTITUTE S642-PCS75376-LBx-4

Short Title: Cramerton/McAdenville Boundary Adjustment. (Local)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO REMOVE DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF MCADENVILLE AND ANNEX IT TO THE TOWN OF CRAMERTON.

Whereas, the Board of Commissioners of the Town of Cramerton by resolution on March 6, 2007, requested that a total of 22.656 acres of property be deannexed from the Town of McAdenville and annexed to the Town of Cramerton; and

Whereas, the Board of Commissioners of the Town of McAdenville concurred in this request by resolution adopted March 12, 2007; and

Whereas, Gaston County Parcel Number 18050 is 44.85 acres, with 16.525 acres currently located within the corporate limits of the Town of McAdenville, while Gaston County Parcel Number 194769 is 62.61 acres with 6.131 acres currently located within the corporate limits of the Town of McAdenville; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The portion of Gaston County Parcel #185050 currently located within the Town of McAdenville, consisting of approximately 16.525 acres, is removed from the corporate limits of the Town of McAdenville and is added to the corporate limits of the Town of Cramerton.

SECTION 2. The portion of Gaston County Parcel #194769 currently located within the Town of McAdenville, consisting of approximately 6.131 acres, is removed from the corporate limits of the Town of McAdenville and is added to the corporate limits of the Town of Cramerton.

SECTION 3. This act has no effect upon the validity of any liens of the Town of McAdenville for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of McAdenville.

SECTION 4. This act becomes effective June 30, 2007.

SENATE BILL 642:
Cramerton/McAdenville Boundary Adjustment

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 11, 2007
Introduced by:	Sen. Hoyle	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to First Edition S642-CSSVx-12		

SUMMARY: The Proposed Committee Substitute for Senate Bill 642 would remove certain specified land in two parcels from the town limits of the Town of McAdenville and would place it within the town limits of the Town of Cramerton. The removal from the town limits of McAdenville will not affect the validity of any liens for ad valorem taxes or special assessments outstanding prior to the effective date of this act.

The House companion has passed House Local Government I and is currently in the House Finance Committee.

BILL ANALYSIS: The Proposed Committee Substitute would remove approximately 23 acres from the Town of McAdenville and would add that property to the Town of Cramerton. Both towns are requesting this transfer of territory to the Town of Cramerton by resolutions passed by the towns.

EFFECTIVE DATE: This act would become effective June 30, 2007.

BACKGROUND: The land being transferred consists of two parcels. In 2006, the Town of Cramerton annexed one of these parcels by voluntary petition. However, contrary to the requirement in G.S. 160A-36(b)(3) that no part of the area to be annexed be included within the boundary of another incorporated municipality, a portion of the parcel is located within the Town of McAdenville. The second parcel is also divided between Cramerton and McAdenville. This bill would provide that the entirety of both parcels would be within the Town of Cramerton.

In addition to adjusting the boundary lines of these two towns so they more properly follow parcel lines and other natural boundaries, transferring the land would also facilitate the development of the property.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 642

Short Title:	Cramerton/McAdenville Boundary Adjustment.	(Local)
Sponsors:	Senator Hoyle (By Request).	
Referred to:	Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO REMOVE DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF MCADENVILLE AND ANNEX IT TO THE TOWN OF CRAMERTON, IF APPROVED BY THE GOVERNING BOARDS OF THOSE TWO TOWNS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of McAdenville and is added to the corporate limits of the Town of Cramerton:

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the Town of McAdenville for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of McAdenville.

SECTION 3. This act is effective only if the governing boards of the Towns of Cramerton and McAdenville by ordinance approve of the boundary changes in Section 1 of this act.

SECTION 4. This act becomes effective June 30, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 758

Judiciary II (Criminal) Committee Substitute Adopted 4/2/07
PROPOSED COMMITTEE SUBSTITUTE S758-CSSVf-13 [v.2]

4/11/2007 12:13:04 PM

Short Title: Limited Driving Privileges - DWLR. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-20.1. Limited driving privilege for certain revocations.**

(a) Definitions. – As used in this section, the following definitions apply:

(1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under the terms and conditions authorized under this section.

(2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of Chapter 58 of the General Statutes.

(3) Nonstandard working hours. – Any time other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(4) Offense involving impaired driving. – As defined in G.S. 20-4.01(24a).

(5) Standard working hours. – Any time from 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(b) Eligibility. – The court, for good cause shown, may issue a limited driving privilege to a person whose North Carolina drivers license is permanently revoked under G.S. 20-28(a) or G.S. 20-28.1 if all of the following conditions apply:

(1) The person has no other current drivers license revocations other than the revocation under G.S. 20-28(a) or G.S. 20-28.1.

(2) The person has complied with the permanent revocation for at least two years immediately preceding the petition for a limited driving privilege.

(3) The person has no pending charges for any motor vehicle offense in this or any other state and has no unpaid motor vehicle fines or penalties in this or any other state.

(4) The person has not held a limited driving privilege issued under this section at any time during the three years prior to the filing of the current action.

(c) Ineligibility. – A person shall not be eligible to receive a limited driving privilege under this section if any of the following conditions apply:

(1) The person is eligible to receive a limited driving privilege under any other provision of law.

(2) The person's drivers license was revoked for an offense involving impaired driving at the time the person was charged under G.S. 20-28(a) or G.S. 20-28.1.

(3) The person's drivers license is revoked under G.S. 20-17.1.

(4) The person is not eligible to receive a North Carolina drivers license under G.S. 20-9(f).

(5) The Division has refused to issue a drivers license to the person under G.S. 20-9(e).

(6) The person's drivers license issued by another state has been revoked by that state for any reason or the person's North Carolina drivers license has been revoked under any interstate compact or agreement.

(d) Scope of Privilege. – A limited driving privilege shall restrict the holder to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as otherwise provided, all driving shall be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are: (i) travel to and from the person's place of employment and in the course of employment; (ii) travel necessary for maintenance of the person's household; and (iii) travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at any time and without restriction as to routes.

(e) Jurisdiction. – A petition for a limited driving privilege under this section is separate from any action that resulted in the initial revocation and is a civil action filed in district court in the county of the person's residence as reflected by the Division's records, or in the county of the person's actual residence if the Division's records are inaccurate. The costs required under G.S. 7A-305(a3) apply to this action.

(f) Petition. – A petition for a limited driving privilege requested under this section shall include a copy of the person's motor vehicle record. The petition shall also include a sworn statement that there are no pending charges for motor vehicle offenses

in this or any other state, no unpaid fines or penalties in this or any other state, and no violations in this or any other state that could result in the revocation of the person's drivers license, and that the person has complied with the current revocation for the time period required under subdivision (b)(2) of this section immediately preceding the person's petition for a limited driving privilege under this section.

(g) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying the times and routes in which the driving shall occur. If the person is not required to drive for essential employment-related purposes except during standard working hours, the limited driving privilege shall prohibit driving during nonstandard working hours unless the driving is for emergency medical care or is authorized by subsection (i) of this section. The limited driving privilege shall state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving.

(h) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation shall be attached to or made a part of the limited driving privilege. The limited driving privilege shall state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving. If the court determines that it is necessary for the person to drive during nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

(1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege shall specify the general times and routes by which the person may drive to and from work and shall restrict driving to those times and routes.

(2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege shall specify the general routes by which the person may drive to and from work and shall restrict driving to those general routes.

(3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege shall specify the general times and geographic boundaries within which the person may drive and shall restrict driving to those times and boundaries.

(4) If the person can specify neither the times nor places in which the person will be driving to and from work, or if the person is required to drive during these nonstandard working hours as a condition of employment, the limited driving privilege shall specify the geographic

boundaries within which the person may drive and shall restrict driving to those boundaries.

(i) Household Maintenance. – A limited driving privilege may not allow driving for maintenance of the household except during standard working hours. The limited driving privilege may contain additional restrictions on driving for the maintenance of the household, at the discretion of the court.

(j) Proof of Financial Responsibility. – A person applying for a limited driving privilege under this section shall provide proof of financial responsibility to the court, and a limited driving privilege shall be conditioned upon the maintenance of financial responsibility during the period of the limited driving privilege. The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. This subsection does not apply to a person who does not own a currently registered motor vehicle and who does not operate a nonfleet private passenger motor vehicle that is owned by another person and that is not insured under a commercial motor vehicle liability insurance policy. If this subsection applies, the person shall sign a written certificate to that effect. The Division shall furnish the certificate. Any material misrepresentation made by the person on the certificate shall be grounds for the court to revoke the limited driving privilege granted under this section.

Proof of financial responsibility shall be in one of the following forms:

(1) A written certificate or electronically transmitted facsimile of the certificate issued by an insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance.

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

(k) Other Restrictions. – The court shall include in all limited driving privileges a restriction that the holder of the privilege may not consume alcohol while driving or drive at any time while the holder has remaining in the holder's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts. The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(*l*) Term. – The term of a limited driving privilege issued under this section shall be one year. Upon the expiration of the term of the limited driving privilege or after three years from the date of the permanent revocation, the person may apply to the Division for a license under G.S. 20-28(c) or G.S. 20-28.1(c).

(m) Notification. – The clerk of court shall send a copy of any limited driving privilege issued in the county to the Division. A limited driving privilege that is not authorized by this section or that does not contain the limitations required by law is invalid.

(n) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge shall either indicate in the order of modification or revocation the reasons for the order, or make specific findings indicating the reason for the order, and those findings shall be entered in the record of the case. When a court issues an order of modification or revocation, the clerk shall send a copy of the order to the Division.

(o) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. Whenever a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege shall be suspended pending the final disposition of the charge."

SECTION 2. G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) In every petition to obtain a limited driving privilege filed under G.S. 20-20.1, a cost of one hundred dollars ($100.00) shall be assessed against the person filing the petition. Costs collected by the clerk under this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit one-half of the assessed cost to the Highway Fund and the remaining one-half of the assessed cost to the Court Information Technology Fund established under G.S. 7A-343.2. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 3. This act becomes effective December 1, 2007, and applies to permanent revocations that occur before, on, or after that date.

SENATE BILL 758:
Limited Driving Privileges - DWLR

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 11, 2007
Introduced by:	Sen. Kerr	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition S758-CSSVf-13		Committee Counsel

SUMMARY: ***Senate Bill 758 would allow a person whose drivers license has been permanently revoked because that person has been convicted of driving while license revoked or convicted of a moving violation while license revoked to obtain a limited driving privilege. The act would become effective December 1, 2007, and would apply to permanent revocations that occur before December 1, 2007 as well as on or after that date.***

This bill received a favorable report by Senate Judiciary II on March 14, 2007. It has been referred to Senate Finance because it would require a person to pay $100 court cost to file a petition for the limited driving privilege provided by this bill. One-half of the cost would be remitted to the Highway Fund and one-half would be remitted to the Court Information Technology Fund.

The Proposed Committee Substitute makes technical, stylistic, and clarifying changes only.

CURRENT LAW: G.S. 20-16 lists a number of offenses for which the Division of Motor Vehicles (DMV) may revoke a person's drivers license. These include the accumulation of 12 or more drivers license points in a three year period, fraudulent use of a license, any offense committed in another state that if committed in this State would be grounds for suspension or revocation, and certain speeding violations[1]. G.S. 20-17 lists a number of offenses for which the DMV is required to revoke a person's drivers license. These include manslaughter resulting from the operation of a motor vehicle, impaired driving under G.S. 20-138.1 or 138.2,[2] failure to stop and render aid, two convictions of reckless driving is a 12-month period, and conviction of assault with a motor vehicle. G.S. 50-13.12 and G.S. 110-142.2 both authorize a court to revoke a drivers license of a person who is delinquent with their child support payments. By far, the most license revocations[3] occur under G.S. 20-24.2(a)(1) as a result of a failure to appear for a trial or hearing on a traffic offense. The next most common reason for revocation is the offense of driving while license revoked under G.S. 20-28.[4] *(Additional grounds for revocation may be found on p. 3 of this summary.)*

The amount of time a license is revoked depends upon the specific grounds for the revocation. The revocation periods may be as little as 30 days, or last indefinitely if the person fails to resolve the underlying matter that led to the specific revocation. If no specific revocation period is provided, the period of revocation is one year.[5] The license is revoked for two years upon a second offense, and permanently revoked upon conviction of a third offense.[6] A person who is convicted of driving while license revoked (G.S. 20-28(a)) is guilty of a Class 1 misdemeanor and the license is revoked for an additional year. A person who is convicted of a moving offense while license revoked (G.S. 20-28.1) will also have the license revoked for an additional year. Subsequent violations of either statute result in

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[1] See also G.S. 20-16.1.

[2] G.S. 20-16.2 requires the revocation of a license for refusing to take a breath test.

[3] DMV reports 324,662 revocations in 2004, 306,226 revocations in 2003, and 304,064 revocations in 2002.

[4] DMV reports 68,361 revocations in 2004, 62,355 revocations in 2003, and 63,355 revocations in 2002.

[5] G.S. 20-19(f).

[6] G.S. 20-28(a).

additional revocations of two years and permanent revocation. A person whose license is revoked for one year under either G.S. 20-28(a) or G.S. 20-28.1 may apply to have the license reinstated after 90 days. A person whose license is revoked for two years under either statute may apply to have the license reinstated after one year. A person whose license is revoked permanently under either statute may apply to have the license reinstated after three years. DMV may reinstate the license if the person has not been convicted during the period of the revocation of: a moving violation under Chapter 20 or the laws of any other state, any provision of the alcoholic beverage laws of this or any other state, or any provisions of the drug laws of this or any other state. DMV may impose any restrictions or conditions on the new license that the Division considers appropriate for the balance of the revocation period. If the revocation is permanent, the conditions and restrictions imposed by the Division may not exceed three years.

There are a number of provisions under current law under which a court may grant a limited driving privilege during the term of a revocation *(See p. 4 of this summary).* These include certain limited DWI offenses, certain speeding offenses, and revocations related to failure to pay child support.

BILL ANALYSIS:

Section 1 would create a new statute G.S. 20-20.1 that allows a person whose drivers license has been permanently revoked under G.S. 20-28(a) (driving while license revoked) or G.S. 20-28.1 (moving offense while license revoked) to obtain a limited driving privilege if all of the following apply:

- The person has no other current drivers license revocations other than the revocation under G.S. 20-28(a) or 20-28.1.
- The person has complied with the permanent revocation for at least two years immediately preceding the petition for a limited driving privilege.
- The person has no unresolved or outstanding motor vehicle offenses or motor vehicle charges or unpaid motor vehicle fines or penalties in this or any other state.
- The person has not received a limited driving privilege under this section within the last 3 years.

A person would not be eligible for the privilege if any of the following apply:

- The person is eligible for a limited driving privilege under another provision of the law.
- The person's license was revoked for an impaired driving offense at the time the person was charged under G.S. 20-28(a) or 20-28.1.
- The person's license is revoked due to mental incompetence or drug or alcohol addiction. (G.S. 20-17.1).
- The person's license has been revoked in another state. (G.S. 20-9(f)).
- The person is someone for whom DMV has refused to issue a license due to physical or mental disease that prevents the person from exercising ordinary care in the operation of a vehicle. (G.S. 20-9(e)).
- The person's drivers license issued by another state has been revoked by that state for any reason or the person's North Carolina drivers license has been revoked under any interstate compact or agreement.

A person seeking a limited driving privilege under this section would file a petition in the district court of the county where the person resides according to DMV records, or in the county of actual residence if DMV records are inaccurate. The privilege would be limited to essential driving for employment, in course of employment, household maintenance, and emergency medical care. The specifics of the privilege and other conditions are contained in subsections (g) - (k) of the bill, and are patterned after existing law regarding limited driving privileges for DWI offenses in G.S. 20-179.3. They include a requirement that the person applying for the privilege have adequate liability and property damage coverage.

If granted, the privilege would last for a period of one year. Upon expiration of the term of the limited driving privilege or after three years from the date of permanent revocation, the person may apply to the Division for a license. If the holder of the privilege violates the privilege, the violation would be considered a violation of G.S. 20-28 (driving while license revoked), and the privilege would be suspended pending a final disposition of the charge.

The bill also creates a new criminal offense. A person who operates a motor vehicle in violation of the limited driving privilege issued under this section will have the privilege suspended pending disposition of the charge and, if convicted, will be guilty of driving while license revoked under G.S. 20-28.

Section 2 amends G.S. 7A-305 by adding a new subsection. The provision assesses a court cost of $100 for persons filing for a limited driving privilege under G.S. 20-20.1. The costs are remitted to the State Treasurer. One half of the amount will be credited to the Highway Fund and the remaining one half will be remitted to the Court Information Technology Fund.

EFFECTIVE DATE: The act would become effective December 1, 2007 and would apply to permanent revocations that occur before, on or after that date.

Suspension statutes that require the loss of driving privilege.

Description Statute	Suspension Statute	Violation Description
20-179.4	20-179.4	Failure to Complete Community Service
20-16.5	20-16.5	Civil Revocation
20-17.8(f)	20-17.8(f)	Violation of Ignition Interlock
50-13.12	50-13.12	Fail to Pay Child Support
15A-1331A	15A-1331A	Forfeiture of License Privileges
20-141(j2)	20-17(2)(10)	Speeding in a Work Zone
20-138.7	20-17(12),19(g1)	Open Container After Consuming
14-72(a)	20-17(a)), 19(f)	Larceny of Motor Fuel
20-30(2)	20-16(a)(6).19-(c)	Allow Use of License or Permit
* 20-141.3(b)	20-141.3(e)	Willful Racing or Speed Competition
* 18B-406	20-16(a)(8),19-(a)	Transporting Intoxicants
20-28(a)	20-28	Driving While License Revoked
20-166(a)	20-17(a)(4), 19(f), 166(e)	Felony Hit and Run PI
14-18	20-17(a)(l), 19(f)	Involuntary Manslaughter
20-1669(b), 14-15	20-17(a)(4), 19(f)	Leaving Scene of Accident PI
14-18	20-17(a)(1), 19(f)	Manslaughter
20-141.3(a)	20-141.3(d)	Prearranged Speed Competition
* 20-30(l)	20-16(a)(6), 19(c)	Improper Use of License/Fictitious License
20-30(3)	20-16(a)(6), 19(c)	Unlawful Use of License
20-30(5)	20-17(a)(8)	Fraudulent License Permit
20-30(5)	20-17(a)(8)	Obtain Drivers License By Fraud

20-30(5)	20-17(a)(8)	Allowing False Application
20-4.20	20-4.20	Failure to Comply with Out of State Citation
* 20-16(a)(7)	20-17,20-26	Out of Sate Conviction
20-141.4(a2)	20-17(a)(9), 19(f)	Misdemeanor Death by Vehicle
20-141(j)	20-17(a)(10), 19(f)	Speeding to Elude (Prior to 12-1-1997
20-17(11)	20-19(c)	Assault With Motor Vehicle
20-138.1	20-19(e)	Driving While Impaired 3rd Offense
20-138.1	20-17(a)(2), 19(c1)	Driving While Impaired 1st Offense
20-138.1	20-19(d)	Driving While Impaired 2nd Offense
20-138.1	20-17(a)(2), 19(c1)	Aiding & Abetting Impaired Driving
* 20-12.1	20-16(8a), 19(f)	Instructing While Under the Influence
20-141.4(A1)	20-17(a)(9), 19(l)	Death by Vehicle Involving DWI
20-138.3	20-13.2	Driving After Consuming <21
18B-302	20-17.3	Violation of ABC Laws
20-28(a)	20-28	Driving While License Revoked
20-24.1	20-24.1	Failure to Appear
20-24.1	20-24.1	Failure to Pay
20-17(a)(3)	20-19(f)	Felony Using a Motor Vehicle
14-17	20-19(l)	2nd Degree Murder – DWI
20-138.5	20-138.5(d)	Habitual Impaired Driving
20-141.5	20-141.5(d)	Misdemeanor Eluding Arrest
20-141.5	20-141.5(d)	Felony Eluding Arrest (2 Aggravating Factors)
20-141.5(b)	20-141.5(d)	Felony Eluding Arrest (3 Aggravating Factors)
20-138.2A	20-17(a)(13)	Driving CMV After Consuming
138.2B	20-17(a)(14)	Driving School Bus/Activity Bus/Childcare Vehicle
20-166(e)	20-166	Hit and Run – Fail to Stop PI (2 yr. Revocation)
20-17(a)(15)	20-13.2(c2)(d), 19(f)	Property Damage by Explosive
14-69.2(c)	20-13.2(c2)(d),17(a)(15)	False Bomb Report
14-69.2(c)	20-13.2(c2), 17(a)(15)	Hoax False Bomb-Public Bldgs.
14-268.9(b1)	20-13.2(c2)(d),17(a)(15)	Possession of Explosives On Education Property
14-69.2(c1), 269.2(c1)20-13.2(c2)(d),17(a)(15)		Aid Minor Possess Explo.Educ.Prop.
18B-302(c)	20-17.3	Aid Underage Purchase Liquor
18-302(b)	20-17.3	Purchase MTBV – by and not 19/20
20-160.1(a)	20-160.1(a)	Fail to Yield – Serious Injury
* 20-16.2	20-16.2	Refuse Chemical Test
* 20-19(c3)	20-19(c3)	Violation of Alcohol Concentration Restriction
* 20-17.8(g)	20-17.8(g)	Violation of Ignition Interlock Restriction
* 20-16	20-16	Point Accumulation
* 20-16	20-19	Speeding
20-16.1	20-16.1	Speeding
* 20-13	20-16(a)(7)	Provisional Licensee Moving W/N 12 mos.
20-16(c)		Violation Of Probation
* 20-16(a)(8b)	20-19(c)	Driving While Impaired – Military Court
* 20-16(a)(7)	20-19(c)	Driving While Impaired – Out of State – 1st Offense

(Notations indicated by asterisk represent discretionary suspensions.)

Current Limited Privilege Criteria

20-16(e1)	Speeding
20-16.1(b)	Excess speed
20-16.2(e1)	Refusal
20-16.5.1	Civil Revocation
20-138.3.1	Consuming alcohol less than 21 years of age

20-138.7	Transporting open container of alcohol
20-141.5	Felony elude
20-179.3	Impaired Driving
110-142.2 or 50-13.12	Child Support
20-166	Hit and Run PI

Kory Goldsmith and Giles Perry, counsels to Senate Judiciary II and House Judiciary III, substantially contributed to this summary.

S0758e2-SMSV-CSSVf-13

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 758

Judiciary II (Criminal) Committee Substitute Adopted 4/2/07

Short Title: Limited Driving Privileges - DWLR. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-20.1. Limited driving privileges for certain revocations.**

(a) Definitions. – As used in this section, the following definitions apply:

(1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under the terms and conditions authorized under this section.

(2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of Chapter 58 of the General Statutes.

(3) Nonstandard working hours. – Any time other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(4) Offense involving impaired driving. – As defined in G.S. 20-4.01(24a).

(5) Standard working hours. – Any time from 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(b) Eligibility. – The court, for good cause shown, may issue a limited driving privilege to a person whose North Carolina drivers license is permanently revoked under G.S. 20-28(a) or G.S. 20-28.1 if all of the following conditions apply:

(1) The person has no other current drivers license revocations other than the revocation under G.S. 20-28(a) or G.S. 20-28.1.

(2) The person has complied with the permanent revocation for at least two years immediately preceding the motion for a limited driving privilege.

(3) The person has no unresolved or outstanding motor vehicle offenses or motor vehicle charges or unpaid motor vehicle fines or penalties in this or any other state.

(4) The person has not held a limited driving privilege issued under this section at any time during the three years prior to the filing of the current action.

(c) Ineligibility. – A person shall not be eligible to receive a limited driving privilege under this section if any of the following conditions apply:

(1) The person is eligible to receive a limited driving privilege under any other provision of law.

(2) The person's drivers license was revoked for an offense involving impaired driving at the time the person was charged under G.S. 20-28(a) or G.S. 20-28.1.

(3) The person's drivers license is revoked under G.S. 20-17.1.

(4) The person is not eligible to receive a North Carolina drivers license under G.S. 20-9(f).

(5) The Division has refused to issue a drivers license to the person under G.S. 20-9(e).

(6) The person's drivers license issued by another state has been revoked by that state for any reason or the person's North Carolina drivers license has been revoked under any interstate compact or agreement.

(d) Scope of Privilege. – A limited driving privilege shall restrict the holder to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as otherwise provided, all driving shall be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are: (i) travel to and from the person's place of employment and in the course of employment; (ii) travel necessary for maintenance of the person's household; and (iii) travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at any time and without restriction as to routes.

(e) Jurisdiction. – A motion for a limited driving privilege under this section is separate from any action that resulted in the initial revocation and is a civil action filed in district court in the county of the person's residence as reflected by the Division's records. The costs required under G.S. 7A-305(a3) apply to this action.

(f) Motion. – A motion for a limited driving privilege requested under this section shall include a copy of the person's driving history. The motion shall also include a sworn statement that there are no outstanding or unresolved charges, no unpaid fines, and no violations in this or any other state that could result in the revocation of the person's drivers license, and that the person has complied with the current revocation for the time period required under subdivision (b)(2) of this section

immediately preceding the person's motion for a limited driving privilege under this section.

(g) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying the times and routes in which the driving shall occur. If the person is not required to drive for essential employment-related purposes except during standard working hours, the limited driving privilege shall prohibit driving during nonstandard working hours unless the driving is for emergency medical care or is authorized by subsection (i) of this section. The limited driving privilege shall state the name and address of the applicant's place of work or employer and may include other information and restrictions applicable to work-related driving, at the discretion of the court.

(h) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation shall be attached to or made a part of the limited driving privilege. The limited driving privilege shall state the name and address of the person's place of employment or employer and may include other information and restrictions applicable to work-related driving, at the discretion of the court. If the court determines that it is necessary for the person to drive during nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

(1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege shall specify the general times and routes by which the person may drive to and from work and shall restrict driving to those times and routes.

(2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege shall specify the general routes by which the person may drive to and from work and shall restrict driving to those general routes.

(3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege shall specify the general times and geographic boundaries within which the person may drive and shall restrict driving to those times and boundaries.

(4) If the person can specify neither the times nor places in which the person will be driving to and from work, or if the person is required to drive during these nonstandard working hours as a condition of employment, the limited driving privilege shall specify the geographic boundaries within which the person may drive and shall restrict driving to those boundaries.

(i) Household Maintenance. – A limited driving privilege may not allow driving for maintenance of the household except during standard working hours. The limited

driving privilege may contain additional restrictions on driving for the maintenance of the household, at the discretion of the court.

(j) Proof of Financial Responsibility. – A person applying for a limited driving privilege under this section shall provide proof of financial responsibility to the court, and a limited driving privilege shall be conditioned upon the maintenance of financial responsibility during the period of the limited driving privilege. The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. This subsection does not apply to a person who does not own a currently registered motor vehicle and who does not operate a nonfleet private passenger motor vehicle that is owned by another person and that is not insured under a commercial motor vehicle liability insurance policy. If this subsection applies, the person shall sign a written certificate to that effect. The Division shall furnish the certificate. Any material misrepresentation made by the person on the certificate shall be grounds for the court to revoke the limited driving privilege granted under this section.

Proof of financial responsibility shall be in one of the following forms:

(1) A written certificate or electronically transmitted facsimile of the certificate issued by an insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance.

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

(k) Other Restrictions. – The court shall include in all limited driving privileges a restriction that the holder of the privilege may not consume alcohol while driving or drive at any time while the holder has remaining in the holder's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts. The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(l) Term. – The term of a limited driving privilege issued under this section shall be one year. Upon the expiration of the term of the limited driving privilege or after three years from the date of the permanent revocation, the person may apply to the Division for a license under G.S. 20-28(c) or G.S. 20-28.1(c).

(m) Notification. – The clerk of court shall send a copy of any limited driving privilege issued in the county to the Division. A limited driving privilege that is not authorized by this section or that does not contain the limitations required by law is invalid.

(n) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge shall either indicate in the order of modification or revocation the reasons for the order, or make specific findings indicating the reason for the order, and those findings shall be entered in the record of the case. When a court issues an order of modification or revocation, the clerk shall send a copy of the order to the Division.

(o) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. Whenever a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege shall be suspended pending the final disposition of the charge."

SECTION 2. G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) In every motion to obtain a limited driving privilege filed under G.S. 20-20.1, a cost of one hundred dollars ($100.00) shall be assessed against the person filing the motion. Costs collected by the clerk under this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit one-half of the assessed cost to the Highway Fund and the remaining one-half of the assessed cost to the Court Information Technology Fund established under G.S. 7A-343.2. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 3. This act becomes effective December 1, 2007, and applies to permanent revocations that occur before, on, or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 758

Judiciary II (Criminal) Committee Substitute Adopted 4/2/07
PROPOSED COMMITTEE SUBSTITUTE S758-CSSVf-13 [v.1]

4/10/2007 11:51:23 PM

Short Title: Limited Driving Privileges - DWLR. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-20.1. Limited driving privilege for certain revocations.**

(a) Definitions. – As used in this section, the following definitions apply:

(1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under the terms and conditions authorized under this section.

(2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of Chapter 58 of the General Statutes.

(3) Nonstandard working hours. – Any time other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(4) Offense involving impaired driving. – As defined in G.S. 20-4.01(24a).

(5) Standard working hours. – Any time from 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(b) Eligibility. – The court, for good cause shown, may issue a limited driving privilege to a person whose North Carolina drivers license is permanently revoked under G.S. 20-28(a) or G.S. 20-28.1 if all of the following conditions apply:

(1) The person has no other current drivers license revocations other than the revocation under G.S. 20-28(a) or G.S. 20-28.1.

(2) The person has complied with the permanent revocation for at least two years immediately preceding the petition for a limited driving privilege.

(3) The person has no pending charges for any motor vehicle offense or unpaid motor vehicle fines or penalties in this or any other state.

(4) The person has not held a limited driving privilege issued under this section at any time during the three years prior to the filing of the current action.

(c) Ineligibility. – A person shall not be eligible to receive a limited driving privilege under this section if any of the following conditions apply:

(1) The person is eligible to receive a limited driving privilege under any other provision of law.

(2) The person's drivers license was revoked for an offense involving impaired driving at the time the person was charged under G.S. 20-28(a) or G.S. 20-28.1.

(3) The person's drivers license is revoked under G.S. 20-17.1.

(4) The person is not eligible to receive a North Carolina drivers license under G.S. 20-9(f).

(5) The Division has refused to issue a drivers license to the person under G.S. 20-9(e).

(6) The person's drivers license issued by another state has been revoked by that state for any reason or the person's North Carolina drivers license has been revoked under any interstate compact or agreement.

(d) Scope of Privilege. – A limited driving privilege shall restrict the holder to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as otherwise provided, all driving shall be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are: (i) travel to and from the person's place of employment and in the course of employment; (ii) travel necessary for maintenance of the person's household; and (iii) travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at any time and without restriction as to routes.

(e) Jurisdiction. – A petition for a limited driving privilege under this section is separate from any action that resulted in the initial revocation and is a civil action filed in district court in the county of the person's residence as reflected by the Division's records. The costs required under G.S. 7A-305(a3) apply to this action.

(f) Petition. – A petition for a limited driving privilege requested under this section shall include a copy of the person's motor vehicle record. The petition shall also include a sworn statement that there are no pending charges for motor vehicle offenses, no unpaid fines or penalties in this or any other state, and no violations in this or any other state that could result in the revocation of the person's drivers license, and that the

person has complied with the current revocation for the time period required under subdivision (b)(2) of this section immediately preceding the person's petition for a limited driving privilege under this section.

(g) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying the times and routes in which the driving shall occur. If the person is not required to drive for essential employment-related purposes except during standard working hours, the limited driving privilege shall prohibit driving during nonstandard working hours unless the driving is for emergency medical care or is authorized by subsection (i) of this section. The limited driving privilege shall state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving.

(h) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation shall be attached to or made a part of the limited driving privilege. The limited driving privilege shall state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving. If the court determines that it is necessary for the person to drive during nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

(1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege shall specify the general times and routes by which the person may drive to and from work and shall restrict driving to those times and routes.

(2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege shall specify the general routes by which the person may drive to and from work and shall restrict driving to those general routes.

(3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege shall specify the general times and geographic boundaries within which the person may drive and shall restrict driving to those times and boundaries.

(4) If the person can specify neither the times nor places in which the person will be driving to and from work, or if the person is required to drive during these nonstandard working hours as a condition of employment, the limited driving privilege shall specify the geographic boundaries within which the person may drive and shall restrict driving to those boundaries.

(i) Household Maintenance. – A limited driving privilege may not allow driving for maintenance of the household except during standard working hours. The limited driving privilege may contain additional restrictions on driving for the maintenance of the household, at the discretion of the court.

(j) Proof of Financial Responsibility. – A person applying for a limited driving privilege under this section shall provide proof of financial responsibility to the court, and a limited driving privilege shall be conditioned upon the maintenance of financial responsibility during the period of the limited driving privilege. The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. This subsection does not apply to a person who does not own a currently registered motor vehicle and who does not operate a nonfleet private passenger motor vehicle that is owned by another person and that is not insured under a commercial motor vehicle liability insurance policy. If this subsection applies, the person shall sign a written certificate to that effect. The Division shall furnish the certificate. Any material misrepresentation made by the person on the certificate shall be grounds for the court to revoke the limited driving privilege granted under this section.

Proof of financial responsibility shall be in one of the following forms:

(1) A written certificate or electronically transmitted facsimile of the certificate issued by an insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance.

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

(k) Other Restrictions. – The court shall include in all limited driving privileges a restriction that the holder of the privilege may not consume alcohol while driving or drive at any time while the holder has remaining in the holder's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts. The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(*l*) Term. – The term of a limited driving privilege issued under this section shall be one year. Upon the expiration of the term of the limited driving privilege or after

three years from the date of the permanent revocation, the person may apply to the Division for a license under G.S. 20-28(c) or G.S. 20-28.1(c).

(m) Notification. – The clerk of court shall send a copy of any limited driving privilege issued in the county to the Division. A limited driving privilege that is not authorized by this section or that does not contain the limitations required by law is invalid.

(n) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge shall either indicate in the order of modification or revocation the reasons for the order, or make specific findings indicating the reason for the order, and those findings shall be entered in the record of the case. When a court issues an order of modification or revocation, the clerk shall send a copy of the order to the Division.

(o) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. Whenever a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege shall be suspended pending the final disposition of the charge."

SECTION 2. G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) In every petition to obtain a limited driving privilege filed under G.S. 20-20.1, a cost of one hundred dollars ($100.00) shall be assessed against the person filing the petition. Costs collected by the clerk under this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit one-half of the assessed cost to the Highway Fund and the remaining one-half of the assessed cost to the Court Information Technology Fund established under G.S. 7A-343.2. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 3. This act becomes effective December 1, 2007, and applies to permanent revocations that occur before, on, or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 11, 2007

TO:

FROM: Denise Thomas and Bryce Ball
Fiscal Research Division

RE: Senate Bill 758 (Unknown Edition)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
Court Technology Fund	$250,000	$250,000	$250,000	$250,000	$250,000
Highway Fund	$250,000	$250,000	$250,000	$250,000	$250,000
EXPENDITURES					
Judicial	$669,332	$621,600	$621,600	$621,600	$621,600
	Impact of potential limited driving privilege violations cannot be determined (p. 4)				
Correction	Possible, small impact on local jails.				
POSITIONS (cumulative):					
Judicial	6.0	6.0	6.0	6.0	6.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Department; Department of Transportation

EFFECTIVE DATE: December 1, 2007.

BILL SUMMARY: Enacts new G.S. 20-20.1, permitting the issuance of limited driving privileges to persons whose NC drivers license is permanently revoked under GS 20-28(a) or 20-28.1. Sets out the standards under which limited driving privileges may be authorized and conditions that make a person ineligible for limited driving privileges. Limits the purposes for which limited driving privileges may be authorized to (1) travel to and from person's employment and in the course of employment, (2) necessary maintenance of the person's household, and (3) emergency medical care for the person or an immediate family member living in same household. Establishes standards for each purpose permitted, and requires a person applying for limited driving privileges to show proof of financial responsibility. Provides that the term of the limited driving privileges is one year. Amends GS 7A-305 to establish costs ($100) to be charged in a motion to obtain limited driving privileges. Effective December 1, 2007, and applies to permanent revocations that occur before, on, or after that date.
Source: Bill Digest S.B. 758 (03/13/0200).

ASSUMPTIONS AND METHODOLOGY:

I. Issuance of Limited Driving Privileges:

Under current law, the court may grant a limited driving privilege for a person whose license is permanently revoked, after serving three years of the revocation. This bill would provide limited driving privileges for a person who is permanently revoked under G.S. 20-28(a) or G.S. 20- 28.1, after serving two years of the revocation. Specifically, S.B. 758 would amend the statute, effective December 1, 2007 to allow limited driving privileges for a person whose North Carolina drivers license is permanently revoked and who meets certain conditions specified in the bill.

The permissible purposes for limited driving privilege are travel related to 1) employment; 2) necessary household maintenance; and 3) emergency medical care for the driver or an immediate family member. To obtain limit driving privileges, a person would have to file a civil petition in court in the county of residence as reflected by the Division of Motor Vehicles' records. At the end of the 12-month limited driving period or three years from the date of the permanent revocation, the person would be eligible to apply for a drivers license. S.B. 758 also amends G.S. 7A-305A to add new subsection (a3), establishing a $100 fee assessed against the person filing the petition in civil court. This assessment is remitted to the State Treasurer, who shall credit one-half of the proceeds to the Highway Fund and the remaining half to the Court Technology Fund.

Staff from the Division of Motor Vehicles (DMV) indicates that 4,897 persons currently meet the conditions specified in S.B. 758 and would be eligible to apply for limited driving privileges when the bill goes into effect. The Administrative Office of the Courts (AOC) does not maintain records on the annual number of convictions that result in permanent revocation of driving privileges; therefore, there is no data available to the Fiscal Research Division (FRD) to estimate the number of persons that would become eligible to apply for limited driving privileges in future years.

For the purpose of preparing this fiscal estimate, FRD assumed that the number of persons eligible to apply for limited driving privileges on December 1, 2007 (4,897) would be approximately the same over future years. Using this assumption, FRD estimates that 5,000 persons would file a civil petition for limited driving privileges and pay the $100 fee, generating a total of $500,000. Of this total, $250,000 would be credited to the Highway Fund and the remaining $250,000 would be credited to the AOC Court Technology Fund. This estimate is presumed to be high, since the figure includes all persons whose licenses have been revoked and are eligible within the current

three year window. It is not known exactly how many persons would be eligible to petition for limited driving privileges on an annual basis.

Judicial

Currently (G.S. 20 -179.3) limited driving privileges (for certain offenses) are issued in criminal court. People who would qualify under SB 758 would apply for a limited privilege by filing a civil action in district court in the county of residence as reflected in DMV records. A person who complies with the requirements of the limited driving privilege under this section may apply through the court for an order showing compliance and, if granted, the Clerk of Court would send a copy to DMV for reinstatement of the person's drivers license. The bill also provides for modification of the limited driving privilege if circumstances change. For the various orders, the bill requires the judge to enter findings, and clerks to send copies to DMV. AOC staff estimate that each filing would require one hour of a judge's time and 30 minutes of a deputy clerk's. Assuming 5,000 filings annually and that each judge and deputy clerk has 1,302 hours available in the courtroom annually, AOC would need four (4) additional judges and two (2) additional deputy clerks beginning in Fiscal Year 2007-08.

Position	# of Positions	FY07-08 Position Cost	FY07-08 Total Cost	FY 08-09 Position Cost	FY08-09 Total Cost
District Court Judge	4	$ 147,557	$590,228	$136,660	$546,640
Deputy Clerk	2	$39,552	$79,104	$37,480	$74,960
Total	6	$187,109	$ 669,332	$174,140	$621,600

II. Violation of Limited Driving Privilege

By establishing the new limited driving privilege, S.B. 758 also creates a new offense for violation of that privilege (G.S. 20-21(o)). In effect, operation of a motor vehicle in violation of the proposed limited driving privilege constitutes the offense of driving while license revoked under G.S. 20-28, a Class 1 misdemeanor. The defendant's limited driving privilege is suspended until final disposition of the charge; and upon conviction, the offender's license is revoked pursuant to G.S. 20-28.

Department of Correction

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.* Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

Class 1 misdemeanants serve their designated terms of incarceration within local jails; therefore, the proposed offense is not expected to impact the state's prison population.[1] The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Thus, to the extent that future convictions for the

[1] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Department of Correction: Division of Community Corrections

In FY 2005-06, 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if future convictions for the proposed offenses were to occur, the Division of Community Corrections (DCC) could assume some additional costs for offenders placed under its supervision.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of $0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from $7.71 to $14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated $14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

The AOC expects that if additional charges for violation of the new limited driving privilege were to arise, the resultant cases would increase court-time requirements, personnel workload, and the costs of case disposal. However, it is not known exactly how many persons might apply for the limited driving privilege, or how many might violate its conditions. AOC data for calendar year 2006 indicates 145,280 charges for DWLR and DWLR in violation of limited driving privilege; but, this data does not distinguish the number of charges related to permanently revoked licenses, or persons eligible for the proposed limited driving privilege.

Presently, court-time costs are an estimated $3,702 per Class 1 misdemeanor trial, and $243 per plea. For illustration, if five percent (250) of all assumed applicants (5,000) were charged with violations per year, and all cases were disposed via plea, the additional court-time required could generate $60,750 in additional costs per year. However, actual costs would likely vary from general example.

SOURCES OF DATA: Administrative Office of the Courts; Department of Transportation, Division of Motor Vehicles.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

North Carolina General Assembly

Senator John H. Kerr III

Conference of District Attorneys

NORTH CAROLINA

Peg Dorer
Director

P.O. Box 25546
Raleigh, NC 27611

919.733.3484
919.715.0138

February 13, 2007

The Honorable John H. Kerr, III
North Carolina General Assembly
526 Legislative Office Building
Raleigh, NC 27603-5925

Dear Senator Kerr:

At the most recent meeting of the Executive Committee of the North Carolina Conference of District Attorneys, the Committee voted to continue our support for your forthcoming bill entitled, "Limited Driving Privileges - DWLR Bill."

As you are well aware, there are many reasons for a person's driving privileges to be revoked. Often times, because of employment, family, or emergency obligations, people continue to drive after having their license revoked and then may incur additional violations. This causes a "revolving door" situation from which these same people cannot escape.

The Conference of District Attorneys believes that as long as there are restrictions on the type of revocation, it is appropriate for some of these individuals to obtain a limited driving privilege so that they can continue to meet their obligations. The restrictions that exist in the bill you sponsored last year, especially the exclusion of persons who had their licenses revoked because of impaired driving, were most appropriate.

Please do not hesitate to call if the Conference can be of any assistance to you in your pursuit of this legislation or any other issues.

Sincerely,

Peg Dorer
Director

EXECUTIVE COMMITTEE

Garry Frank
President

W. Clark Everett
President Elect

Tom Horner
Vice President

C. Branson Vickory III
Past President

Benjamin R. David

James R. Woodall, Jr.

Belinda J. Foster

Thomas J. Keith

Senate Finance Committee
Wednesday, April 18, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 103	Special Plate for Prostate Cancer Awareness.	Senator Goodall
SB 417	Wilkesboro Force Account Labor.	Senator Goss
SB 489	Modify City of Lumberton Occupancy Tax.	Senator Weinstein
SB 1199	Economic Development Modifications.	Senator Clodfelter

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, April 19, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **417** Wilkesboro Force Account Labor.

Draft Number:	55427
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

S.B. **489** Modify City of Lumberton Occupancy Tax.

Draft Number:	15071
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

S.B. **1199** Economic Development Modifications.

Draft Number:	15072
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 3

Committee Clerk Comments:

SENATE FINANCE COMMITTEE
Wednesday, April 18, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, April 18, 2007, in room 544 of the Legislative Office Building. Twenty-six members of the committee were present. Senator David Hoyle presided. Devin Gerney of Wake County and Lizzie McMahan of Morganton served as pages.

S.B. 489 – Lumberton Occupancy Tax.

Senator Weinstein moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Weinstein was then recognized to explain the proposed committee substitute. Susanne Streb, North Carolina Restaurant and Lodging Association lobbyist, spoke in opposition to the bill. Sue Tillman, Lumberton Tourism Development Authority Board member, was recognized to speak in opposition to the bill. Lumberton Mayor, Ray Pennington, was recognized to speak in favor of the bill. Wyatt Johnson, Lumberton City Councilman, was recognized to speak in favor of the bill. Senator Allran moved for a favorable report and the motion carried. A copy of the committee substitute, the bill, the summary, and the fiscal note is attached.

S.B. 417 – Wilkesboro Force Account Labor.

Senator Weinstein moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Goss was recognized to explain the proposed committee substitute. Senator Stevens moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill and the summary is attached.

S.B. 103 – Special Plate for Prostate Cancer Awareness.

Senator Goodall moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Goodall was recognized to explain the bill. Mary Anderson, representing the Prostate Cancer Coalition, was recognized to speak in favor of the bill and answer any questions. Trina Griffin, Research Division attorney, was recognized to further explain the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the fiscal note, the bill and the summary is attached.

S.B. 1199 – Economic Development Modifications.

Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Clodfelter was recognized to explain the proposed committee substitute. Senator Tillman moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, "matching building" information and the summary is attached.

Senator Hoyle recognized the League of Women Voters of Henderson County, who visited the meeting.

The meeting adjourned at 1:35 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Gene Ainsworth	A&A
Amy Schilder	HANC
Dana Simpson	Smith Anders
Rebecca McGhee	Smith Anderson
Tom Smith	NCAR
Sue Tillman	LTDA
Cassandra G. Hill	LTDA
JOHN S. McCLELLAN	LTDA
Mary J. Taylor	LTDA
Marcella Jackson	LTDA
Barbara Carlson	BBGC

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Doug Byrd	Commerce
Frank Gray	NCRLA
Ken Melton	N.C. DOR.
BRUCE THOMPSON	PARKER POE
David Knight	TNC
Mark Dixon	BOA
Patrick Buffkin	Nelson Mullins
Sarah Price	BOA
JOH	

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

April 18, 2007 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Patricia Morris	Re/Max Mountain Realty - 2177 Russ Ave Waynesville, NC 28786
Ellis Morris	Haywood County Board of REALTORS® Inc
DAVE COYLE	EXIT HOMETOWN REALTY P.O. Box 1136, WAYNESVILLE NC 28786
Steve Lynch	Exit Hometown Realty P.O. Box 1136, Waynesville, NC 28786
Jude Zentmeyer	Coldwell Banker Kasey Waynesville, NC 28786
PAUL YEAGER	Mountain Fever REAL ESTATE 890 Jonathan Creek Road Waynesville NC 28785
Kathleen Lees	League of Women Voters Henderson County — 922 Thornton Pl, Hvlle NC 28791
JE Hobbs	Hosp. Alliance of NC
Murphy Sullivan	Charlotte Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Grady Watkins	NC Assoc. of Realtors
Danny Brock	NC Realtors
Mel Brooks	High Point Assoc Realtors
Janet Parris-Gray	High Point Assoc. Realtors
Judy McConnell	IOG
Richard Sceford	Caroline Civic Center
Wyatt Johnson	Lumberton City Council/Mayor 403 W. 26th St Lumberton, N.C 28358
Ray Pennington	Mayor, City of Lumberton
Marty Bacak	EMBARQ
Steve Brewer	EMBARQ
Mary Klenz	League of Women Voters NC

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Barnett	League of Women Voters NC 602 Water Oak Ln Hendersonville 28791
Lee Luebbe	LWV HC - 4017 Little River Rd Hwille NC 28739
Mary Anderson	Prostate Cancer Coalition of NC 5905 Shamrock Rd., Durham, NC 27713
Dennis Davis	Cleveland County Board of Realtors
Pat Jones	North Carolina Assn of Realtors
Jae Stewart	IFNC
Andy Munn	REBIC
Alastair Macaulay	NCHBA
Lisa Martin	NCHBA
R. Berl Wilms	NCHBA
D. McGowan	NC Realtors

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Portia Haney	NCDOT / DMV
Kay Hatcher	NCDOT / DMV
Susanne Shebs	NCRLA
Willo Kelly	Outer Banks Assoc. of Realtors
Douglas Brindley	Brindley Beach Vacations Corolla, NC
Dana Hamm	SBA
William Best	DOC / DCA
Rodney Swink	DOC/DCA
Michael Haley	Commerce
Emily Atkinson	Capstat
Andy Romanet	NCACC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 489
PROPOSED COMMITTEE SUBSTITUTE S489-CSSVx-14 [v.3]

4/18/2007 12:16:30 AM

Short Title: Modify City of Lumberton Occupancy Tax. (Local)

Sponsors:

Referred to:

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE OCCUPANCY TAX OF THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

SECTION 1. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session Laws, Chapter 935 of the 1987 Session Laws, and Section 2 of S.L. 1997-361, reads as rewritten:

"Section 2. Lumberton Occupancy Tax. (a) Authorization and scope. – The Lumberton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) [Repealed August 1, 2000.]

(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~The tax collector may collect any unpaid taxes levied under this section through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The tax collector has the same enforcement powers concerning the tax imposed by this section as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.~~

(d) Distribution and use of ~~first three percent (3%)~~ tax revenue. – The City of Lumberton shall, on a quarterly basis, remit sixty percent (60%) of the net proceeds of the ~~first three percent (3%)~~ occupancy tax ~~authorized in subsection (a) of this section~~ to the Lumberton Tourism Development ~~Authority.~~Authority and forty percent (40%) of the net proceeds to the Carolina Civic Center Foundation, Inc. The Authority shall use

at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Lumberton and shall use the remainder for tourism-related expenditures. ~~Of the funds designated for tourism-related expenditures, the Authority shall remit the first one hundred fifteen thousand dollars ($115,000) to the Carolina Civic Center Foundation, Inc., for tourism-related expenditures. The Authority may use no more than twenty-three percent (23%) of the funds remitted to it under this subsection for salaries in carrying out these purposes and may use no more than ten percent (10%) of the funds remitted to it under this subsection for other administrative costs in carrying out these purposes.~~Of the forty percent (40%) remitted to it under this subsection, the Foundation shall use ninety-three percent (93%) for the general operations of the Carolina Civic Center and shall place the remaining funds into a capital reserve for the maintenance, repair, and capital needs of the Carolina Civic Center property and equipment.

(e) [Repealed August 1, 2000.]

(f) The following definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed ~~four percent (4%)~~ three percent (3%) of the first five hundred thousand dollars ($500,000) of the gross ~~proceeds.~~proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in ~~a~~ the city ~~by attracting~~or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures."

SECTION 2. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session Laws, Chapter 935 of the 1987 Session Laws, Section 2 of S.L. 1997-361, and Section 1 of this act, reads as rewritten:

"Section 2. Lumberton Occupancy Tax. (a) Authorization and scope. – The Lumberton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) [Repealed August 1, 2000.]

(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(d) Distribution and use of tax revenue. – The City of Lumberton shall, on a quarterly basis, remit ~~sixty percent (60%) of~~ the net proceeds of the occupancy tax to the Lumberton Tourism Development ~~Authority and forty percent (40%) of the net proceeds to the Carolina Civic Center Foundation, Inc.~~Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Lumberton and shall use the remainder for tourism-related expenditures. ~~Of the forty percent (40%) remitted to it under this subsection, the Foundation shall use ninety-three percent (93%) for the general operations of the Carolina Civic Center and shall place the remaining funds into a capital reserve for the maintenance, repair, and capital needs of the Carolina Civic Center property and equipment.~~

(e) [Repealed August 1, 2000.]

(f) The following definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of the gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures."

SECTION 3. Section 3 of S.L. 1997-361 reads as rewritten:

"Section 3. Lumberton Tourism Development Authority. (a) Appointment and membership. – When the Lumberton City Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the city, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the city. ~~members' terms of office and for the filling of vacancies on the Authority.~~

~~The Authority shall have eight members appointed by the city council and two ex officio, nonvoting members, as follows:~~

~~(1) Four individuals who own or operate a hotel or motel in the city.~~
~~(2) Four individuals who are currently active in the promotion of travel and tourism in the city.~~
~~(3) The Finance Officer for Lumberton, to serve ex officio.~~
~~(4) A member of the Lumberton City Council, designated by the city council, to serve ex officio.~~

The Lumberton City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the City of Lumberton shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under Section 2 of this act for the purposes provided in Section 2 of this act. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Lumberton City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Lumberton City Council may require."

SECTION 4. Section 1 of this act is effective the first day of the first month following enactment of this act. Section 2 of this act becomes effective October 1, 2014. The remainder of this act is effective when it becomes law. The Lumberton City Council has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

SENATE BILL 489:
Modify City of Lumberton Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 18, 2007
Introduced by:	Sen. Weinstein	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S489-CSSVx-14		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 489 would modify how the proceeds of the Lumberton room occupancy tax may be used and makes other administrative changes. The distribution formula for the occupancy tax proceeds does not conform to the occupancy tax guidelines adopted by the House Finance Committee. Specifically, for a period of seven years, only 40% of the net proceeds would be used to promote travel and tourism rather than the 67% required under the guidelines. In addition, 40% of the proceeds would be remitted directly to a private nonprofit, the Carolina Civic Center Foundation, Inc., to be used for its general operations.

CURRENT LAW: The City of Lumberton has authority to levy a 3% room occupancy tax. Robeson County does not have authority to levy a room occupancy tax. The net proceeds of the tax are remitted to the Lumberton Tourism Development Authority. The Tourism Development Authority is comprised of four individuals who own or operate a hotel or motel in the city, four individuals who are currently active in the promotion of travel and tourism in the city, and two ex officio members.[1]

The Authority must use at least two-thirds of the proceeds to promote travel and tourism and must use the remainder for tourism-related expenditures. Of the funds designated for tourism-related expenditures, the first $115,000 must be remitted to the Carolina Civic Center Foundation, Inc. The Authority is limited to using 23% of the proceeds remitted to it for salaries and 10% for other administrative costs.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 489 modifies the distribution formula for the net proceeds of the 3% room occupancy tax as follows:

- Until the year 2014:
  - Sixty percent (60%) of the proceeds would be remitted to the Tourism Development Authority. Of this 60%, at least two-thirds must be used to promote travel and tourism and the remainder must be used for tourism-related expenditures.
  - Forty percent (40%) of the proceeds would be remitted directly to the Carolina Civic Center Foundation, Inc. Of this 40%, ninety-three percent (93%) must be used for general operations and the remainder must be placed in a capital reserve to be used for maintenance, repair, and capital needs of the civic center.
- Beginning in 2014:
  - The proceeds would be distributed in accordance with the uniform guidelines. That is, two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures.

[1] The Lumberton Finance Officer and a member of the Lumberton City Council.

The bill also conforms the remainder of the local act to the uniform guidelines with respect to administrative provisions only. Specifically, it amends the definition of "net proceeds," and it amends the provision relating to the composition of the Tourism Development Authority. Under the current local act, the TDA is comprised of four individuals who own or operate a hotel or motel in the city, four individuals who are currently active in the promotion of travel and tourism, and two ex officio members. The uniform guidelines provide that at least one-third of the members must be affiliated with businesses that collect the tax and at least one-half must be individuals who are currently active in the promotion of travel and tourism.

CONFORMITY WITH OCCUPANCY TAX GUIDELINES: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation (G.S. 153A-155 and G.S. 160A-215). These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition and the North Carolina Restaurant and Lodging Association have a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in the statement are similar to the ones established by the House Finance subcommittee in 1993. Based upon this work, the House Finance Committee looks for the inclusion of the following uniform provisions in the occupancy tax bills it considers:

GUIDELINES FOR OCCUPANCY TAX UNIFORM PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions – The term "net proceeds," "promote travel and tourism," and "tourism-related expenditures" are defined as follows: ➢ **Net proceeds** – Gross proceeds less the costs to the city/county of administering and collecting the tax, as determined by the finance officer, not to exceed 3% of the first $500,000 of gross proceeds collected each year and 1% of the remaining gross receipts collected each year. ➢ **Promote travel and tourism** – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities. ➢ **Tourism-related expenditures** – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a city/county by attracting tourists or business travelers to the city/county. The term includes tourism-related capital expenditures.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

This bill does not conform to the guidelines because it does not direct at least two-thirds of the proceeds to be used for tourism promotion and because it remits a portion of the proceeds directly to the Carolina Civic Center Foundation, Inc. rather than to the TDA. Currently, the TDA is directed to remit $115,000 of its tourism-related expenditure funds to the Civic Center Foundation.

EFFECTIVE DATE: The modified distribution formula would become effective the first day of the first month following enactment of the act and remain in place until September 30, 2014. In addition, the City Council would have 30 days from the date the act becomes effective to ensure the membership of the TDA is in compliance with the act. Beginning October 1, 2014, the distribution formula would revert to the formula recommended by the uniform guidelines.

BACKGROUND: Since 1997, a portion of the Lumberton occupancy tax proceeds have provided funding to the Carolina Civic Center Foundation, Inc. Specifically, a flat amount of $115,000 is remitted annually by the TDA to the Foundation for tourism-related expenditures. The City is currently undertaking a $1.5 million renovation of the civic center facility, which includes the Carolina Theatre. The City plans to fund this renovation through a combination of funds pledged by the Foundation,[2] room occupancy tax revenues, and rental fees on utility poles. The City believes the renovation will contribute toward revitalizing the downtown area and creating economic development by offering cultural and artistic events and programming. The City Council unanimously passed a resolution supporting this legislation.

S0489e1-SMSV-CSSVx-14

[2] The Foundation has pledged to pay from its revenues the sum of $15,000 per year for 40 years.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 18, 2007

TO: Senate Finance Committee

FROM: Joseph Futima
Rodney Bizzell
Fiscal Research Division

RE: Senate Bill 489 (Unknown Edition)

FISCAL IMPACT

Yes () **No (X)** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
City of Lumberton	********See Assumptions and Methodology				**********

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: City of Lumberton

EFFECTIVE DATE: When bill becomes law

BILL SUMMARY:
Senate Bill 489 would:

- Decrease the amount going to TDA for tourism promotion from 67% to 40%
- Increase the amount going to the TDA for the civic center from $115,000 to 40% of occupancy tax revenue
- Increase the amount going to the TDA for tourism related expenses from the remainder of revenues after the first two disbursements to 20% of occupancy tax revenue

ASSUMPTIONS AND METHODOLOGY:

Actual occupancy tax receipts for the city of Lumberton for 2006-07 were $447,590. This figure was grown out over five years using a rate of 3.3% which has been the average historical growth rate for the city over the past eight years. There is no reason to assume total revenues will change only the method that they are distributed. The distribution of occupancy tax revenue under current law and as proposed is as follows:

	2007-08	2008-09	2009-10	2010-11	2011-12
Proposed:					
TDA/Promotion (40%)	$ 184,944	$ 191,047	$ 197,352	$ 203,865	$ 210,592
TDA/Tourism Related (20%)	$ 92,472	$ 95,524	$ 98,676	$ 101,932	$ 105,296
Carolina Civic Center (40%)	$ 184,944	$ 191,047	$ 197,352	$ 203,865	$ 210,592
Total Revenue	$ 462,360	$ 477,618	$ 493,380	$ 509,661	$ 526,480
Current Law					
TDA/Promotion. (67%)	$ 309,782	$ 320,004	$ 330,564	$ 341,473	$ 352,742
TDA/Civic Center (1st $115,000 of remainder)	$ 115,000	$ 115,000	$ 115,000	$ 115,000	$ 115,001
TDA/Tourism Related (remainder)	$ 37,579	$ 42,614	$ 47,815	$ 53,188	$ 58,737
Total Revenue	$ 462,360	$ 477,618	$ 493,380	$ 509,661	$ 526,480

SOURCES OF DATA: NC Department of Treasurer

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 489

Short Title:	Modify City of Lumberton Occupancy Tax.	(Local)
Sponsors:	Senator Weinstein.	
Referred to:	Finance.	

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE OCCUPANCY TAX OF THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

SECTION 1. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session laws and Chapter 935 of the 1987 Session Laws, as it relates to the City of Lumberton only, and Section 2 of Chapter 361 of the 1997 Session Laws, as it relates to the City of Lumberton only, reads as rewritten:

"**Section 2.** Lumberton Occupancy Tax. (a) Authorization and scope. The Lumberton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) [Repealed August 1, 2000.]

(c) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~The tax collector may collect any unpaid taxes levied under this section through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The tax collector has the same enforcement powers concerning the tax imposed by this section as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.~~

(d) Distribution and use of ~~first three percent (3%)~~ tax revenue. The City of Lumberton shall, on a quarterly basis, remit sixty percent (60%) of the net proceeds of the ~~first three percent (3%)~~ occupancy tax ~~authorized in subsection (a) of this section~~ to the Lumberton Tourism Development ~~Authority.~~Authority and forty percent (40%) of the net proceeds to the Carolina Civic Center Foundation, Inc. The Authority shall use

at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Lumberton and shall use the remainder for tourism-related expenditures. ~~Of the funds designated for tourism-related expenditures, the Authority shall remit the first one hundred fifteen thousand dollars ($115,000) to the Carolina Civic Center Foundation, Inc., for tourism-related expenditures. The Authority may use no more than twenty-three percent (23%) of the funds remitted to it under this subsection for salaries in carrying out these purposes and may use no more than ten percent (10%) of the funds remitted to it under this subsection for other administrative costs in carrying out these purposes.~~Of the forty percent (40%) remitted to it under this subsection, the Foundation shall use eighty-three percent (83%) for the general operations of the Carolina Civic Center and shall place the remaining funds into a capital reserve for the maintenance, repair, and capital needs of the Carolina Civic Center property and equipment.

(e) [Repealed August 1, 2000.]

(f) The following definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed ~~four percent (4%)~~ three percent (3%) of the first five hundred thousand dollars ($500.000) of the gross ~~proceeds.~~proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in ~~a~~ the city ~~by attracting~~or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures."

SECTION 2. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session laws and Chapter 935 of the 1987 Session Laws, as it relates to the City of Lumberton only, and Section 3 of Chapter 361 of the 1997 Session Laws, as it relates to the City of Lumberton only, and Section 1 of this act, reads as rewritten:

"**Section 2.** Lumberton Occupancy Tax. (a) Authorization and scope. The Lumberton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) [Repealed August 1, 2000.]

(c) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(d) Distribution and use of tax revenue. The City of Lumberton shall, on a quarterly basis, remit ~~sixty percent (60%) of~~ the net proceeds of the occupancy tax to the Lumberton Tourism Development ~~Authority and forty percent (40%) of the net proceeds to the Carolina Civic Center Foundation, Inc.~~Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Lumberton and shall use the remainder for tourism-related expenditures. ~~Of the forty percent (40%) remitted to it under this subsection, the Foundation shall use eighty-three percent (83%) for the general operations of the Carolina Civic Center and shall place the remaining funds into a capital reserve for the maintenance, repair, and capital needs of the Carolina Civic Center property and equipment.~~

(e) [Repealed August 1, 2000.]

(f) The following definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of the gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures."

SECTION 3. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session laws and Chapter 935 of the 1987 Session Laws, as it relates to the City of Lumberton only, and Section 3 of Chapter 361 of the 1997 Session Laws, as it relates to the City of Lumberton only, reads as rewritten:

"**Section 3.** Lumberton Tourism Development Authority. (a) Appointment and membership. When the Lumberton City Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the ~~members' terms of office and for the filling of vacancies on the Authority.~~

~~The Authority shall have eight members appointed by the city council and two ex officio, nonvoting members, as follows:~~

~~(1) Four individuals who own or operate a hotel or motel in the city.~~

~~(2) Four individuals who are currently active in the promotion of travel and tourism in the city.~~

~~(3) The Finance Officer for Lumberton, to serve ex officio.~~

~~(4) A member of the Lumberton City Council, designated by the city council, to serve ex officio.~~membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the city, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the city.

The Lumberton City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the City of Lumberton shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under Section 2 of this act for the purposes provided in Section 2 of this act. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Lumberton City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Lumberton City Council may require."

SECTION 4. Section 1 of this act is effective the first day of the first month following enactment of this act. Section 2 of this act becomes effective October 1, 2014. The remainder of this act is effective when it becomes law. The Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 417
PROPOSED COMMITTEE SUBSTITUTE S417-CSSV-16 [v.1]

4/16/2007 10:33:21 PM

Short Title: Wilkesboro Force Account Labor. (Local)

Sponsors:

Referred to:

March 1, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FORCE ACCOUNT LIMIT FOR THE TOWN OF WILKESBORO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-135 reads as rewritten:

"**§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when ~~either~~ the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000).~~ two million one hundred fifty-two thousand five hundred dollars ($2,152,500). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 2. This act applies only to the construction of a water pump station and the extension of a waterline to serve a Department of Transportation rest center to be built outside the corporate limits of the Town of Wilkesboro, and to the

replacement of five sewer interceptor lines that will be installed throughout the Town of Wilkesboro.

SECTION 3. This act applies only to the Town of Wilkesboro.

SECTION 4. This act is effective when it becomes law and expires December 30, 2009.

SENATE BILL 417:
Wilkesboro Force Account Labor

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 18,.2007
Introduced by:	Sen. Goss	**Summary by:**	Trina Griffin
Version:	PCS for First Edition S417-CSSV-16		Committee Counsel

SUMMARY: Senate Bill 417 would increase the force account limit for the Town of Wilkesboro with regard to a specific project for the construction of a water pump station, the replacement of five sewer interceptor lines, and the extension of a waterline to serve a Department of Transportation rest center. This act would expire on December 30, 2009. <u>The Proposed Committee Substitute makes one technical change only.</u>

CURRENT LAW: The main competitive bidding requirements for local governments are found in Article 8 of Chapter 143. These statutes apply to the expenditure of public money within established dollar limits and for two categories of contracts: (1) contracts for the purchase of apparatus, supplies, materials, or equipment, and (2) contracts for construction or repair work. The second category (contracts for construction or repair work) includes construction of roads, utilities, buildings, and other infrastructure.

"Force account labor" is the direct use of agency employees, materials, and equipment to do construction or repair work (i.e. using your own forces). There are generally three types of force account expenses: employee labor, including fringe benefits; equipment use or time; and the use of materials from the agency's inventory. Formal bidding for construction or repair work does not apply to work undertaken by the local government when (1) the work is performed by force account qualified labor on the permanent payroll, and (2) either the cost of the project does not exceed $125,000 or the total cost of labor does not exceed $50,000.

BILL ANALYSIS: Senate Bill 417 amends G.S. 143-135 to provide that formal bidding for construction and repair work would not apply to work undertaken by the Town of Wilkesboro on a project to construct a water pump station, to replace five sewer interceptor lines, and to extend a waterline to serve a Department of Transportation rest center to be built outside the corporate limits of the town when (1) the work is performed by force account qualified labor on the payroll, and (2) the total cost of the project does not exceed $2,152,500.

EFFECTIVE DATE: The act would be effective when it becomes law and would expire on December 30, 2009.

BACKGROUND: Since the statute's enactment, there have been several local modifications to it increasing the force account limit. The majority of them have been for certain projects and have expired on a date certain. As originally enacted, the competitive bidding requirements did not apply when force account labor was used and the total cost of the project did not exceed $75,000. In 1995, the limit was increased to$125,000 for the total cost of the project or $50,000 for the total cost of the labor. To date, the highest local modification has been for a total project amount of $860,000 for the construction of a park by the City of Newton and Catawba County. However, there have been two local acts with no limit: one for Alleghany County and the Town of Sparta (for the construction of an electrical power substation and water and sewer line extensions related to the construction and operation of a

manufacturing plant) and one for Fayetteville (for the construction of water and sewer utility projects). Both authorizations have since expired.

Cities/Towns

Asheville	SL 2001-274
Beech Mountain	SL 1993-586
Boone	SL 1993-138; 2005-197
Boonville	SL 1993-667
Chapel Hill	SL 2000-97
Charlotte	SL 2001-248
Concord	SL 1999-34
Fayetteville	SL 2006-48
Goldsboro	SL 1991-555
Laurinburg	SL 1997-247
Lumberton	SL 1983-950
Monroe[1]	SL 1985-128, as amended
Mooresville	SL 1993-3
Newport	SL 2000-97
Newton	SL 2004-35
Sparta	SL 1998-18
Surf City	SL 1993-310

Counties

Alleghany	SL 1998-18
Avery	SL 1995-175
Cabarrus	SL 1999-34
Catawba	SL 2004-35; SL 2007-1
Davie	SL 2005-32
Duplin	SL 1983-959
Macon	SL 1983-355
Mecklenburg	SL 1995-219
Union	SL 1985-914
Watauga	SL 1993-667; SL 2005-197

S0417e1-SMSV

[1] The local modification for the City of Monroe does not increase the force account limits. Rather it would exempt the City from the formal bidding requirements under Article 8 of Chapter 143 when the work is performed by force account labor or when the work is performed by appointed agents of the agency using labor crews and equipment leased on a per diem basis pursuant to informal bids under G.S. 143-131.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 417

Short Title:	Wilkesboro Force Account Labor.	(Local)
Sponsors:	Senator Goss.	
Referred to:	Finance.	

March 1, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FORCE ACCOUNT LIMIT FOR THE TOWN OF WILKESBORO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-135 reads as rewritten:

"**§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000).~~ two million one hundred fifty-two thousand five hundred dollars ($2,152,500). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 2. This act applies only to the construction of a water pump station and the extension of a waterline to serve a Department of Transportation rest center to be built outside the corporate limits of the Town of Wilkesboro, and to the replacement of five sewer interceptor lines that will be installed throughout the Town of Wilkesboro.

SECTION 3. This act applies only to the Town of Wilkesboro.

SECTION 4. This act is effective when it becomes law and expires December 30, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 103
PROPOSED COMMITTEE SUBSTITUTE S103-CSSVf-15 [v.5]

4/18/2007 12:07:19 PM

Short Title: Various Special License Plates. (Public)

Sponsors:

Referred to:

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT OF THREE HUNDRED APPLICATIONS BEFORE THE DIVISION OF MOTOR VEHICLES IS AUTHORIZED TO PRODUCE THE GOLD STAR SPECIAL PLATE; TO CHANGE THE RECIPIENT OF FUNDS FROM THE OMEGA PSI PHI SPECIAL PLATE FROM THE UNITED NEGRO COLLEGE FUND, INC. TO THE CAROLINA UPLIFT FOUNDATION, INC. TO BE USED FOR YOUTH ACTIVITY AND SCHOLARSHIP PROGRAMS; TO ELIMINATE THE ADDITIONAL FEE AMOUNT FOR THE BREAST CANCER AWARENESS PLATE; AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE THE FOLLOWING NEW SPECIAL REGISTRATION PLATES: PROSTATE CANCER AWARENESS, JUVENILE DIABETES RESEARCH, BREAST CANCER EARLIER DETECTION, AND HOSPICE CARE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying

over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) In God We Trust.
(7) Stock Car Racing Theme.
(8) Buddy Pelletier Surfing Foundation.
(9) Guilford Battleground Company.
(10) National Wild Turkey Federation.
(11) North Carolina Aquarium Society.
(12) First in Forestry.
(13) North Carolina Wildlife Habitat Foundation.
(14) NC Trout Unlimited.
(15) Ducks Unlimited.
(16) Lung Cancer Research.
(17) NC State Parks.
(18) Support Our Troops.
(19) US Equine Rescue League.
(20) Fox Hunting.
(21) Hospice Care."

SECTION 2. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(15a) Breast Cancer Earlier Detection. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Friends for An Earlier Breast Cancer Test."

...

(54) Gold Star Lapel Button. – Issuable to the recipient of the Gold Star lapel button. The plate shall bear the emblem of the Gold Star lapel button and the words "Gold Star". ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~"

...

(58a) Hospice Care. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Hospice Care" and the letters "HC" on the right side of the plate.

...

(61a) Juvenile Diabetes Research Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Juvenile Diabetes Research" and the "sneaker" logo of the nonprofit group Juvenile Diabetes Research Foundation International, Inc.

...

(100a) Prostate Cancer Awareness. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Prostate Cancer Awareness" and a representation of a blue ribbon. The Division must receive 300 or more applications for the plate before it may be developed.

..."

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Coastal Conservation Association	$30.00
Crystal Coast	$30.00
El Pueblo	$30.00
First in Forestry	$30.00
Historical Attraction	$30.00
HOMES4NC	$30.00
Hospice Care	$30.00
In God We Trust	$30.00
North Carolina 4-H Development Fund	$30.00
North Carolina Libraries	$30.00
Personalized	$30.00
Share the Road	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Support Our Troops	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00

NC Children's Promise	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
Animal Lovers	$20.00
ARC of North Carolina	$20.00
Audubon North Carolina	$20.00
Autism Society of North Carolina	$20.00
Be Active NC	$20.00
Breast Cancer Awareness	$20.00
Breast Cancer Earlier Detection`	$20.00
Buddy Pelletier Surfing Foundation	$20.00
Daughters of the American Revolution	$20.00
Ducks Unlimited	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Juvenile Diabetes Research Foundation	$20.00
Harley Owners' Group	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
NC Trout Unlimited	$20.00
NC Wildlife Habitat Foundation	$20.00
Omega Psi Phi Fraternity	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None

100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Alpha Phi Alpha Fraternity	$10	$10	0	0
Animal Lovers	$10	$10	0	0
ARC of North Carolina	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Breast Cancer Awareness	$10	$10	0	0
Breast Cancer Earlier Detection	$10	$10	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina's Aviation Museum	$10	$5	0	0
Coastal Conservation Association	$10	$20	0	0
Crystal Coast	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
First in Forestry	$10	$10	$10	0
Goodness Grows	$10	$15	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
In God We Trust	$10	$20	0	0

In-State Collegiate Insignia	$10	$15	0	0
Juvenile Diabetes Research Foundation	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
March of Dimes	$10	$10	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
NC Agribusiness	$10	$15	0	0
NC Children's Promise	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
NC 4-H Development Fund	$10	$20	0	0
NC Trout Unlimited	$10	$10	0	0
North Carolina Libraries	$10	$20	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Personalized	$10	0	$15	$5
Prince Hall Mason	$10	$10	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0

US Equine Rescue League	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 5.(a) G.S. 20-81.12(b14) reads as rewritten:

"(b14) Omega Psi Phi Fraternity Plates. – The Division must receive 300 or more applications for an Omega Psi Phi Fraternity plate and receive any necessary licenses, without charge, from Omega Psi Phi Fraternity, Incorporated, before the plate may be developed. The Division ~~shall~~ must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Omega Psi Phi Fraternity plates to ~~the United Negro College Fund, Inc., through the Winston-Salem Area Office for the benefit of UNCF colleges in this State.~~the Carolina Uplift Foundation, Inc., for youth activity and scholarship programs."

SECTION 5.(b) This section becomes effective July 1, 2007, and applies to fees transferred from the Collegiate and Cultural Attraction Plate Account on or after that date.

SECTION 6. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b62) Hospice Care. – The Division must receive 300 or more applications for the Hospice Care plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Hospice Care plates to The Carolinas Center for Hospice and End of Life Care for its programs in support of hospice care in North Carolina.

(b63) Breast Cancer Earlier Detection. – The Division must receive 300 or more applications for a Breast Cancer Earlier Detection plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Breast Cancer Earlier Detection plates to the Friends for An Earlier Breast Cancer Test, Inc., to support services to detect breast cancer earlier.

(b64) Juvenile Diabetes Research Foundation. – The Division must receive 300 or more applications for the Juvenile Diabetes Research Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Juvenile Diabetes Research Foundation plates to the Triangle Eastern North Carolina Chapter of the Juvenile Diabetes Research Foundation International, Inc., to provide funding for research to cure diabetes. The Foundation must distribute the amount it receives to all Juvenile Diabetes Research Foundation, Inc., chapters located in the State in equal shares."

SECTION 7.(a) G.S. 20-79.7(a), as enacted by Section 3 of this act, reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to

the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Coastal Conservation Association	$30.00
Crystal Coast	$30.00
El Pueblo	$30.00
First in Forestry	$30.00
Historical Attraction	$30.00
HOMES4NC	$30.00
Hospice Care	$30.00
In God We Trust	$30.00
North Carolina 4-H Development Fund	$30.00
North Carolina Libraries	$30.00
Personalized	$30.00
Share the Road	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Support Our Troops	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00
NC Children's Promise	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
Animal Lovers	$20.00
ARC of North Carolina	$20.00
Audubon North Carolina	$20.00
Autism Society of North Carolina	$20.00
Be Active NC	$20.00
~~Breast Cancer Awareness~~	~~$20.00~~
Breast Cancer Earlier Detection`	$20.00
Buddy Pelletier Surfing Foundation	$20.00

Daughters of the American Revolution	$20.00
Ducks Unlimited	$20.00
Friends of the NRA	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Juvenile Diabetes Research Foundation	$20.00
Harley Owners' Group	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
NC Trout Unlimited	$20.00
NC Wildlife Habitat Foundation	$20.00
Omega Psi Phi Fraternity	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 7.(b) G.S. 20-79.7(b), as enacted by Section 4 of this act, reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF

Alpha Phi Alpha Fraternity	$10	$10	0	0
Animal Lovers	$10	$10	0	0
ARC of North Carolina	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
~~Breast Cancer Awareness~~	~~$10~~	~~$10~~	~~0~~	~~0~~
Breast Cancer Earlier Detection	$10	$10	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina's Aviation Museum	$10	$5	0	0
Coastal Conservation Association	$10	$20	0	0
Crystal Coast	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
First in Forestry	$10	$10	$10	0
Friends of the NRA	$10	$10	0	0
Goodness Grows	$10	$15	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Juvenile Diabetes Research Foundation	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
March of Dimes	$10	$10	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
NC Agribusiness	$10	$15	0	0
NC Children's Promise	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0

NC 4-H Development Fund	$10	$20	0	0
NC Trout Unlimited	$10	$10	0	0
North Carolina Libraries	$10	$20	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Personalized	$10	0	$15	$5
Prince Hall Mason	$10	$10	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 7.(c) G.S. 20-81.12(b53) is repealed.

SECTION 7.(d) G.S. 20-79.4(b)(15) reads as rewritten:

"(15) Breast Cancer Awareness. – Issuable to the registered owner of a motor ~~vehicle in accordance with G.S. 20-81.12.~~ vehicle. The plate shall bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The Division must receive 300 or more applications for the plate before it may be developed."

SECTION 7.(e) This section becomes effective October 1, 2007, and any funds remaining in the Collegiate and Cultural Attraction Plate Account on that date that are derived from sales of the Breast Cancer Awareness plate must be transferred to the 'Friends for An Earlier Breast Cancer Test, Inc.'

SECTION 8. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 103:
Various Special License Plates
f/k/a Special Plate for Prostate Cancer Awareness

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 18, 2007
Introduced by:	Sen. Goodall	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S103-CSSVf-15		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 103 does the following:

- ***It authorizes the Division of Motor Vehicles to develop four new special registration plates.***
- ***It eliminates the requirement of 300 applications before DMV is authorized to produce the Gold Star special plate.***
- ***It changes the recipient of funds from the Omega Psi Phi special plate from the United Negro College Fund to the Carolina Uplift Foundation for youth activity and scholarship programs.***
- ***It eliminates the additional fee amount for the Breast Cancer Awareness plate, effective October 1, 2007. However, this bill also authorizes a new special plate for 'Breast Cancer Earlier Detection', which will require the same additional fee amount to be directed to the same organization as under current law.***

CURRENT LAW: The Division of Motor Vehicles is authorized to issue more than 164 special license plates. As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The Division may issue one free registration plate to a recipient of the Legion of Valor[2] award, a 100% disabled veteran, or an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee of $28 and the additional special registration plate fee of $10.

The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $1,000,000 is annually appropriated to provide operating assistance for ten Visitor Centers.[3] The Centers are located in Brunswick, Camden, Carteret, Caswell, Columbus, Macon, McDowell, Transylvania, Tyrell, and Watauga Counties.[4] The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

The cost of some special plates includes a fee in addition to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

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[1] Aside from the three plates available free of charge, three special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Purple Heart Recipient, and the Silver Star Recipient.

[2] The Legion of Valor plate is issuable to a recipient of one of the following: Congressional Medal of Honor, Distinguished Service Cross, Navy Cross, or Air Force Cross.

[3] There are 12 Visitors' Centers. The two centers that do not receive State funding are located in Dare County.

[4] Each Visitor's Center receives $100,000.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 103 contains the following:

I. Authorization of New Special Registration Plates

The bill authorizes the Division of Motor Vehicles to issue four new special registration plates. All of the plates authorized must meet the 300 minimum plate requirement[5] and all of the plates authorized require the $10 special registration plate fee that is credited to the Special Registration Plate Account. The bill further provides that the Hospice Care plate would not have to be a 'First in Flight' plate.[6]

The following chart details the plates authorized by this bill, the cost of each plate, and how the additional revenues derived from the plates, if any, will be distributed and used.

Purposes	Fee in Addition to $10 Special Plate Fee
Prostate Cancer Awareness. – The plate would bear the phrase 'Prostate Cancer Awareness' and a representation of a blue ribbon. ***Sponsor:*** *Sen. Goodall (SB 103)*	**None**
Juvenile Diabetes Research. – The plate would bear the phrase 'Juvenile Diabetes Research' and the sneaker logo of the nonprofit group Juvenile Diabetes Research Foundation International, Inc. The proceeds from the additional fee would be transferred to the Triangle Eastern North Carolina Chapter of the Juvenile Diabetes Research Foundation International, Inc. to provide funding for research to cure diabetes. The funds would then be divided equally among all Juvenile Diabetes Research Foundation chapters located in the State. ***Sponsor:*** *Sen. Hagan (SB 289)*	**$10.00**
Breast Cancer Earlier Detection. – In 2003, the General Assembly authorized the Breast Cancer Awareness plate. In 2005, an additional $10 was required for the plate[7] with the proceeds being transferred to the 'Friends for An Earlier Breast Cancer Test, Inc.' to support services to detect breast cancer earlier. This new special registration plate would bear the phrase 'Friends for An Earlier Breast Cancer Test.' The additional fee would be used for the same purpose as under the current law for the Breast Cancer Awareness plate. ***Sponsor:*** *Sen. Hagan and Rep. Alexander*	**$10.00**
Hospice Care. – The plate would bear the phrase 'Hospice Care' and the letters 'HC' on the right side of the plate. It would not be required to have the 'First in Flight' background. The proceeds from the additional fee would be transferred to The Carolinas Center for Hospice and End of Life Care for its programs in support of hospice care in North Carolina. ***Sponsor:*** *Sen. Snow (SB 857)*	**$20.00**

II. Elimination of 300 Application Requirement for Gold Star Plate

In 2006, the General Assembly authorized the issuance of a Gold Star special registration plate to a person who is a recipient of the Gold Star lapel button. The plate is subject to the regular motor vehicle registration fee of $28 and the additional special registration plate fee of $10. DMV must receive 300 applications before the plate will be developed. This bill would eliminate that requirement. There are at

[5] There are 123 organizations trying to obtain the 300 minimum plate applications. Some of the organizations have been trying to meet this minimum number since 1992.

[6] The design of plates that are not 'First in Flight' plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification. G.S. 20-63(b).

[7] The plate was already subject to the special registration plate fee of $10 that goes to the Special Registration Plate Account. The additional fee enacted in 2005 brought the total additional fee to $20.

least 26 plates that do not require 300 applications. However, many of these exceptions are due to the fact that there are not 300 members of the particular class or group for which the plate is designed, such as for certain State government officials.

The Gold Star lapel button was established by an act of Congress to provide an appropriate identification for widows, widowers, parents, and next of kin (defined as children, siblings, and half-siblings) of members of the United States Armed Forces who lost their lives during World War I, World War II, or other armed conflicts in which the United States was engaged. The North Carolina Division of Veterans' Affairs estimates that approximately 10,000-15,000 North Carolinians lost their lives during service dating from World War I through current day. Approximately 9,500 of those persons were killed in action.

III. Change to Proceeds of Omega Psi Phi Plate

In 2000, the General Assembly authorized DMV to issue a special registration plate bearing the fraternity's symbol and name. The plate is subject to an additional $20 fee, the proceeds of which are transferred to the United Negro College Fund for the benefit of UNCF colleges in this State. As of December 2006, there were approximately 507 active Omega Psi Phi plates.

Section 5 of the Proposed Committee Substitute would change the recipient of funds derived from sales of the plate to the Carolina Uplift Foundation, Inc. for youth activity and scholarship programs.

IV. Elimination of Additional Fee for Breast Cancer Awareness Plate

In 2003, the General Assembly authorized the Breast Cancer Awareness plate. At the time of its enactment, the plate was subject only to the regular motor vehicle registration fee of $28 and the additional special registration plate fee of $10. In 2006, Senator Hagan introduced Senate Bill 1202. That bill authorized a second special plate for 'Breast Cancer Earlier Detection' and imposed an additional $10 fee for the plate, the proceeds of which were to be transferred to 'Friends for An Earlier Breast Cancer Test, Inc.' to support services to detect breast cancer earlier. The legislation enacted in 2006 increased the fee for the existing breast cancer awareness special plate rather than create a second plate.[8] However, it has since been determined that it was the intent of the interested groups requesting the bills that there be two different special plates relating to the early detection of breast cancer. This part of the bill amends the law to reflect the original intent of the sponsors of the two breast cancer awareness special plates.

This bill authorizes a second special plate for 'Breast Cancer Earlier Detection'. This new plate will be subject to the 300 application requirement and will be subject to the $10 special registration plate fee as well as an additional $10 fee. The proceeds of the additional $10 fee will go to 'Friends for An Earlier Breast Cancer Test, Inc.' to support services to detect breast cancer earlier. Since this new plate will provide funding to the same organization as the Breast Cancer Awareness plate, Section 7 of the bill repeals the additional fee for the Breast Awareness plate, effective October 1, 2007.

EFFECTIVE DATE: The change to the recipient of funds from the Omega Psi Phi special plate would become effective July 1, 2007, and would apply to transfers of fees derived from the sales of the Omega Psi Phi special plates on or after that date. The repeal of the additional $20 fee for the Breast Cancer Awareness plate would become effective October 1, 2007. The remainder of the act would become effective when it becomes law.

S0103e1-SMSV-CSSVf-15

[8] S.L. 2006-209.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 103 (First Edition)

SHORT TITLE: Special Plate for Prostate Cancer Awareness.

SPONSOR(S): Senator Goodall

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
General Fund	**No Impact to General Fund**				
Dept. Motor Vehicles	**See Assumptions and Methodology**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Motor Vehicles

EFFECTIVE DATE: When law.

BILL SUMMARY:

The Proposed Committee Substitute for Senate Bill 103 does the following:

- It authorizes the Division of Motor Vehicles to develop five new special registration plates.
- It eliminates the requirement of 300 applications before DMV is authorized to produce the Gold Star special plate.
- It changes the recipient of funds from the Omega Psi Phi special plate from the United Negro College Fund to the Carolina Uplift Foundation for youth activity and scholarship programs.
- It eliminates the additional fee amount for the Breast Cancer Awareness plate. However, this bill also authorizes a new special plate for 'Breast Cancer Early Detection' that will require the same additional fee amount, which will be directed to the same organization as under current law.

ASSUMPTIONS AND METHODOLOGY:
The Omega Psi Phi Plate changes the recipient of funds and therefore has no net impact on revenues.

The Gold Star Plate eliminates the minimum number of applicants necessary before issuance and therefore has no net impact on revenues.

The Breast Cancer Awareness Plate is in addition to an existing plate which does not contain additional pass through fees designated for the specified cause. The applicants will have the choice whether to purchase the plate with or the plate without the fee. Fiscal Research has no means to determine how many applicants will elect to pay the additional fee.

The Prostate Cancer Awareness Plate is new and will require the $10 special registration fee with no additional fee. Fiscal Research has means to determine how many individuals will apply for this plate.

The Juvenile Diabetes Research Plate is new and will require the $10 special registration fee as well as a $20 pass through fee. Fiscal Research has means to determine how many individuals will apply for this plate.

The Hospice Care Plate is new and will require the $10 special registration fee as well as a $30 pass through fee. Fiscal Research has means to determine how many individuals will apply for this plate.

SOURCES OF DATA: Department of Motor Vehicles

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Joseph Futima & Brenna Erford Burch

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: April 18, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 103

Short Title:	Special Plate for Prostate Cancer Awareness.	(Public)
Sponsors:	Senators Goodall; Bingham, Forrester, Hoyle, and Purcell.	
Referred to:	Finance.	

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A PROSTATE CANCER AWARENESS SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(100a) Prostate Cancer Awareness. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Prostate Cancer Awareness" and a representation of a blue ribbon. The Division must receive 300 or more applications for the plate before it may be developed.

...."

SECTION 2. This act becomes effective July 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1199
PROPOSED COMMITTEE SUBSTITUTE S1199-CSSVx-8 [v.13]

4/18/2007 10:12:15 AM

Short Title: Economic Development Modifications. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT, TO CLARIFY URBAN PROGRESS ZONES AND AGRARIAN GROWTH ZONES, TO ALLOW MORE THAN ONE AGRARIAN GROWTH ZONE IN A COUNTY, TO CLARIFY WHEN THE LAST REPORT IS DUE FOR THE REPEALED LEE ACT CREDITS, AND TO MAKE TECHNICAL CHANGES CONCERNING THE TAX CREDITS FOR GROWING BUSINESSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-7.1(b)(4) reads as rewritten:

"(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

...

(4) A county or city may ~~acquire or construct one or more "shell buildings", which are structures of flexible design adaptable for use by a variety of industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building pursuant to subsection (c) of this section.~~acquire, construct, convey, or lease a building suitable for industrial or commercial use."

SECTION 2. G.S. 143B-437.09(a) reads as rewritten:

"(a) Urban Progress Zone Defined. – An urban progress zone is an area that meets all of the following conditions:

(1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, ~~or parts thereof,~~ in the most recent

federal decennial ~~census that meets all conditions in this subsection.~~census.

~~(1)~~(2) All ~~land within the zone~~ of the area is located in whole within the primary corporate limits of a municipality with a population ~~of more than~~ in excess of 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

~~(2)~~(3) Every census tract and census block group that ~~composes part of the zone~~ comprises the area meets ~~at least~~ one of the following conditions:

a. ~~More~~ It has a population that meets the poverty level threshold. The population of a census tract or census block group meets the poverty level threshold if more than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. ~~At~~ It is located adjacent to a census tract or census block group whose population meets the poverty level threshold and at least fifty percent (50%) of the ~~area of the portion that is within the primary corporate limits of the municipality~~ part of it that is included in the area is zoned as ~~nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level.~~nonresidential. No more than thirty-five percent (35%) of the area of a zone may consist of census tracts or census block groups that meet this condition.

~~(3) The area of the zone zoned as nonresidential does not exceed thirty-five percent (35%) of the total area of the zone.~~"

SECTION 3. G.S. 143B-437.10 reads as rewritten:

"§ 143B-437.10. Agrarian growth zone designation.

(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that meets all of the following conditions:

(1) It is comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial ~~census that meets all conditions in this subsection. A county may have no more than one agrarian growth zone.~~ census.

~~(1)~~(2) All ~~land within the zone~~ of the area is located in whole within a county that has no municipality with a population in excess of ~~10,000.~~10,000 according to the most recent annual population estimates certified by the State Budget Officer.

~~(2)~~(3) Every census tract and census block group that ~~composes part of the zone~~comprises the area has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

~~(3) The area of the zone less the smallest census tract included in the zone does not exceed five percent (5%) of the total area of the county in which the zone is located.~~

(b) Limitation and Designation. – The area of a county that is included in one or more agrarian growth zones shall not exceed five percent (5%). Upon application of a county, the Secretary of Commerce shall make a written determination whether an area is an agrarian growth zone that satisfies the conditions ~~and limitations~~ of subsection (a) of this section. The application shall include all of the information listed in this subsection. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all ~~urban progress~~ agrarian growth zones with a description of their boundaries.

(1) A map showing the census tracts and block groups that would comprise the zone.

(2) A detailed description of the boundaries of the area that would comprise the zone.

(3) A certification regarding the size of the proposed zone.

(4) Detailed census information on the county and the proposed zone.

(5) A resolution of the board of county commissioners requesting the designation of the area as an agrarian growth zone.

(6) Any other material required by the Secretary of Commerce.

(c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of this section, a parcel of property that is located partially within an agrarian growth zone is considered entirely within the zone if all of the following conditions are satisfied:

(1) At least fifty percent (50%) of the parcel is located within the zone.

(2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.

(3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary."

SECTION 4. G.S. 105-129.2A(d) reads as rewritten:

"(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by April 1, ~~2001.~~2001 and the last report due by June 1, 2007."

SECTION 5. Section 1.5 of S.L. 2006-252 reads as rewritten:

"**SECTION 1.5.** Section 1.1 of this part is effective for taxable years beginning on or after January 1, ~~2007.~~2007, and for business activities that occur on or after January 1, 2007. The remainder of this part is effective when it becomes law."

SECTION 6. This act is effective when it becomes law.

SENATE BILL 1199:
Economic Development Modifications

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 18, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S1199-CSSVx-8		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 1199 does the following:

- ***Clarifies in the Local Development Act a local government's authority to acquire, construct, convey, or lease buildings for industrial or commercial use.***
- ***Clarifies certain criteria for urban progress zones.***
- ***Amends the provision providing how population is determined for agrarian growth zones and allows more than one agrarian growth zone in a county.***
- ***Requires a final Bill Lee Act report by the Department of Commerce on June 1, 2007, which is consistent with the Act's repeal.***
- ***Clarifies the effective date for tax credits available under the new Article 3J, Tax Credits for Growing Businesses.***

CURRENT LAW & BILL ANALYSIS:

Section 1: Authority to Acquire, Construct, Convey, or Lease Certain Buildings

The Local Development Act of 1925 authorizes counties and cities to undertake specific economic development activities to be funded by the levy of property taxes and by the allocation of other revenues whose use is not otherwise restricted by law. Among those activities is the acquisition, construction, conveyance, or lease of "shell buildings," which are structures of flexible design adaptable for use by a *variety* of industrial or commercial businesses.

In light of a concern that the term "shell building" implies or is limited to buildings for general, nonspecific use only, this section eliminates that term. It clarifies that a local government may acquire, construct, convey, or lease any building for industrial or commercial use, regardless of whether the local government has a specific business entity in mind when it acquires, constructs, conveys, or leases a building.

Section 2: Clarification of Criteria for Urban Progress Zones

As mentioned above, Article 3J provides enhanced tax credits in "urban progress zones," which were designed to replace the development zones adopted under the Bill Lee Act. Development zones were intended to be areas of high poverty within cities. Over the years, it became clear that the development zones often included areas that were neither high poverty nor particularly urban. Under Article 3J, the intent is for UP zones to be more narrowly focused and subject to more stringent guidelines with respect to poverty.

An urban progress zone is an area comprised of one or more contiguous census tracts, census block groups, or both, or parts thereof, in the most recent federal decennial census that meets all of the following conditions:

(1) All land within the zone is located in whole within the primary corporate limits of a municipality with a population of more than 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

(2) Every census tract and census block group that composes part of the zone meets at least one of the following conditions:

a. More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. At least fifty percent (50%) of the area of the portion that is within the primary corporate limits of the municipality is zoned as nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level.

(3) The area of the zone zoned as nonresidential does not exceed thirty-five percent (35%) of the total area of the zone.

The current wording states that the area zoned as nonresidential may not exceed 35% of the total area of the zone. However, the original intent was not to limit zones to only those areas that have less than 35% nonresidential development, but rather to restrict the size of the zone that did not meet the poverty requirements. According to the Department of Commerce, the current wording makes it very difficult to create a workable zone, and they have requested that the statute be revised to more accurately reflect the original intent when the act passed last year.

Under the bill, that portion of the zone which is required to be at least 50% nonresidential and be adjacent to a tract or block group of which at least 20% of the population is at or below poverty level, cannot exceed 35% of the total area of the zone. Section 2 also rewrites the definition for clarity.

Section 3: Agrarian Growth Zone Changes

In 2006, the General Assembly created a new package of State tax incentives to replace the Bill Lee Act for most taxpayers. As part of that package, the new Article 3J replaced development zones with urban progress (UP) zones and created a new type of zone called an agrarian growth (AG), which provides those areas with the same benefits provided to UP zones.

An AG zone must satisfy all of the following conditions:

1. It must be composed of contiguous census tracts or block groups located within a single county **that does not have any municipality with a population in excess of 10,000.**
2. Each census tract or block group in the zone must have more than 20% of its population below the poverty level.
3. The area of the zone, less its smallest census tract, may not exceed 5% of the total area of the county.

Section 3 would specify that the population estimate must be based on the most recent annual population estimates certified by the State Budget Officer. This is the same basis for determining population for qualification as an UP zone. This change would make the two statutes consistent with regard to determining population. Section 3 also removes the restriction that a county have no more than one agrarian growth zone, but maintains the overall 5% cap. That is, the area of a county included in one or more agrarian growth zones may not exceed 5%.

Section 4: Final Bill Lee Act Report by Department of Commerce

The Department of Commerce is required to make biennial reports on tax equity and the impact of the Bill Lee Act. With limited exception applicable to four specific industries, the Bill Lee Act is repealed

effective for business activities that occur on or after January 1, 2007. Section 4 of the bill requires the Department of Commerce to provide a final report on June 1, 2007. Since there are only a few specific businesses that may continue to take Bill Lee credits until 2010, an study of those credits after 2007 would not be representative of the credits' impact or equity.

Section 5: Clarify Effective Date of Article 3J

The repeal of the Bill Lee Act applies to "business activities" occurring on or after January 1, 2007. The effective date of Article 3J, Tax Credits for Growing Businesses, is for "taxable years" beginning on or after January 1, 2007. Section 5 of the bill clarifies the effective date for Article 3J to avoid any possible gap where, for example, a business with its taxable year beginning on July 1 engaged in otherwise eligible "business activities" after January 1, 2007.

EFFECTIVE DATE: This act is effective when it becomes law.

S1199e1-SMSV-CSSVx-8

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1199

Short Title:	Economic Development Modifications.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT AND THE POPULATION REQUIREMENTS FOR AGRARIAN GROWTH ZONES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-7.1(b)(4) reads as rewritten:

"(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

...

(4) A county or city may acquire or construct one or more 'shell buildings', which are structures of flexible design adaptable for use by a variety of industrial or commercial ~~businesses.~~businesses or may construct or acquire one or more buildings intended for use by one or more specific, identified industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building constructed or acquired as provided in this subdivision pursuant to subsection (c) of this section."

SECTION 2. G.S. 143B-437.10(a)(1) reads as rewritten:

"(1) All land within the zone is located in whole within a county that has no municipality with a population in excess of ~~10,000.~~10.000 according to the most recent annual population estimates certified by the State Budget Officer."

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

Matching Buildings

Use this screen to select a property to view.

87 Matching Building Records: **Sort By:** Available Sq. Ft.

Report	Type	Building ID	Building Name	Available Sq. Ft.	County	Status
Mktg Report	Full Report	CSE-100287	Bladenboro Spec	20,000	Bladen	Available
Mktg Report	Full Report	NCE-100426	GTP Two	20,000	Lenoir	Available
Mktg Report	Full Report	CHR-13812	Airport Commerce Park Bu	20,902	Mecklenburg	Available
Mktg Report	Full Report	CSE-100055	RVT BUILDING 2	21,200	Sampson	Available
Mktg Report	Full Report	RTR-100918	Lincoln Park West 107	22,996	Durham	Available
Mktg Report	Full Report	RTR-101640	TriCenter South V	23,238	Durham	Available
Mktg Report	Full Report	CHR-13637	Marlatex	24,800	Gaston	Available
Mktg Report	Full Report	CHR-13074	106 N. Commercial Drive	25,750	Iredell	Available
Mktg Report	Full Report	CHR-13030	BFD, LLC Bldg. I	25,925	Cleveland	Available
Mktg Report	Full Report	CHR-13774	Wren Flex Building	27,000	Gaston	Available
Mktg Report	Full Report	CHR-13811	Airport Commerce Park Bu	27,531	Mecklenburg	Available
Mktg Report	Full Report	PTP-100303	4183 Eagle Hill Drive	28,400	Guilford	Available
Mktg Report	Full Report	PTP-101355	Biotechnology Research I	28,740	Forsyth	Available
Mktg Report	Full Report	NCE-1569	Pitt-Greene Shell # 1	28,800	Pitt	Available
Mktg Report	Full Report	PTP-100242	4310 Regency Drive	30,000	Guilford	Available
Mktg Report	Full Report	NCE-100224	North Carolina Global Tra	30,000	Lenoir	Available
Mktg Report	Full Report	CHR-13536	130 Anderson Rd.	30,000	Stanly	Available
Mktg Report	Full Report	CHR-12592	Airport Commerce Center I	30,800	Mecklenburg	Available
Mktg Report	Full Report	RTR-101140	Tri-Center South II	31,227	Durham	Available
Mktg Report	Full Report	CHR-7360	Southmark III No. 2	31,250	Rowan	Available
Mktg Report	Full Report	PTP-101559	PTIC Flex Space	36,000	Forsyth	Available
Mktg Report	Full Report	RTR-101139	Tri-Center South I	36,091	Durham	Available
Mktg Report	Full Report	CHR-13027	5800 Royce St	37,000	Cabarrus	Available
Mktg Report	Full Report	CHR-13595	TKC SHELL BUILDING #5	38,480	Lincoln	Available
Mktg Report	Full Report	ADV-100248	Sandhill Road Building	40,000	Buncombe	Available
Mktg Report	Full Report	CHR-13844	Oakmont 11 - Virtual Shel	40,000	Catawba	Available
Mktg Report	Full Report	RTR-100329	Stoney Run III	41,250	Harnett	Available
Mktg Report	Full Report	CHR-13758	Tagit Pacific	41,650	Cleveland	Available
Mktg Report	Full Report	PTP-101896	CCIC Flex Building	42,000	Alamance	Available
Mktg Report	Full Report	PTP-101796	Deep River West I	42,000	Guilford	Available
Mktg Report	Full Report	CHR-7530	Whitehall Tech Center II	44,000	Mecklenburg	Available
Mktg Report	Full Report	CHR-13681	2633 Plastics Drive	44,000	Gaston	Available
Mktg Report	Full Report	RTR-101482	Chapel Hill Industrial Pa	44,000	Orange	Available
Mktg Report	Full Report	PTP-100702	Madison Shell Building	44,398	Rockingham	Available
Mktg Report	Full Report	CHR-13503	8401 Westmoreland Dr	44,800	Cabarrus	Available
Mktg Report	Full Report	CSE-100030	COLUMBUS SHELL #4	45,500	Columbus	Available
Mktg Report	Full Report	PTP-101777	South Oaks Two	45,900	Guilford	Available
Mktg Report	Full Report	RTR-101074	Triangle North Corporate	49,000	Vance	Available

Mktg Report	Full Report	PTP-100333	Southbend at Mendenhall	49,880	Guilford	Available
Mktg Report	Full Report	CSE-1132	Fairmont Spec	49,950	Robeson	Available
Mktg Report	Full Report	PTP-100855	6348 Burnt Poplar Road	50,000	Guilford	Available
Mktg Report	Full Report	RTR-100915	TBC Place II	52,524	Durham	Available
Mktg Report	Full Report	NCE-100200	Mount Olive Shell Buildin	55,000	Wayne	Available
Mktg Report	Full Report	CHR-12612	Ridge Creek II	55,000	Mecklenburg	Available
Mktg Report	Full Report	RTR-101294	Globe Center	55,000	Wake	Available
Mktg Report	Full Report	RTR-101306	Park 540 Building A	57,200	Wake	Available
Mktg Report	Full Report	CHR-13763	1548 Roger Dale Carter Bl	57,600	Cabarrus	Available
Mktg Report	Full Report	PTP-101580	Eagle Hill IV	60,000	Guilford	Available
Mktg Report	Full Report	CHR-12618	TKC SHELL BUILDING #2	60,650	Lincoln	Available
Mktg Report	Full Report	PTP-100669	214 East JJ Drive	64,000	Guilford	Available
Mktg Report	Full Report	PTP-100703	NorthStar Shell Building	64,450	Rockingham	Available
Mktg Report	Full Report	PTP-101861	7617 Bentley Rd	70,000	Guilford	Available
Mktg Report	Full Report	RTR-101656	4238 Technology Drive	70,000	Durham	Available
Mktg Report	Full Report	ADV-100069	Chicago Rawhide	72,868	Macon	Available
Mktg Report	Full Report	RTR-100091	Westgate Center	76,000	Wake	Available
Mktg Report	Full Report	CHR-13432	716 North Secrest Avenue	78,057	Union	Available
Mktg Report	Full Report	RTR-101638	TriCenter South VIII	83,119	Durham	Available
Mktg Report	Full Report	PTP-O679	Liberty Shell Building	85,164	Randolph	Available
Mktg Report	Full Report	CHR-13926	Steele Creek Spec Buildin	86,607	Mecklenburg	Available
Mktg Report	Full Report	PTP-101234	SouthPoint Bldg #6	90,480	Davie	Available
Mktg Report	Full Report	NCE-100237	Whitaker Shell Building F	96,000	Nash	Available
Mktg Report	Full Report	CHR-13632	SouthRidge Shell 1	100,000	Gaston	Available
Mktg Report	Full Report	PTP-101059	Elkin Virtual Shell Build	100,000	Surry	Available
Mktg Report	Full Report	CHR-13843	Oakmont 1 - Virtual Shell	100,000	Catawba	Available
Mktg Report	Full Report	CHR-13756	Kings Mtn Corp Center Bui	100,000	Cleveland	Available
Mktg Report	Full Report	PTP-101469	Johnson Development IV	101,459	Forsyth	Available
Mktg Report	Full Report	PTP-100726	2751 Patterson St.	101,758	Guilford	Available
Mktg Report	Full Report	ADV-4062	Riverstone LLC #2	103,550	Rutherford	Available
Mktg Report	Full Report	CHR-13596	TKC SHELL BUILDING #4	106,144	Lincoln	Available
Mktg Report	Full Report	RTR-101637	TriCenter South III	114,725	Durham	Available
Mktg Report	Full Report	PTP-100347	101 E. Carteret	120,000	Guilford	Available
Mktg Report	Full Report	PTP-101776	Lowell's Run	120,000	Guilford	Available
Mktg Report	Full Report	CHR-13859	Capri IV Virtual Spec	120,355	Catawba	Available
Mktg Report	Full Report	PTP-100560	Liberty Embroidery & Pack	124,825	Rockingham	Available
Mktg Report	Full Report	CSE-100165	Fayetteville Shell Buildi	125,048	Cumberland	Available
Mktg Report	Full Report	PTP-101841	SouthPoint Bldg #7	130,560	Davie	Available
Mktg Report	Full Report	CHR-13757	Falls	150,000	Cleveland	Available
Mktg Report	Full Report	CHR-13931	Gateway Distribution Cent	168,000	Mecklenburg	Available
Mktg Report	Full Report	CHR-13932	Perimeter West	180,000	Mecklenburg	Available
Mktg Report	Full Report	PTP-101660	5210 Highgreen Court	188,000	Guilford	Available
Mktg Report	Full Report	PTP-101822	657 Brigham Road	235,000	Guilford	Available
Mktg Report	Full Report	PTP-101825	McConnell One	300,000	Guilford	Available
Mktg Report	Full Report	PTP-101471	Childress Klein Spec	304,200	Forsyth	Available

Mkt Report	Full Report	NCE-100415	Fleming Foods Distributon	322,614	Duplin	Available
Mkt Report	Full Report	PTP-101829	Bull Ridge	341,000	Guilford	Available
Mkt Report	Full Report	RTR-101233	Smithfield Business Park	506,785	Johnston	Available
Mkt Report	Full Report	CHR-13677	Kings Mountain IV	540,000	Cleveland	Available

Done Glossary Batch Print Help

SENATE FINANCE COMMITTEE
Wednesday, May 4, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, May 2, 2007, in room 544 of the Legislative Office Building. Thirty-three members of the committee were present. Senator Dan Clodfelter presided.

S620 – Lewiston/Woodville Debt.

Senator Purcell moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Jones was recognized to explain the proposed committee substitute. Senator Weinstein moved for a favorable report and the motion carried. A copy of the committee substitute, the bill, and the summary is attached.

S758 - Limited Driving Privilege/DWLR.

Senator Kerr moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Kerr was recognized to explain the proposed committee substitute. Senator Hagan moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, the summary and the fiscal note is attached.

H.B. 407 – Extend Magnolia ETJ.

Senator Albertson was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 412 – Homestead Exclusion Modifications.

Dan Ettefagh, a staff attorney with the Bill Drafting Division, was recognized to explain the bill. The bill was taken up for discussion only. A copy of the bill and the summary is attached.

S.B. 1442 – Circuit Breaker Property Tax Benefit.

Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Dan Ettefagh was recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, the fiscal note and the circuit breaker property tax scenario is attached.

S.B. 1051 – Equitable Residential Property Tax Relief.

Senator Weinstein moved to adopt the proposed committee substitute for discussion and the motion carried. Dan Ettefagh was recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, the fiscal note and the circuit breaker property tax scenario is attached.

S.B. 738 – Registration Exemptions/Length Exemptions.

Senator Swindell moved to adopt the proposed committee substitute for discussion and requested the adoption of his amendment and the motion carried. Senator Swindell was recognized to explain the PCS and the amendment. Captain Mike Nichols, NC Highway Patrol, was recognized to answer questions. Senator Albertson moved to adopt the PCS as amended and the motion carried. A copy of the proposed committee substitute, the bill, the summary, the fiscal note and the amendment is attached.

S.B. 1203 – Present-Use Value Changes.

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized to explain the bill. The bill was taken up for discussion only. A copy of the bill, the summary, the fiscal note, NC Wildlife Commission species document, and the NC Wildlife habitat action plan summary is attached.

S.B. 1305 – Present-Use Value Easement Tax Credit.

Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Martha Walston was recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, and the fiscal note is attached.

S.B. 1309 – Property Tax Reform Act of 2007.

Senator Apodaca moved to adopt the proposed committee substitute for discussion and the motion carried. Dan Ettefagh and Martha Walston were recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, and the fiscal note is attached.

Senator Clodfelter recognized Senator Floyd McKissick, who was attending his first Senate Finance meeting as a member.

The meeting adjourned at 2:00 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected: SB 412 – Homestead Exclusion Modifications has been added <u>for discussion only</u>.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 2, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 407	Extend Magnolia ETJ.	Representative Tucker
SB 412	Homestead Exclusion Modifications.	Senator Brown
SB 620	Lewiston Woodville Debt.	Senator Jones
SB 738	Registration Exemptions/Length Exemptions.	Senator Swindell IV
SB 758	Limited Driving Privileges - DWLR.	Senator Kerr
SB 1051	Equitable Residential Property Tax Relief.	Senator Goss
SB 1203	Present-Use Value Changes.	Senator Nesbitt, Jr.
SB 1305	Present-Use Value Easement Tax Credit.	Senator Queen
SB 1309	Property Tax Reform Act Of 2007.	Senator Clodfelter
SB 1442	Circuit Breaker Property Tax Benefit.	Senator Snow

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

VISITOR REGISTRATION SHEET

Senate Finance — May 2, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Pete Rodda	NC Assn of Assessing Officers
John Condrey	Rutherford County Manager
Edgar Miller	CTNC
Robert Wiseman	Avery Co. Manager
Philip Castro	Mitchell Co Manager (Interim)
John Phelps	NCLM
Anita Watkins	NCLM
BN BSL7	WMMT

VISITOR REGISTRATION SHEET

Senate Finance — May 2, 2007
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tammy C. Denning	NCDOT
MARC NICHOLS	NCSHP
TOM BEAN	NC Environmental Defense / Wildlife Federation
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Sharon Edmundson	NC OST
James Rh	Charter Comm. - Sanford
Dave Lyon	Sib.
Brian Zeigler	DMV/DOT
Dayle T. Vaughan	Town of Lewiston Woodville, Comm.
Dianne Harrison	Town of Lewiston Woodville
Pat Lankford	NC Assoc of Assessing Officers

VISITOR REGISTRATION SHEET

Senate Finance — May 2, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Pam Myers	NCACC
Brenda Freeman	DMV
Cathy Markham	DMV
Jamie Fenwick	Time Warner Cable
Bjanay Fraser	TWC
Ryan D. Whitson	Polk County
Fred B Owens	Polk County
Kenny R Poteat	Avery County - Chair
Judy McConnell	I06
David Baker	NCDOR
Fred Dawson	Henderson Co.

VISITOR REGISTRATION SHEET

Senate Finance — May 2, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
William Hamm	Alex/ County Comm.
Judy Timmons	Alex. Co. Admin.
Diane Fox	Alex. Co. Admin. 69[illegible] Rd. Taylorsville, NC 28681
James Starnes	Alexander County Clerk
Rick Beach	Alexander County Manager
Stan Norwalk	Wake & NC Partnership
Don Barrier	Caldwell County Commissioner
Bob Steurer	NC Forestry Assoc.
BRUCE THOMPSON	PARKER POE
MARVIN MUSSELWHITE	Poyner + Spruill
DAVID BARNES	Poyner + Spruill

VISITOR REGISTRATION SHEET

Senate Finance — May 2, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Robin Tenick	Wake Teen
Tom ANDERSON	Chairman Lincoln County Bd of Commissioners
Artie Wilson	21 East Main Street Brevard, N.C. 28712 Transylvania County
Doc Freeman	Triangle J COG
DAVID THOMPSON	NCACC
Rebecca Thornton	NCACC
Patrick Baffier	Nelson Mullins

VISITOR REGISTRATION SHEET

Senate Finance — May 2, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Susan Williamson	NC Assoc. of Rural Electric Coops
Susanne Stutts	NCRLA
Amy Schilder	HANC
L. L. Hayman	Bertie Co. Commissioner
Joyce McDowd	Scotland Co. Commissioner
Chivous Bradley	Rutherford Co. Commissoner Chair.
Norman M. Cherry	Bertie Co. Commissioner
Charles I. Smith	Bertie Co. Commissioner
J. B. [illegible]	Bertie Co. Manager
Kitty Barnes	Columbus Co Commission Chair
Fred Allen	NC Aggregates Assn.

VISITOR REGISTRATION SHEET

DATE_

JOINT LEGISLATIVE COMMISSION ON

VISITOR: Please sign below and return to clerk.

NAME	FIRM OR STATE AGENCY	TELEPHONE
Mia Bailey	ElectriCities of NC, Inc	760-6322
Kevin Patterson	Scotland County	910 277 2406
Ann Kurteman	Scotland County	910 277 3191
Moses Carey	Orange County	(919) 929-8523
LEON BUTLER	SCOTLAND COUNTY	910-462-3179
Bill White	AARP	
Bill Rowe	NC Justice Ctr	919-856-2177
Meg Gray	NC Budget & Tax Ctr	
Becki Gray	John Locke Foundation	
Hazel Haynes	Rutherford County	828-287-6045
Paul McIntosh	Rutherford County	828-287-6045
Fred Belfield Jr	Nash County Commissioner	252 443-6786
Annamaria Rao	NCAE	
W. Dale Ford	Transylvania County Commissioner	828-883-4993

VISITOR REGISTRATION SHEET

DATE_

JOINT LEGISLATIVE COMMISSION ON

VISITOR: Please sign below and return to clerk.

NAME	FIRM OR STATE AGENCY	TELEPHONE
R Rogers	NCDENR	715-4152

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, May 03, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **407** Extend Magnolia ETJ.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **620** Lewiston Woodville Debt.
Draft Number: 15081
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

S.B. **738** Registration Exemptions/Length Exemptions.
Draft Number: 55444
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **758** Limited Driving Privileges - DWLR.
Draft Number: 35367
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comments:

Senate Finance Committee
Wednesday, May 2, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 407	Extend Magnolia ETJ.	Rep. Tucker
SB 412	Homestead Exclusion Modifications.	Senator Brown
SB 620	Lewiston Woodville Debt.	Senator Jones
SB 738	Registration Exemptions/Length Exemptions.	Senator Swindell
SB 758	Limited Driving Privileges - DWLR.	Senator Kerr
SB 1051	Equitable Residential Property Tax Relief.	Senator Goss
SB 1203	Present-Use Value Changes.	Senator Nesbitt, Jr.
SB 1305	Present-Use Value Easement Tax Credit.	Senator Queen
SB 1309	Property Tax Reform Act Of 2007.	Senator Clodfelter
SB 1442	Circuit Breaker Property Tax Benefit.	Senator Snow

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 407*

Short Title:	Extend Magnolia ETJ.	(Local)
Sponsors:	Representative Tucker.	
Referred to:	Local Government I.	

March 1, 2007

A BILL TO BE ENTITLED

AN ACT EXTENDING THE EXTRATERRITORIAL JURISDICTION OF THE TOWN OF MAGNOLIA.

The General Assembly of North Carolina enacts:

SECTION 1. In addition to the authority provided in G.S. 160A-360, the Town of Magnolia may exercise the powers granted in Article 19 of Chapter 160A of the General Statutes in an area beginning at the Town corporate limits at State Highway 903 North, extending one-half mile on each side of the centerline of State Highway 903 to the Interstate Highway 40 southern right-of-way boundary, and extending one-half mile on each side of the center line of State Highway 903 and State Highway 24 from the Interstate Highway 40 southern right-of-way to the midpoint of State Secondary Road 1923 and State Secondary Road 2029 northeast of Interstate Highway 40.

SECTION 2. This act applies to the Town of Magnolia only.

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

HOUSE BILL 407: Extend Magnolia ETJ

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 2, 2007
Introduced by:	Rep. Tucker	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 407[1] is a local bill that expands the extraterritorial jurisdiction authority of the Town of Magnolia.

CURRENT LAW: Municipalities have the statutory authority to regulate land-use within their corporate limits and within an area one-mile beyond their municipal boundaries, commonly referred to as extraterritorial jurisdiction (ETJ). Land use regulation may take the form of zoning, subdivision regulation, minimum housing codes, and regulations governing open spaces and community appearance.

Counties have authority to regulate land-use only over the parts of the county not subject to city planning. However, if a city does not adopt an ordinance specifying the boundaries of its ETJ, then the county may exercise its planning jurisdiction over an area even if the area is within one mile of a municipality's corporate boundaries. If the county is already enforcing planning regulations, zoning regulations, and the State building code in that one-mile area, then a municipality may only exercise its ETJ authority in the one-mile area with the county's permission.

With the approval of the county commissioners, a city with a population between 10,000 and 25,000 may extend its extraterritorial land-use planning jurisdiction to two miles beyond its corporate limits; a city with a population of 25,000 or more may extend its extraterritorial land-use planning jurisdiction to three miles beyond its corporate limits.

BILL ANALYSIS: In 2000, the population of Magnolia was approximately 956. Under general law, the size of the town prohibits the county commissioners from extending the town ETJ beyond the one-mile radius. House Bill 407 provides for an extension and expands the ETJ of the Town of Magnolia to include the area in and around the I-40 interchange, as described in the bill.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: This bill would extend Magnolia's ETJ one mile beyond the Magnolia I-40 interchange and one-half mile each side of NC 903 from the Town's present ETJ limits. The Town of Magnolia will be addressing sewer services for some new businesses for Exit 373—a convenience store, a Burger King, and a motel. The Town would like to be able to plan proper development of this interchange since Duplin County has not implemented a zoning ordinance. The bill has no opposition.

H0407e1-SMRE

[1] ***Companion Bill, SENATE BILL 439, received a favorable report from Senate Finance Committee on March 14, 2007.***

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 412

Short Title:	Homestead Exclusion Modifications.	(Public)
Sponsors:	Senators Brown; Allran, Apodaca, Berger of Rockingham, Bingham, Blake, Forrester, Goodall, Hunt, Jacumin, Pittenger, Preston, Smith, Stevens, and Tillman.	
Referred to:	Finance.	

March 1, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ADDITIONAL PROPERTY TAX BENEFITS FOR LOWER-INCOME HOMEOWNERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1 reads as rewritten:

"**§ 105-277.1. Property tax homestead exclusion.**

(a) ~~Exclusion.~~Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable in accordance with this section. If the owner qualifies for both the property tax homestead exclusion allowed under this section and the homestead property tax circuit breaker provided in G.S. 105-277.1B, the owner may elect either but not both types of property tax relief as provided in subsection (b1) of this section. ~~The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:~~

~~(1) Is at least 65 years of age or totally and permanently disabled.~~

~~(2) Has an income for the preceding calendar year of not more than the income eligibility limit.~~

~~(3) Is a North Carolina resident.~~

(a1) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(a2) Income Eligibility Limit. – Until July 1, 2003, the income eligibility limit is eighteen thousand dollars ($18,000). For taxable years beginning on or after July 1, 2003, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year.

(a3) Exclusion. – The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence.

(a4) Qualifying Owner. – For the purpose of qualifying for the homestead property tax exclusion under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) The owner is at least 65 years of age or totally and permanently disabled.

(2) The owner has an income for the preceding calendar year of not more than the income limit specified in subsection (a2) of this section.

(3) The owner is a North Carolina resident.

(b) Definitions. – The following definitions apply in this section:

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.

(1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.

(1b) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. A manufactured home jointly owned by husband and wife is considered property held by the entirety.

(2) Repealed by Session Laws 1993, c. 360, s. 1.

(2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

(3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home.

(3a) Property tax relief. – The property tax homestead exclusion provided in this section or the homestead property tax circuit breaker provided in G.S. 105-277.1B.

(4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

(b1) Election. – An owner who qualifies for both kinds of property tax relief may elect the homestead property tax circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the homestead property tax circuit breaker in order for the homestead property tax circuit breaker to be allowed instead of the property tax homestead exclusion.

(c) Application. – An application for ~~the exclusion~~property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the ~~exclusion~~ relief is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for ~~this~~ the property tax homestead exclusion, each owner must apply separately for his or her proportionate share of the exclusion.

(1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.

(2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. The proof must be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, the applicant is not required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation.

(d) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may the total exclusion allowed for a permanent residence exceed the exclusion amount provided in this section."

SECTION 2. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.1B. Homestead property tax circuit breaker.**

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable in accordance with this section. If the owner qualifies for both the homestead property tax circuit breaker allowed under this section and the property tax homestead exclusion as provided in G.S. 105-277.1, the owner may elect either but not both types of property tax relief as provided in G.S. 105-277.1(b1).

(b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(c) Income Eligibility Limit. – Until July 1, 2009, the income eligibility limit is fifty thousand dollars ($50,000). For taxable years beginning on or after July 1, 2009, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year.

(d) Qualifying Owner. – For the purpose of qualifying for the homestead property tax circuit breaker under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) The owner has an income for the preceding calendar year of not more than the income eligibility limit specified in subsection (b) of this section.

(2) The owner is a North Carolina resident.

(e) Tax Limitation. – The amount of tax imposed on the permanent residence of a qualifying owner may not exceed a percentage of the qualifying owner's income as provided in this section.

Income	Percentage
$5,000 or less	3.5%
Greater than $5,000 up to $10,000	4.0%
Greater than $10,000 up to $25,000	4.5%
Greater than $25,000 up to $50,000	5.0%

(f) Application. – An application for property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the relief is claimed.

(g) Multiple Ownership. – When a permanent residence is owned and occupied by two or more persons other than husband and wife, no homestead property tax circuit breaker is allowed unless all of the owners qualify.

(h) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this homestead property tax circuit breaker because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent."

SECTION 3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.1C. Permanent residence tax deferral.**

(a) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(b) Deferral. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable in accordance with this section. A qualified owner of property may defer payment of all or part of the tax levied on the classified property unless (i) the property is subject to a lien that, pursuant to a federal law, rule, or regulation, prohibits deferral of taxes, or (ii) the amount of outstanding liens on the property exceeds eighty-five percent (85%) of the assessed value of the property.

If the owner qualifies for property tax relief under G.S. 105-277.1 or G.S. 105-277.1B and the permanent residence tax deferral provided in this section, the owner is eligible for both property tax benefits.

The amount of taxes deferred accrues interest at the rate specified in G.S. 105-241.1(i) for assessments from the date the tax is otherwise due until payment. The amount of deferred taxes and accrued interest constitutes a lien on the property, which attaches at the time prescribed in G.S. 105-355, and has the priority established in G.S. 105-356.

(c) Qualifying Owner. – Under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) The owner is at least 65 years of age or totally and permanently disabled.

(2) The owner has an income for the preceding calendar year of not more than twenty-five thousand dollars ($25,000) in the case of a single owner or not more than thirty-four thousand dollars ($34,000) in the case of married owners residing with their spouses.

(3) The owner is a North Carolina resident.

(4) The owner has owned and occupied the classified property as his or her permanent residence for at least 10 years.

(d) Application. – An application for deferral provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the deferral is claimed. The application form provided by a county for deferral must state the conditions under which deferred taxes and interest become due and payable and must also state that interest will accrue on the amount deferred and that this amount constitutes a lien. Each applicant who applies for the deferral method of property tax relief must furnish a list of

the amounts of all liens on the property for which tax deferral is sought and the holders of these liens.

(1) Elderly applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.

(2) Disabled applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. The proof must be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, the applicant is not required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the deferral.

(e) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this deferral notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife, each person must qualify for this deferral and must elect this deferral for it to be allowed.

(f) Notification of Additional Liens. – The owner of tax-deferred property must notify the assessor of the amount and holder of any new lien against the property arising after application for deferral has been made within 60 days after the new lien is created.

(g) Transfer or Disqualification of Property. – Payment of taxes deferred under this section may be deferred until the death of the owner or until the property is transferred, at which time the full amount of deferred taxes and interest becomes due. The taxes and interest must be paid within nine months after the date of death or transfer, unless the property is transferred to the former owner's spouse and the spouse qualifies for tax deferral under this section and occupies the property as his or her permanent residence, in which case the spouse may elect to continue deferring payment of the tax.

If the owner of tax-deferred property does not qualify under this section for deferral as of January 1 preceding a taxable year, the owner may not defer any additional property taxes that year, but the deferred taxes from earlier years do not become due because of the owner's failure to qualify for the current year.

Except as provided in G.S. 105-277.1(a1), in any year in which the owner of tax-deferred property no longer occupies the property as his or her permanent residence, no tax levied on the property for that year may be deferred, and the full tax for that year is due on the date established in G.S. 105-360. If the owner of tax-deferred property fails to occupy the property as his or her permanent residence for three successive years, the full amount of deferred taxes and interest becomes due that third year and is due and payable at the same time the tax levied on the property in that year is otherwise due.

In any year in which the total amount of deferred taxes, interest, and other unsatisfied liens on the property exceeds eighty-five percent (85%) of the assessed value of the property, the assessor must notify the owner that the portion of deferred taxes and interest that exceeds the eighty-five percent (85%) limit is due and must be paid within 60 days after receipt of the notice. Failure to pay an amount due under this subsection causes the total amount of deferred taxes and interest to become due and payable at the same time the tax levied on the property in the year in which the failure occurs is otherwise due.

(h) Annual Notification to Property Owner. – On or before September 1 of each year, the assessor shall notify each property owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

(i) Prepayment. – All or part of the deferred taxes and accrued interest may be paid to the tax collector at any time. Any partial payment is applied first to accrued interest. A property owner to whom a tax deferral has previously been granted may revoke the application for deferral at any time by notifying the assessor in writing.

(j) Payment by Trustee or Mortgagee. – A mortgagee or trustee that elects to pay any tax deferred by the owner of property subject to the mortgage or deed of trust does not by doing so acquire a right to foreclose.

(k) Clauses Preventing Application for Deferral Void. – Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

(l) Construction. – This section does not prevent the collection of personal property taxes that become a lien against tax-deferred property."

SECTION 4. G.S. 150-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible ~~to be exempted or excluded from taxation~~for a property tax benefit must file an application for ~~exemption or exclusion~~the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the ~~exemption or exclusion:~~benefit.

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

e. Special classes of property eligible for tax relief under G.S. 105-277.1B or G.S. 105-277.1C."

SECTION 5. G.S. 105-309(f) reads as rewritten:

"(f) The ~~notice set out below must appear~~assessor must print a homestead tax relief notice on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayer of his or her rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1, the homestead property tax circuit breaker provided in G.S. 105-277.1B, and the permanent residence tax deferral provided in G.S. 105-277.1C.

~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS.~~

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

~~If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.~~

~~If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1."~~"

SECTION 6. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

SENATE BILL 412:
Homestead Exclusion Modifications

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 2, 2007
Introduced by:	Sen. Brown	**Summary by:**	Dan Ettefagh
Version:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 412 would create a property tax circuit breaker program and a permanent residence tax deferral program. A taxpayer who qualified for the homestead exclusion and the circuit breaker programs would have to elect which of the two tax benefits to receive. A taxpayer who qualified for the deferral program would be permitted to combine that tax benefit with either the circuit breaker program or homestead exclusion.***

[As introduced, this bill was identical to H596, as introduced by Reps. Cleveland, Moore, which is currently in House Finance.]

CURRENT LAW: Under current law, the only homestead property tax benefit is found in G.S. 105-277.1, the property tax homestead exclusion. Under the homestead exclusion, North Carolina residents who are at least 65 years of age or totally and permanently disabled and who meet the income eligibility limit[1] may exclude from taxation the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the permanent residence.

BILL ANALYSIS: Senate Bill 412 would create a property tax circuit breaker program for the permanent residence of a qualifying owner. This program would be mutually exclusive to the existing homestead exclusion but could be combined with the tax deferral program. A qualifying owner would be a North Carolina resident with an income of not more than $50,000, which is indexed to the cost-of-living adjustment for Social Security benefits after July 1, 2009. Under this program, the property tax of a qualifying owner would be limited based on the income of the owner. For owners making $5,000 or less, the property tax imposed on the permanent residence would be limited to no more than 3.5% of the qualifying owner's income. For owners making more than $5,000 but $10,000 or less, the property tax imposed on the permanent residence would be limited to no more than 4% of the qualifying owner's income. For owners making more than $10,000 but $25,000 or less, the property tax imposed on the permanent residence would be limited to no more than 4.5% of the qualifying owner's income. For owners making more than $25,000 but $50,000 or less, the property tax imposed on the permanent residence would be limited to no more than 5% of the qualifying owner's income. If the permanent residence is owned by a husband and wife, only one of whom qualifies, the circuit breaker benefit is permitted; however, if the permanent residence is owned by two or more individuals who are not husband and wife, no circuit breaker is allowed unless all owners qualify. A temporary absence does not result in the loss of the circuit breaker benefit so long as the residence remains unoccupied or occupied by a dependant or spouse of the qualifying owner.

Additionally, Senate Bill 412 would create a property tax deferral program for the permanent residence of a qualifying owner. This program could be combined with either the existing homestead exclusion or the circuit breaker program. A qualifying owner would be a North Carolina resident who (i) is at least

[1] The income eligibility limit until July 1, 2003 was $18,000. For taxable years beginning on or after July 1, 2003, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to Social Security benefits, rounded to the nearest $100. In 2006, the income eligibility limit was $19,700.

65 years old or totally and permanently disabled, (ii) has an income of no more than $25,000 in the case of a single owner or $34,000 in the case of married owners residing with their spouse, and (iii) has used the residence as a permanent residence for at least 10 years. Proof of the age/disability requirements are the same as those used in the current homestead exclusion. A qualifying owner would be permitted to defer up to 100% of the property taxes imposed on the permanent residence, subject to federal limitations, so long as the amount of outstanding liens on the property, taken together, do not exceed 85% of the assessed value. Taxes deferred under this program accrue interest from the date the tax is due and constitute a lien on the property that attaches and has the priority of other tax liens.

EFFECTIVE DATE: This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

S0412e1-SMMC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 620
PROPOSED COMMITTEE SUBSTITUTE S620-CSSVx-19 [v.4]

5/2/2007 9:41:24 AM

Short Title: Interlocal Loan Agreements/Debts to Fed. Govt. (Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES TO MAKE LOANS TO CITIES UNDER CERTAIN CONDITIONS FOR THE PURPOSE OF REPAYING A DEBT OWED TO THE FEDERAL GOVERNMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-17.1 reads as rewritten:

"**§ 160A-17.1. Grants and loans from other governments.**

(a) Federal and State. – The governing body of any city or county is hereby authorized to make contracts for and to accept grants-in-aid and loans from the federal and State governments and their agencies for constructing, expanding, maintaining, and operating any project or facility, or performing any function, which such city or county may be authorized by general law or local act to provide or perform.

In order to exercise the authority granted by this section, the governing body of any city or county may:

(1) Enter into and carry out contracts with the State or federal government or any agency or institution thereof under which such government, agency, or institution grants financial or other assistance to the city or county;

(2) Accept such assistance or funds as may be granted or loaned by the State or federal government with or without such a contract;

(3) Agree to and comply with any lawful and reasonable conditions which are imposed upon such grants or loans;

(3a) Agree to and comply with minimum minority business enterprise participation requirements established by the federal government and its agencies in projects financed by federal grants-in-aid or loans, by including such minimum requirements in the specifications for contracts to perform all or part of such projects and awarding bids pursuant to G.S. 143-129 and 143-131, if applicable, to the lowest

responsible bidder or bidders meeting these and any other specifications.

(4) Make expenditures from any funds so granted.

(b) Local. – The governing body of a city that is subject to a lien by the federal government and is not eligible to receive a grant from the federal government until the lien is removed may accept a loan from the county in which the city is located in order to pay its debt to the federal government and have the lien removed. The term of the loan may not exceed three years. This subsection applies only to a city located in a county whose population does not exceed 20,000 according to the most recent annual population estimates certified by the State Budget Officer."

SECTION 2. The catchline of G.S. 153A-14 reads as rewritten

"**§ 153A-14. Grants and loans from other governments.**"

SECTION 3. This act is effective when it becomes law and expires on December 31, 2010.

SENATE BILL 620:
Interlocal Loan Agreements/Debts to Federal Govt.

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 2, 2007
Introduced by:	Sen. Jones	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S620-CSSVx-19		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 620 authorizes a city that is subject to a lien by the federal government and that is not eligible to receive a grant from the federal government until the lien is removed to enter into a loan agreement with the county in which it is located in order to pay its debt to the federal government. The authority would expire on December 31, 2010.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 620 authorizes a city that is subject to a lien by the federal government and that is not eligible to receive federal grant money until the lien is removed to enter into a loan agreement with the county in which it is located in order to pay its debt to the federal government. The loan would be required to be repaid within three years from the time the agreement is entered. This authority would only apply to a city located within a county that has a population of less than 20,000 according to the most recent annual population estimates certified by the State Budget Officer.

EFFECTIVE DATE: This act is effective when it becomes law and expires on December 31, 2010.

BACKGROUND: The Town of Lewiston Woodville owes the Internal Revenue Service approximately $80,000-$90,000 in withholding taxes, interest, and penalties. The town has settled with the IRS and is currently making payments, but the IRS has placed a lien on the town's assets. The town has also been informed by the USDA, from whom it is currently seeking a grant, that it is ineligible for the grant because of the IRS lien. Bertie County is willing to loan the town the full amount so it can satisfy its debt with the IRS, but the town and the county need legislative authorization to enter into such an arrangement.

Article V, Section 4(1) of the North Carolina Constitution prohibits local laws relating to the borrowing of money and contracting of debts. Given this prohibition, the bill is drafted as a public bill with statewide application. However, the bill is drafted narrowly to limit its scope and will expire in three years.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 620

Short Title:	Lewiston Woodville Debt.	(Local)
Sponsors:	Senator Jones.	
Referred to:	Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF LEWISTON WOODVILLE TO BORROW MONEY FROM THE COUNTY OF BERTIE FOR THE PURPOSE OF REPAYING THE INTERNAL REVENUE SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-49 reads as rewritten:

"**§ 159-49. When a vote of the people is required.**

Bonds may be issued under this Article only if approved by a vote of the qualified voters of the issuing unit as provided in this Article, except that voter approval shall not be required for:

(1) Bonds issued for any purpose authorized by G.S. 159-48(a)(1), (2), (3), or (5).

(2) Bonds issued by a county, county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, metropolitan water district created under Article 4 of Chapter 162A of the General Statutes, or city for any purpose authorized by G.S. 159-48(a)(4), (6), or (7) or G.S. 159-48(b), (c), (d), or (e) (except purposes authorized by G.S. 159-48(b)(3), (11), (16), (22), or (23) or by G.S. 159-48(d)(2)) in an aggregate principal sum not exceeding two thirds of the amount by which the outstanding indebtedness of the issuing county, county water and sewer district, metropolitan water district, or city has been reduced during the next preceding fiscal year.

Pursuant to Article V, Sec. 4(2) of the Constitution, the General Assembly hereby declares that the purposes authorized by ~~G.S. 159-48(a)(4), (6), and (7) and by G.S. 159-48(b), (c), (d), and (e) (except purposes authorized by G.S. 159-48(b)(3), (11), (16), (22), or (23) or by G.S. 159-48(d)(2))~~G.S. 159-48(a)(7) are purposes for which bonds may be issued without a vote of the ~~people, to the extent of two thirds of the amount by which the outstanding indebtedness of the issuing county, county water and~~

~~sewer district, metropolitan water district, or city was reduced in the last preceding fiscal year.~~people."

SECTION 2. This act shall apply only to the Town of Lewiston Woodville for the sole purpose of repaying debt owed to the Internal Revenue Service.

SECTION 3. This act is effective when it becomes law and expires on December 31, 2010.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 738
PROPOSED COMMITTEE SUBSTITUTE S738-CSSVf-21 [v.6]

5/2/2007 11:28:18 AM

Short Title: Registration and Length Exemptions. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FOR-HIRE VEHICLES USED FOR CERTAIN AGRICULTURAL PURPOSES FROM THE VEHICLE REGISTRATION REQUIREMENTS AND TO INCREASE THE ALLOWED LENGTH OF TRUCKS THAT TRANSPORT COTTON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-51 is amended by adding a new subdivision to read:

"**§ 20-51. Exempt from registration.**

The following shall be exempt from the requirement of registration and certificate of title:

...

(16) A vehicle that meets all of the following:

a. Is an agricultural spreader vehicle. An 'agricultural spreader vehicle' is a vehicle that is designed for off-highway use on a farm to spread fertilizer, seed, lime, or other agricultural products on a field.

b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.

c. Does not exceed a speed of 35 miles per hour.

d. Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer and other products.

e. Is driven by a person who has a license appropriate for the class of the vehicle.

f. Is insured under a motor vehicle liability policy in the amount required under G.S. 20-309.

g. If the vehicle has a gross vehicle weight rating of at least 10,001 pounds, display a valid federal safety inspection decal."

SECTION 2. G.S. 20-116(d) reads as rewritten:

"(d) Maximum Length. – The following maximum lengths apply to vehicles. A truck-tractor and semitrailer shall be regarded as two vehicles for the purpose of determining lawful length and license taxes.

(1) Except as otherwise provided in this subsection, a single vehicle having two or three axles shall not exceed 40 feet in length overall of dimensions inclusive of front and rear bumpers.

(2) Trucks transporting unprocessed cotton from farm to gin shall not exceed ~~48~~50 feet in length overall of dimensions inclusive of front and rear bumpers.

(3) Recreational vehicles shall not exceed 45 feet in length overall, excluding bumpers and mirrors."

SECTION 4. This act becomes effective July 1, 2007.

SENATE BILL 738:
Registration and Length Exemptions

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 2, 2007
Introduced by:	Sen. Swindell	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S738-CSSVf-21		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 738 exempts agricultural spreader vehicles from motor vehicle registration requirements, and it modifies the length restriction for vehicles that transport cotton.

CURRENT LAW & BILL ANALYSIS:

Section 1: Registration Exemption for Fertilizer Applicators

With some exception, all vehicles intended to be operated on any North Carolina highway must be registered with DMV. Upon registering a vehicle, the owner receives a registration plate. This plate identifies who is legally responsible for the operation of that vehicle and represents the privilege of using North Carolina highways. G.S. 20-51 provides a list of vehicles that are exempt from the registration requirement *(see p. 4 of summary)*. No for-hire vehicle is currently exempt from the registration requirement. All registered vehicles are required to carry continuous liability insurance coverage.

The registration fee for for-hire self-propelled property-hauling vehicles is based on the type of vehicle and its weight. The minimum fee for a vehicle subject to the farmer rate[1] is $24.00, and the minimum fee for vehicles subject to the general rate is $28.00. The schedule of fees is as follows:

Rates Per Hundred Pound Gross Weight

	Farmer Rate
Not over 4,000 pounds	$0.29
4,001 to 9,000 pounds inclusive	.40
9,001 to 13,000 pounds inclusive	.50
13,001 to 17,000 pounds inclusive	.68
Over 17,000 pounds	.77

Rates Per Hundred Pound Gross Weight

	General Rate
Not over 4,000 pounds	$0.59
4,001 to 9,000 pounds inclusive	.81
9,001 to 13,000 pounds inclusive	1.00
13,001 to 17,000 pounds inclusive	1.36
Over 17,000 pounds	1.54

[1] The farmer rate applies to a person engaged in the raising and growing of farm products on a farm in North Carolina not less than 10 acres in area, and who does not engage in the business of buying products for resale. 'Farm products' includes cotton grown, produced, or processed by the farmer.

Section 1 of the bill would exempt a vehicle that meets all of the following conditions from the registration requirement:

- Is an agricultural spreader vehicle, defined as a vehicle designed for off-highway use on a farm to spread fertilizer, seed, lime, or other agricultural products on a field.
- Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.
- Does not exceed a speed of 35 miles per hour.
- Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer or other products.
- Is driven by a person who has a license appropriate for the class of the vehicle.
- Is insured by a motor vehicle liability policy.

Sections 2 and 3: Length Exception for Cotton-Hauling Vehicles

Current law limits the length and width of vehicles that are permissible on interstate highways and other roads. As a general rule, a vehicle must be 102 inches or less in width and 40 feet or less in length. North Carolina law allows trucks transporting unprocessed cotton from farm to gin to be up to 48 feet in length. Section 3 of this bill would extend the maximum length to 50 feet.

Federal law does not impose an overall vehicle length limit on trucks or most truck tractor-semitrailer combinations operating on the National Network. In fact, federal law provides that no state may impose a length limitation of *less* than 48 feet on a semitrailer operating in any truck tractor-semitrailer combination on the National Network. A state may permit longer trailers to operate on its National Network highways.

EFFECTIVE DATE: This bill would become effective July 1, 2007.

S0738e1-SMSV-CSSVf-21

§ 20-51. Exempt from registration.

The following shall be exempt from the requirement of registration and certificate of title:

(1) Any such vehicle driven or moved upon a highway in conformance with the provisions of this Article relating to manufacturers, dealers, or nonresidents.

(2) Any such vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another.

(3) Any implement of husbandry, farm tractor, road construction or maintenance machinery or other vehicle which is not self-propelled that was designed for use in work off the highway and which is operated on the highway for the purpose of going to and from such nonhighway projects.

(4) Any vehicle owned and operated by the government of the United States.

(5) Farm tractors equipped with rubber tires and trailers or semitrailers when attached thereto and when used by a farmer, his tenant, agent, or employee in transporting his own farm implements, farm supplies, or farm products from place to place on the same farm, from one farm to another, from farm to market, or from market to farm. This exemption shall extend also to any tractor, implement of husbandry, and trailer or semitrailer while on any trip within a radius of 10 miles from the point of loading, provided that the vehicle does not exceed a speed of 35 miles per hour. This section shall not be construed as granting any exemption to farm tractors, implements of husbandry, and trailers or semitrailers which are operated on a for-hire basis, whether money or some other thing of value is paid or given for the use of such tractors, implements of husbandry, and trailers or semitrailers.

(6) Any trailer or semitrailer attached to and drawn by a properly licensed motor vehicle when used by a farmer, his tenant, agent, or employee in transporting unginned cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers, potatoes, all vegetables, fruits, greenhouse and nursery plants and flowers, Christmas trees, fertilizers or chemicals purchased or owned by the farmer or tenant for personal use in implementing husbandry, irrigation pipes, loaders, or equipment owned by the farmer or tenant from place to place on the same farm, from one farm to another, from farm to gin, from farm to dryer, or from farm to market, and when not operated on a for-hire basis. The term "transporting" as used herein shall include the actual hauling of said products and all unloaded travel in connection therewith.

(7) Those small farm trailers known generally as tobacco-handling trailers, tobacco trucks or tobacco trailers when used by a farmer, his tenant, agent or employee, when transporting or otherwise handling tobacco in connection with the pulling, tying or curing thereof.

(8) Any vehicle which is driven or moved upon a highway only for the purpose of crossing or traveling upon such highway from one side to the other provided the owner or lessee of the vehicle owns the fee or a leasehold in all the land along both sides of the highway at the place or crossing.

(9) Mopeds as defined in G.S. 20-4.01(27)d1.

(10) Devices which are designed for towing private passenger motor vehicles or vehicles not exceeding 5,000 pounds gross weight. These devices are known generally as "tow dollies." A tow dolly is a two-wheeled device without motive power designed for towing disabled motor vehicles and is drawn by a motor vehicle in the same manner as a trailer.

(11) Devices generally called converter gear or dollies consisting of a tongue attached to either a single or tandem axle upon which is mounted a fifth wheel and which is used to convert a semitrailer to a full trailer for the purpose of being drawn behind a truck tractor and semitrailer.

(12) Motorized wheelchairs or similar vehicles not exceeding 1,000 pounds gross weight when used for pedestrian purposes by a handicapped person with a mobility impairment as defined in G.S. 20-37.5.

(13) Any vehicle registered in another state and operated temporarily within this State by a public utility, a governmental or cooperative provider of utility services, or a contractor for one of these entities for the purpose of restoring utility services in an emergency outage.

(14) Electric personal assistive mobility devices as defined in G.S. 20-4.01(7a).

(15) Any vehicle that meets all of the following:

a. Is designed for use in work off the highway.

b. Is used for agricultural quarantine programs under the supervision of the Department of Agriculture and Consumer Services.

c. Is driven or moved on the highway for the purpose of going to and from nonhighway projects.

d. Is identified in a manner approved by the Division of Motor Vehicles.

e. Is operated by a person who possesses an identification card issued by the Department of Agriculture and Consumer Services.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 738

Short Title:	Registration Exemptions/Length Exemptions.	(Public)
Sponsors:	Senators Swindell; Albertson, Atwater, Rand, Snow, and Tillman.	
Referred to:	Finance.	

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR-HIRE FARM TRACTORS AND IMPLEMENTS OF HUSBANDRY TO BE EXEMPT FROM REGISTRATION REQUIREMENTS, TO INCREASE THE DISTANCE THE FARM TRACTOR OR IMPLEMENT OF HUSBANDRY MAY TRAVEL WITHOUT HAVING TO BE A REGISTERED VEHICLE, TO INCREASE THE LENGTH ALLOWED FOR TRUCKS TRANSPORTING COTTON, AND TO INCREASE THE WIDTH ALLOWED FOR VEHICLES WITH SELF-LOADING BEDS THAT TRANSPORT COTTON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-51(5) reads as rewritten:

"**§ 20-51. Exempt from registration.**

The following shall be exempt from the requirement of registration and certificate of title:

...

(5) Farm tractors equipped with rubber tires and trailers or semitrailers when attached thereto and when used by a farmer, his tenant, agent, or employee in transporting his own farm implements, farm supplies, or farm products from place to place on the same farm, from one farm to another, from farm to market, or from market to farm. This exemption shall extend also to any tractor, implement of husbandry, and trailer or semitrailer while on any trip within a radius of ~~10~~ 50 miles from the point of loading, provided that the vehicle does not exceed a speed of 35 miles per hour. This section shall not be construed as granting any exemption to ~~farm tractors, implements of husbandry, and~~ trailers or semitrailers which are operated on a for-hire basis, whether money or some other thing of value is paid or given for the use of such ~~tractors, implements of husbandry, and~~ trailers or semitrailers.

..."

SECTION 2. G.S. 20-116(d) reads as rewritten:

"**§ 20-116. Size of vehicles and loads.**

...

(d) Maximum Length. – The following maximum lengths apply to vehicles. A truck-tractor and semitrailer shall be regarded as two vehicles for the purpose of determining lawful length and license taxes.

(1) Except as otherwise provided in this subsection, a single vehicle having two or three axles shall not exceed 40 feet in length overall of dimensions inclusive of front and rear bumpers.

(2) Trucks transporting unprocessed cotton from farm to gin shall not exceed ~~48~~50 feet in length overall of dimensions inclusive of front and rear bumpers.

(3) Recreational vehicles shall not exceed 45 feet in length overall, excluding bumpers and mirrors."

SECTION 3. G.S. 20-116 is amended by adding a new subsection to read:

"**§ 20-116. Size of vehicles and loads.**

...

(l) Nothing in this section shall be construed to prevent the operation of a vehicle with a width not exceeding 110 inches which is equipped with a self-loading bed and is designed exclusively to be used to transport compressed seed cotton from a farm to a cotton gin."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 2, 2007

TO: Sen. Swindell

FROM: Brenna Erford Burch
Fiscal Research Division

RE: Senate Bill 738 (Proposed Committee Substitute)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
General Fund		**No Impact to General Fund**			
NC Highway Fund	**($30,000)**	**($30,000)**	**($30,000)**	**($30,000)**	**($30,000)**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Highway Patrol

EFFECTIVE DATE: July 1, 2007.

BILL SUMMARY: The Proposed Committee Substitute for Senate Bill 738 exempts agricultural spreader vehicles from motor vehicle registration requirements, and it modifies the length restriction for vehicles that transport cotton.

ASSUMPTIONS AND METHODOLOGY: Section 1 of the bill exempts agricultural spreader vehicles from registration requirements. The registration fee for for-hire self-propelled property-hauling vehicles is based on the type of vehicle and its weight. The minimum fee for a vehicle

subject to the farmer rate[1] is $24.00, and the minimum fee for vehicles subject to the general rate is $28.00. The schedule of fees is as follows:

Rates Per Hundred Pound Gross Weight

	Farmer Rate
Not over 4,000 pounds	$0.29
4,001 to 9,000 pounds inclusive	.40
9,001 to 13,000 pounds inclusive	.50
13,001 to 17,000 pounds inclusive	.68
Over 17,000 pounds	.77

The NC Highway Patrol advises that there are 500 or less for-hire agricultural spreader vehicles in the State. Assuming most of these vehicles weigh approximately 12,000 pounds and are subject to the farmer rate of $0.50 per 100 pounds, the registration fee is approximately $60 per vehicle. Exempting these vehicles from registration requirements will result in a loss of approximately $30,000 annually to the Highway Fund.

Section 2 of the bill has no fiscal impact.

SOURCES OF DATA: NC Highway Patrol

TECHNICAL CONSIDERATIONS: None

[1] The farmer rate applies to a person engaged in the raising and growing of farm products on a farm in North Carolina not less than 10 acres in area, and who does not engage in the business of buying products for resale. 'Farm products' includes cotton grown, produced, or processed by the farmer.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 738

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S738-ARB-15 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
S738-CSSVf-21

Senator _____

moves to amend the bill on page 1, lines 4 and 5, by rewriting the lines to read:
"REQUIREMENTS, TO INCREASE THE ALLOWED LENGTH OF TRUCKS THAT TRANSPORT COTTON, AND TO CLARIFY THAT FARM EQUIPMENT INCLUDES TRUCKS THAT TRANSPORT COTTON.";

on page 2, lines 12 and 13, by adding the following new section between those lines to read:

"**SECTION 3.** G.S. 20-116(j) reads as rewritten:

'(j) Self-propelled grain combines or other farm equipment self-propelled, pulled or otherwise, not exceeding 18 feet in width may be operated on any highway, except a highway or section of highway that is a part of the National System of Interstate and Defense ~~Highways:~~ Highways. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. ~~Provided that all~~ All such combines or equipment which exceed 10 feet in width may be so operated only under the following conditions:

(1) Said equipment may only be so operated during daylight hours; and
(2) Said equipment must display a red flag on front and rear, said flags shall not be smaller than three feet wide and four feet long and be attached to a stick, pole, staff, etc., not less than four feet long and shall be so attached to said equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet; and
(3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags referred to in subdivision (2) are not visible from both directions

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 738

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S738-ARB-15 [v.1]

for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.

(4) Every such piece of equipment so operated shall operate to the right of the center line when meeting traffic coming from the opposite direction and at all other times when possible and practical.

(5) Violation of this section shall not constitute negligence per se.

(6) When said equipment is causing a delay in traffic, the operator of said equipment shall move the equipment off the paved portion of the highway at the nearest practical location until the vehicles following said equipment have passed.'"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 758

Judiciary II (Criminal) Committee Substitute Adopted 4/2/07
PROPOSED COMMITTEE SUBSTITUTE S758-CSSVf-20 [v.3]

5/2/2007 11:04:15 AM

Short Title: Limited Driving Privilege - DWLR. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-20.1. Limited driving privilege for certain revocations.**

(a) Definitions. – The following definitions apply in this section:

(1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under specified terms and conditions.

(2) Nonstandard working hours. – Any time other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(3) Standard working hours. – Any time from 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(4) Underlying offense. – The offense for which a person's drivers license was revoked when the person was charged under G.S. 20-28(a), driving with a revoked license, or under G.S. 20-28.1, committing a motor vehicle moving offense while driving with a revoked license.

(b) Eligibility. – A person is eligible to apply for a limited driving privilege under this section if all of the following conditions apply:

(1) The person's license is currently revoked under G.S. 20-28(a) or G.S. 20-28.1.

(2) The person has complied with the revocation for the period required in subsection (c) of this section immediately preceding the date the person files a petition for a limited driving privilege under this section.

(3) The person's underlying offense is not an offense involving impaired driving and, if the person's license is revoked under G.S. 20-28.1 for committing a motor vehicle moving offense while driving with a revoked license, the moving offense is not an offense involving impaired driving.

(4) The revocation period for the underlying offense has expired.

(5) The revocation under G.S. 20-28(a) or G.S. 20-28.1 is the only revocation in effect.

(6) The person is not eligible to receive a limited driving privilege under any other law.

(7) The person has not held a limited driving privilege issued under this section at any time during the three years prior to the date the person files the current petition.

(8) The person has no pending charges for any motor vehicle offense in this or in any other state and has no unpaid motor vehicle fines or penalties in this or in any other state.

(9) The person's drivers license issued by another state has not been revoked by that state.

(10) G.S. 20-9(e) or G.S. 20-9(f) does not prohibit the Division from issuing the person a license.

(c) Compliance Period. – The following table sets out the period during which a person must comply with a revocation under G.S. 20-28(a) or G.S. 20-28.1 to be eligible for a limited driving privilege under this section:

Revocation Period	Compliance Period
1 Year	90 Days
2 Years	1 Year
Permanent	2 Years

(d) Petition. – A person may apply for a limited driving privilege under this section by filing a petition. A petition filed under this section is separate from the action that resulted in the initial revocation and is a civil action. A petition must be filed in district court in the county of the person's residence as reflected by the Division's records or, if the Division's records are inaccurate, in the county of the person's actual residence. A person must attach to a petition a copy of the person's motor vehicle record. A petition must include a sworn statement that the person filing the petition is eligible for a limited driving privilege under this section.

A court, for good cause shown, may issue a limited driving privilege to an eligible person in accordance with this section. The costs required under G.S. 7A-305(a) and (a3) apply to a petition filed under this section. The clerk of court for the court that issues a limited driving privilege under this section must send a copy of the limited driving privilege to the Division.

(e) Scope of Privilege. – A limited driving privilege restricts the person to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as

otherwise provided, all driving must be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are:

(1) Travel to and from the person's place of employment and in the course of employment.

(2) Travel necessary for maintenance of the person's household.

(3) Travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at any time and without restriction as to routes.

(f) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying times and routes for the driving. If the person is required to drive for essential employment-related purposes only during standard working hours, the limited driving privilege must prohibit driving during nonstandard working hours unless the driving is for emergency medical care or for authorized household maintenance. The limited driving privilege must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving.

(g) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation must be attached to or made a part of the limited driving privilege. If the person is employed by another, the limited driving privilege must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving. If the court determines that it is necessary for the person to drive during nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

(1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege must specify the general times and routes by which the person may drive to and from work and must restrict driving to those times and routes.

(2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege must specify the general routes by which the person may drive to and from work and must restrict driving to those general routes.

(3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege must specify the general times and geographic boundaries within which the person may drive and must restrict driving to those times and boundaries.

(4) If the person can specify neither the times nor places in which the person will be driving to and from work, the limited driving privilege must specify the geographic boundaries within which the person may drive and must restrict driving to those boundaries.

(h) Household Maintenance. – A limited driving privilege may allow driving for maintenance of the household only during standard working hours. The court, at its discretion, may impose additional restrictions on driving for the maintenance of the household.

(i) Restrictions. – A limited driving privilege that is not authorized by this section or that does not contain the restrictions required by law is invalid. A limited driving privilege issued under this section is subject to the following conditions:

(1) Financial Responsibility. – A person applying for a limited driving privilege under this section must provide the court proof of financial responsibility acceptable under G.S. 20-16.1(g) and must maintain the financial responsibility during the period of the limited driving privilege.

(2) Alcohol Restrictions. – A person who received a limited driving privilege under this section may not consume alcohol while driving or drive at any time while the person has remaining in the person's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts.

(3) Others. – The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(j) Term and Reinstatement. – The term of a limited driving privilege issued under this section is the shorter of one year or the length of time remaining in the revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. When the term of the limited driving privilege expires, the Division must reinstate the person's license if the person meets all of the conditions listed in this subsection. The Division may impose restrictions or conditions on the new license in accordance with G.S. 20-7(e). The conditions are:

(1) Payment of the restoration fee as required under G.S. 20-7(i1).

(2) Providing proof of financial responsibility as required under G.S. 20-7(c1).

(3) Providing the proof required for reinstatement of a license under G.S. 20-28(c1).

(k) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge must indicate in the order of modification or revocation the reasons for the order or make specific findings indicating the reason for the order and enter those findings in the record of the case. When a court

issues an order of modification or revocation, the clerk of court must send a copy of the order to the Division.

(*l*) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. When a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege is suspended pending the final disposition of the charge."

SECTION 2. G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) A petition for a limited driving privilege under G.S. 20-20.1 is subject to the court costs assessed under subsection (a) of this section plus an additional filing fee of one hundred dollars ($100.00). The additional filing fee must be remitted to the State Treasurer and used for support of the General Court of Justice."

SECTION 3. This act becomes effective December 1, 2007, and applies to revocations that occur before, on, or after that date.

SENATE BILL 758:
Limited Driving Privilege - DWLR

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 2, 2007
Introduced by:	Sen. Kerr	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition S758-CSSVf-20		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 758 would allow a person whose drivers license has been revoked for one year, two years, or permanently because that person has been convicted of driving while license revoked or convicted of a moving violation while license revoked to obtain a limited driving privilege. The act would become effective December 1, 2007, and would apply to revocations that occur before December 1, 2007 as well as on or after that date.***

In addition to clarifying and stylistic changes, this Proposed Committee Substitute differs from the one considered by the committee on April 11, 2007 in the following ways:

- ***This version applies to persons with a one-year, two-year, or permanent revocation whereas the previous PCS applied only to persons with permanent revocations.***
- ***This version would require an additional filing fee of $100 to be remitted for the support of the General Court of Justice whereas the previous PCS required that one-half of the $100 fee be remitted to the Highway Fund and one-half be remitted to the Court Information Technology Fund.***
- ***This version would require DMV to reinstate a person's license at the expiration of the limited privilege if certain conditions are met whereas reinstatement was discretionary under the previous version.***

CURRENT LAW: G.S. 20-16 lists a number of offenses for which the Division of Motor Vehicles (DMV) may revoke a person's drivers license. These include the accumulation of 12 or more drivers license points in a three year period, fraudulent use of a license, any offense committed in another state that if committed in this State would be grounds for suspension or revocation, and certain speeding violations[1]. G.S. 20-17 lists a number of offenses for which the DMV is required to revoke a person's drivers license. These include manslaughter resulting from the operation of a motor vehicle, impaired driving under G.S. 20-138.1 or 138.2,[2] failure to stop and render aid, two convictions of reckless driving is a 12-month period, and conviction of assault with a motor vehicle. G.S. 50-13.12 and G.S. 110-142.2 both authorize a court to revoke a drivers license of a person who is delinquent with their child support payments. By far, the most license revocations[3] occur under G.S. 20-24.2(a)(1) as a result of a failure to appear for a trial or hearing on a traffic offense. The next most common reason for revocation is the offense of driving while license revoked under G.S. 20-28.[4] *(Additional grounds for revocation may be found on p. 4 of this summary.)*

The amount of time a license is revoked depends upon the specific grounds for the revocation. The revocation periods may be as little as 30 days, or last indefinitely if the person fails to resolve the

[1] See also G.S. 20-16.1.
[2] G.S. 20-16.2 requires the revocation of a license for refusing to take a breath test.
[3] DMV reports 324,662 revocations in 2004, 306,226 revocations in 2003, and 304,064 revocations in 2002.
[4] DMV reports 68,361 revocations in 2004, 62,355 revocations in 2003, and 63,355 revocations in 2002.

underlying matter that led to the specific revocation. If no specific revocation period is provided, the period of revocation is one year.[5] The license is revoked for two years upon a second offense, and permanently revoked upon conviction of a third offense.[6] A person who is convicted of driving while license revoked (G.S. 20-28(a)) is guilty of a Class 1 misdemeanor and the license is revoked for an additional year. A person who is convicted of a moving offense while license revoked (G.S. 20-28.1) will also have the license revoked for an additional year. Subsequent violations of either statute result in additional revocations of two years and permanent revocation. A person whose license is revoked for one year under either G.S. 20-28(a) or G.S. 20-28.1 may apply to have the license reinstated after 90 days. A person whose license is revoked for two years under either statute may apply to have the license reinstated after one year. A person whose license is revoked permanently under either statute may apply to have the license reinstated after three years. DMV may reinstate the license if the person has not been convicted during the period of the revocation of: a moving violation under Chapter 20 or the laws of any other state, any provision of the alcoholic beverage laws of this or any other state, or any provisions of the drug laws of this or any other state. DMV may impose any restrictions or conditions on the new license that the Division considers appropriate for the balance of the revocation period. If the revocation is permanent, the conditions and restrictions imposed by the Division may not exceed three years.

There are a number of provisions under current law under which a court may grant a limited driving privilege during the term of a revocation *(See p. 5 of this summary).* These include certain limited DWI offenses, certain speeding offenses, and revocations related to failure to pay child support.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 758 does the following:

Section 1 would create a new statute G.S. 20-20.1 that allows a person whose drivers license has been revoked **for one year, two years, or permanently** under G.S. 20-28(a) (driving while license revoked) or G.S. 20-28.1 (moving offense while license revoked) to obtain a limited driving privilege if all of the following apply:

- The person has complied with the revocation period as follows:
    - 90 days for a one-year revocation.
    - 1 year for a two-year revocation.
    - 2 years for a permanent revocation.
- The person's underlying offense is not an offense involving impaired driving.
- If the person is convicted of committing a motor vehicle moving offense while driving with a revoked license, the moving offense is not an offense involving impaired driving.
- The revocation period for the underlying offense has expired.
- The revocation under G.S. 20-28(a) or 20-28.1 is the only revocation in effect.
- The person is not eligible to receive a limited driving privilege under any other law.
- The person has not received a limited driving privilege under this section within the last 3 years.
- The person has no pending charges for any motor vehicle offense or unpaid motor vehicle fines or penalties in this or any other state.

[5] G.S. 20-19(f).
[6] G.S. 20-28(a).

- The person's drivers license issued by another state has not been revoked.
- The person is not someone for whom DMV has refused to issue a license due to physical or mental disease that prevents the person from exercising ordinary care in the operation of a vehicle. (G.S. 20-9(e)).

A person seeking a limited driving privilege under this section would file a petition in the district court of the county where the person resides according to DMV records, or in the county of actual residence if DMV records are inaccurate. If granted, the privilege would be limited to essential driving for employment, in course of employment, household maintenance, and emergency medical care. The specifics of the privilege and other conditions are patterned after existing law regarding limited driving privileges for DWI offenses in G.S. 20-179.3. They include a requirement that the person applying for the privilege have adequate liability and property damage coverage.

The term of the privilege would be the shorter of one year or the time remaining in the person's revocation period. Upon expiration of the privilege, the Division would be required to reinstate the person's license if the person does all of the following:

- Pays a $50 restoration fee.
- Provides proof to the Division of financial responsibility.
- Provides proof to the Division that the person has not been convicted during the revocation period of any moving violation in this or another state, any violation of the alcoholic beverage laws of this or another state, or of any violation of the drug laws of this or another state.

Any violation of the privilege would be considered a violation of G.S. 20-28 (driving while license revoked), and the privilege would be suspended pending a final disposition of the charge.

Section 2 provides that a person who files a petition for a limited driving privilege under this new section would pay court costs plus an additional filing fee in the amount of $XXX. The additional filing fee would be remitted to the State Treasurer and used for the support of the General Court of Justice.

EFFECTIVE DATE: The act would become effective December 1, 2007 and would apply to permanent revocations that occur before, on or after that date.

Suspension statutes that require the loss of driving privilege.

Description Statute	Suspension Statute	Violation Description
20-179.4	20-179.4	Failure to Complete Community Service
20-16.5	20-16.5	Civil Revocation
20-17.8(f)	20-17.8(f)	Violation of Ignition Interlock
50-13.12	50-13.12	Fail to Pay Child Support
15A-1331A	15A-1331A	Forfeiture of License Privileges
20-141(j2)	20-17(2)(10)	Speeding in a Work Zone
20-138.7	20-17(12),19(g1)	Open Container After Consuming
14-72(a)	20-17(a)), 19(f)	Larceny of Motor Fuel
20-30(2)	20-16(a)(6).19-(c)	Allow Use of License or Permit
* 20-141.3(b)	20-141.3(e)	Willful Racing or Speed Competition
* 18B-406	20-16(a)(8),19-(a)	Transporting Intoxicants
20-28(a)	20-28	Driving While License Revoked
20-166(a)	20-17(a)(4), 19(f), 166(e)	Felony Hit and Run PI
14-18	20-17(a)(I), 19(f)	Involuntary Manslaughter
20-1669(b), 14-15	20-17(a)(4), 19(f)	Leaving Scene of Accident PI
14-18	20-17(a)(1), 19(f)	Manslaughter
20-141.3(a)	20-141.3(d)	Prearranged Speed Competition
* 20-30(I)	20-16(a)(6), 19(c)	Improper Use of License/Fictitious License
20-30(3)	20-16(a)(6), 19(c)	Unlawful Use of License
20-30(5)	20-17(a)(8)	Fraudulent License Permit
20-30(5)	20-17(a)(8)	Obtain Drivers License By Fraud
20-30(5)	20-17(a)(8)	Allowing False Application
20-4.20	20-4.20	Failure to Comply with Out of State Citation
* 20-16(a)(7)	20-17,20-26	Out of Sate Conviction
20-141.4(a2)	20-17(a)(9), 19(f)	Misdemeanor Death by Vehicle
20-141(j)	20-17(a)(10), 19(f)	Speeding to Elude (Prior to 12-1-1997
20-17(11)	20-19(c)	Assault With Motor Vehicle
20-138.1	20-19(e)	Driving While Impaired 3rd Offense
20-138.1	20-17(a)(2), 19(c1)	Driving While Impaired 1st Offense
20-138.1	20-19(d)	Driving While Impaired 2nd Offense
20-138.1	20-17(a)(2), 19(c1)	Aiding & Abetting Impaired Driving
* 20-12.1	20-16(8a), 19(f)	Instructing While Under the Influence
20-141.4(A1)	20-17(a)(9), 19(I)	Death by Vehicle Involving DWI
20-138.3	20-13.2	Driving After Consuming <21
18B-302	20-17.3	Violation of ABC Laws
20-28(a)	20-28	Driving While License Revoked
20-24.1	20-24.1	Failure to Appear
20-24.1	20-24.1	Failure to Pay
20-17(a)(3)	20-19(f)	Felony Using a Motor Vehicle
14-17	20-19(I)	2nd Degree Murder – DWI
20-138.5	20-138.5(d)	Habitual Impaired Driving
20-141.5	20-141.5(d)	Misdemeanor Eluding Arrest
20-141.5	20-141.5(d)	Felony Eluding Arrest (2 Aggravating Factors)
20-141.5(b)	20-141.5(d)	Felony Eluding Arrest (3 Aggravating Factors)
20-138.2A	20-17(a)(13)	Driving CMV After Consuming
138.2B	20-17(a)(14)	Driving School Bus/Activity Bus/Childcare Vehicle
20-166(e)	20-166	Hit and Run – Fail to Stop PI (2 yr. Revocation)
20-17(a)(15)	20-13.2(c2)(d), 19(f)	Property Damage by Explosive

14-69.2(c)	20-13.2(c2)(d),17(a)(15)	False Bomb Report
14-69.2(c)	20-13.2(c2), 17(a)(15)	Hoax False Bomb-Public Bldgs.
14-268.9(b1)	20-13.2(c2)(d),17(a)(15)	Possession of Explosives On Education Property
14-69.2(c1), 269.2(c1)	20-13.2(c2)(d),17(a)(15)	Aid Minor Possess Explo.Educ.Prop.
18B-302(c)	20-17.3	Aid Underage Purchase Liquor
18-302(b)	20-17.3	Purchase MTBV – by and not 19/20
20-160.1(a)	20-160.1(a)	Fail to Yield – Serious Injury
* 20-16.2	20-16.2	Refuse Chemical Test
* 20-19(c3)	20-19(c3)	Violation of Alcohol Concentration Restriction
* 20-17.8(g)	20-17.8(g)	Violation of Ignition Interlock Restriction
* 20-16	20-16	Point Accumulation
* 20-16	20-19	Speeding
20-16.1	20-16.1	Speeding
* 20-13	20-16(a)(7)	Provisional Licensee Moving W/N 12 mos.
20-16(c)		Violation Of Probation
* 20-16(a)(8b)	20-19(c)	Driving While Impaired – Military Court
* 20-16(a)(7)	20-19(c)	Driving While Impaired – Out of State – 1st Offense

(Notations indicated by asterisk represent discretionary suspensions.)

Current Limited Privilege Criteria

20-16(e1)	Speeding
20-16.1(b)	Excess speed
20-16.2(e1)	Refusal
20-16.5.1	Civil Revocation
20-138.3.1	Consuming alcohol less than 21 years of age
20-138.7	Transporting open container of alcohol
20-141.5	Felony elude
20-179.3	Impaired Driving
110-142.2 or 50-13.12	Child Support
20-166	Hit and Run PI

Kory Goldsmith and Giles Perry, counsels to Senate Judiciary II and House Judiciary III, substantially contributed to this summary.

S0758e2-SMSV-CSSVf-20

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 758

Judiciary II (Criminal) Committee Substitute Adopted 4/2/07

Short Title: Limited Driving Privileges - DWLR. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-20.1. Limited driving privileges for certain revocations.**

(a) Definitions. – As used in this section, the following definitions apply:

(1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under the terms and conditions authorized under this section.

(2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of Chapter 58 of the General Statutes.

(3) Nonstandard working hours. – Any time other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(4) Offense involving impaired driving. – As defined in G.S. 20-4.01(24a).

(5) Standard working hours. – Any time from 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(b) Eligibility. – The court, for good cause shown, may issue a limited driving privilege to a person whose North Carolina drivers license is permanently revoked under G.S. 20-28(a) or G.S. 20-28.1 if all of the following conditions apply:

(1) The person has no other current drivers license revocations other than the revocation under G.S. 20-28(a) or G.S. 20-28.1.

(2) The person has complied with the permanent revocation for at least two years immediately preceding the motion for a limited driving privilege.

(3) The person has no unresolved or outstanding motor vehicle offenses or motor vehicle charges or unpaid motor vehicle fines or penalties in this or any other state.

(4) The person has not held a limited driving privilege issued under this section at any time during the three years prior to the filing of the current action.

(c) Ineligibility. – A person shall not be eligible to receive a limited driving privilege under this section if any of the following conditions apply:

(1) The person is eligible to receive a limited driving privilege under any other provision of law.

(2) The person's drivers license was revoked for an offense involving impaired driving at the time the person was charged under G.S. 20-28(a) or G.S. 20-28.1.

(3) The person's drivers license is revoked under G.S. 20-17.1.

(4) The person is not eligible to receive a North Carolina drivers license under G.S. 20-9(f).

(5) The Division has refused to issue a drivers license to the person under G.S. 20-9(e).

(6) The person's drivers license issued by another state has been revoked by that state for any reason or the person's North Carolina drivers license has been revoked under any interstate compact or agreement.

(d) Scope of Privilege. – A limited driving privilege shall restrict the holder to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as otherwise provided, all driving shall be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are: (i) travel to and from the person's place of employment and in the course of employment; (ii) travel necessary for maintenance of the person's household; and (iii) travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at any time and without restriction as to routes.

(e) Jurisdiction. – A motion for a limited driving privilege under this section is separate from any action that resulted in the initial revocation and is a civil action filed in district court in the county of the person's residence as reflected by the Division's records. The costs required under G.S. 7A-305(a3) apply to this action.

(f) Motion. – A motion for a limited driving privilege requested under this section shall include a copy of the person's driving history. The motion shall also include a sworn statement that there are no outstanding or unresolved charges, no unpaid fines, and no violations in this or any other state that could result in the revocation of the person's drivers license, and that the person has complied with the current revocation for the time period required under subdivision (b)(2) of this section

immediately preceding the person's motion for a limited driving privilege under this section.

(g) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying the times and routes in which the driving shall occur. If the person is not required to drive for essential employment-related purposes except during standard working hours, the limited driving privilege shall prohibit driving during nonstandard working hours unless the driving is for emergency medical care or is authorized by subsection (i) of this section. The limited driving privilege shall state the name and address of the applicant's place of work or employer and may include other information and restrictions applicable to work-related driving, at the discretion of the court.

(h) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation shall be attached to or made a part of the limited driving privilege. The limited driving privilege shall state the name and address of the person's place of employment or employer and may include other information and restrictions applicable to work-related driving, at the discretion of the court. If the court determines that it is necessary for the person to drive during nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

(1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege shall specify the general times and routes by which the person may drive to and from work and shall restrict driving to those times and routes.

(2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege shall specify the general routes by which the person may drive to and from work and shall restrict driving to those general routes.

(3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege shall specify the general times and geographic boundaries within which the person may drive and shall restrict driving to those times and boundaries.

(4) If the person can specify neither the times nor places in which the person will be driving to and from work, or if the person is required to drive during these nonstandard working hours as a condition of employment, the limited driving privilege shall specify the geographic boundaries within which the person may drive and shall restrict driving to those boundaries.

(i) Household Maintenance. – A limited driving privilege may not allow driving for maintenance of the household except during standard working hours. The limited

driving privilege may contain additional restrictions on driving for the maintenance of the household, at the discretion of the court.

(j) Proof of Financial Responsibility. – A person applying for a limited driving privilege under this section shall provide proof of financial responsibility to the court, and a limited driving privilege shall be conditioned upon the maintenance of financial responsibility during the period of the limited driving privilege. The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. This subsection does not apply to a person who does not own a currently registered motor vehicle and who does not operate a nonfleet private passenger motor vehicle that is owned by another person and that is not insured under a commercial motor vehicle liability insurance policy. If this subsection applies, the person shall sign a written certificate to that effect. The Division shall furnish the certificate. Any material misrepresentation made by the person on the certificate shall be grounds for the court to revoke the limited driving privilege granted under this section.

Proof of financial responsibility shall be in one of the following forms:

(1) A written certificate or electronically transmitted facsimile of the certificate issued by an insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance.

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

(k) Other Restrictions. – The court shall include in all limited driving privileges a restriction that the holder of the privilege may not consume alcohol while driving or drive at any time while the holder has remaining in the holder's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts. The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(l) Term. – The term of a limited driving privilege issued under this section shall be one year. Upon the expiration of the term of the limited driving privilege or after three years from the date of the permanent revocation, the person may apply to the Division for a license under G.S. 20-28(c) or G.S. 20-28.1(c).

(m) Notification. – The clerk of court shall send a copy of any limited driving privilege issued in the county to the Division. A limited driving privilege that is not authorized by this section or that does not contain the limitations required by law is invalid.

(n) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge shall either indicate in the order of modification or revocation the reasons for the order, or make specific findings indicating the reason for the order, and those findings shall be entered in the record of the case. When a court issues an order of modification or revocation, the clerk shall send a copy of the order to the Division.

(o) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. Whenever a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege shall be suspended pending the final disposition of the charge."

SECTION 2. G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) In every motion to obtain a limited driving privilege filed under G.S. 20-20.1, a cost of one hundred dollars ($100.00) shall be assessed against the person filing the motion. Costs collected by the clerk under this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit one-half of the assessed cost to the Highway Fund and the remaining one-half of the assessed cost to the Court Information Technology Fund established under G.S. 7A-343.2. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 3. This act becomes effective December 1, 2007, and applies to permanent revocations that occur before, on, or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 2, 2007

TO: Senator Kerr

FROM: Bryce Ball and Denise Thomas
Fiscal Research Division

RE: S758-CSSVf-20 [v.2]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES	**Amount cannot be determined.**				
EXPENDITURES	**Amount cannot be determined.**				
Judicial	The number of future petitions and limited driving privilege violations is indeterminate.				
Correction	Possible, small impact on local jails.				
POSITIONS (cumulative):					
Judicial	**Amount cannot be determined.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Department; Department of Transportation; Department of Correction; Local Government.

EFFECTIVE DATE: Applies to permanent revocations that occur before, on, or after December 1, 2007.

BILL SUMMARY: Enacts new G.S. 20-20.1, permitting the issuance of limited driving privileges to persons whose NC driver's licenses are currently revoked under G.S. 20-28(a) or 20-28.1. Sets out the standards under which limited driving privileges are authorized (including

conditions that make a person ineligible for the privilege). Limits the purposes for which limited driving privileges may be authorized to travel: (1) to and from the person's employment and in the course of employment; (2) necessary for maintenance of the person's household; and, (3) emergency medical care for the person or for an immediate family member living in same household. Establishes standards for each purpose permitted, and requires a person applying for limited driving privileges to show proof of financial responsibility. Provides that the term of the limited driving privileges is the shorter of one year, or the length of time remaining in the revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. Requires the Division of Motor Vehicles to reinstate a person's license upon successful completion of the limited driving privilege – person must pay the $50 restoration fee to DMV, as required by G.S. 20-7. Specifies that violation of the privilege constitutes a violation of G.S. 20-28 – Class 1 misdemeanor offense of driving while license revoked. Amends G.S. 7A-305 to establish an unspecified filing fee to be charged for motions to obtain a limited driving privilege; provides that the fee is to be assessed in addition to court costs as provided by the statute ($80 for District Court). Effective December 1, 2007, and applies to permanent revocations that occur before, on, or after that date.
Source: Bill Digest S.B. 758 (03/13/0200).

ASSUMPTIONS AND METHODOLOGY:

Impact Statement: Based on the available data, exclusive criteria for the limited driving privilege, and inability to determine individual preferences among alternatives, Fiscal Research cannot estimate the potential revenues and costs of this proposal. ***Therefore, an impact estimate is unavailable.***

I. Issuance of Limited Driving Privileges:

Under current law, a person whose license is revoked for one year for first offense under G.S. 20-28(a) or 20-28.1 may apply to DMV for license reinstatement after having served at least 90 days of the current revocation period; that person must have served the entire period of the underlying revocation. A person whose license is revoked for two years for second offense under G.S. 20-28(a) or 20-28.1 may apply for reinstatement after having served at least one year of current revocation period. And a person whose license is revoked permanently under either statute may apply for reinstatement after having served at least three years of the "permanent" revocation period. Determinations of reinstatement are decided by a hearing before the Division of Motor Vehicles.

S.B. 758 creates a new civil procedure for issuance of a limited driving privilege, to be conducted through the Courts. In effect, the privilege constitutes an alternative to current license reinstatement procedures. Privilege eligibility for Groups 1 and 2 - first and second offenders of G.S. 20-28(a) or 20-28.1 – mirrors the respective time horizons for license reinstatement. In contrast, privilege eligibility for Group 3 – third or subsequent offenders under G.S. 20-28(a) or 20-28.1 – is set at one year earlier than that for license reinstatement. Therefore, persons with permanent revocations could petition for a limited driving privilege after having served two years of the current revocation, rather than three as under current law. To obtain a limited driving privilege, a person would have to file a civil petition in court in the county of residence as reflected by the Division of Motor Vehicles' records.

At this time, Fiscal Research cannot reliably evaluate how individual preferences will change in response to these options. Nor is it known how many people would be eligible to petition for the privilege within each group; how many would petition or erroneously petition (not eligible); or how the number of petitions would vary from year to year. Therefore, Fiscal Research cannot determine how many persons will petition for this limited driving privilege.

Judicial

Fiscal Research expects that the creation of a new civil action for the issuance of a limited driving privilege will increase court workload to a degree contingent upon the number of hearings that occur. Because the number of petitions is unknown, FRD cannot estimate the resultant impact on district court personnel, or how many additional resources will prove necessary. Nonetheless, AOC staff estimate that each filing would require one additional hour of a judge's time and 30 minutes of a deputy clerk's.

Division of Motor Vehicles

It is not known how this proposal will alter the number of license reinstatement hearings requested for DMV. Likewise, the number of potential petitions is unknown. Therefore, potential workload and revenues are indeterminate.

II. Violation of Limited Driving Privilege

By establishing the new limited driving privilege, S.B. 758 also creates a new offense for violation of that privilege (G.S. 20-21(o)). In effect, operation of a motor vehicle in violation of the proposed limited driving privilege constitutes the offense of driving while license revoked under G.S. 20-28, a Class 1 misdemeanor. The defendant's limited driving privilege is suspended until final disposition of the charge; and upon conviction, the offender's license is revoked pursuant to G.S. 20-28.

Department of Correction

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.* Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

Class 1 misdemeanants serve their designated terms of incarceration within local jails; therefore, the proposed offense is not expected to impact the state's prison population.[1] The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Thus, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the

[1] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Department of Correction: Division of Community Corrections

In FY 2005-06, 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if future convictions for the proposed offenses were to occur, the Division of Community Corrections (DCC) could assume some additional costs for offenders placed under its supervision.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of $0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from $7.71 to $14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated $14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

The AOC expects that if additional charges for violation of the new limited driving privilege were to arise, the resultant cases would increase court-time requirements, personnel workload, and the costs of case disposal. However, it is not known exactly how many persons might apply for the limited driving privilege, or how many might violate its conditions. Presently, court-time costs are an estimated $3,702 per Class 1 misdemeanor trial, and $243 per plea. However, actual costs would likely vary from general example.

SOURCES OF DATA: Administrative Office of the Courts; Department of Transportation, Division of Motor Vehicles.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

Conference of District Attorneys
NORTH CAROLINA

Peg Dorer
Director

P.O. Box 25546
Raleigh, NC 27611

919.733.3484
919.715.0138

February 13, 2007

The Honorable John H. Kerr, III
North Carolina General Assembly
526 Legislative Office Building
Raleigh, NC 27603-5925

Dear Senator Kerr:

At the most recent meeting of the Executive Committee of the North Carolina Conference of District Attorneys, the Committee voted to continue our support for your forthcoming bill entitled, "Limited Driving Privileges - DWLR Bill."

As you are well aware, there are many reasons for a person's driving privileges to be revoked. Often times, because of employment, family, or emergency obligations, people continue to drive after having their license revoked and then may incur additional violations. This causes a "revolving door" situation from which these same people cannot escape.

The Conference of District Attorneys believes that as long as there are restrictions on the type of revocation, it is appropriate for some of these individuals to obtain a limited driving privilege so that they can continue to meet their obligations. The restrictions that exist in the bill you sponsored last year, especially the exclusion of persons who had their licenses revoked because of impaired driving, were most appropriate.

Please do not hesitate to call if the Conference can be of any assistance to you in your pursuit of this legislation or any other issues.

Sincerely,

Peg Dorer
Director

EXECUTIVE COMMITTEE

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1051
PROPOSED COMMITTEE SUBSTITUTE S1051-CSMCx-15 [v.2]

4/30/2007 11:04:45 AM

Short Title: Equitable Residential Property Tax Relief. (Public)

Sponsors:

Referred to:

March 21, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE INCOME LIMIT FOR THE HOMESTEAD PROPERTY TAX EXCLUSION AND TO TREAT THE ELDERLY WHO LIVE IN THEIR OWN HOME THE SAME AS THOSE WHO LIVE IN A RETIREMENT COMMUNITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1(a2) reads as rewritten:

"(a2) Income Eligibility Limit. – Until July 1, ~~2003,~~2009, the income eligibility limit is ~~eighteen~~ twenty-five thousand dollars ~~($18,000).~~($25,000). For taxable years beginning on or after July 1, ~~2003,~~2009, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year."

SECTION 2. G.S. 105-277.1(b)(1a) reads as rewritten:

"(1a) Income. – ~~Adjusted gross income, as defined in section 62 of the Code, plus all other~~ All moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names."

SECTION 3. G.S. 105-278.6A reads as rewritten:

"**§ 105-278.6A. Qualified retirement facility.**

(a) Classification. – Buildings, the land they actually occupy, additional adjacent land reasonably necessary for the convenient use of the buildings, and personal property

owned by a qualified retirement facility and used in the operation of that facility are designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and are excluded from taxation to the extent provided in this section.

(b) Definitions. – The following definitions apply in section:

~~(1) Charity care. – The unreimbursed costs to the facility of providing health care, housing, or other services to a resident who is uninsured, underinsured, or otherwise unable to pay for all or part of the services rendered.~~

~~(2) Community benefits. – The unreimbursed costs to the facility of providing the following:~~

~~a. Services, including health, recreation, community research, and education activities provided to the community at large, including the elderly.~~

~~b. Charitable donations.~~

~~c. Donated volunteer services.~~

~~d. Donations and voluntary payments to government agencies.~~

(3) Financial reporting period. – The calendar year or tax year ending prior to the date the retirement facility applies for an exclusion under this section.

(3a) Qualifying resident. – An individual whose permanent residence is a retirement facility and who meets the requirements of a qualifying owner under G.S. 105-277.1(a).

~~(4) Resident revenue. – Annual revenue paid by a resident for goods and services and one year's share of the initial resident fee amortized in accordance with generally accepted accounting principles.~~

(5) Retirement facility. – A community that meets all of the following conditions:

a. It is licensed under Article 64 of Chapter 58 of the General Statutes.

b. It is designed for elderly residents.

c. It includes independent living units for elderly residents.

d. It includes a skilled nursing facility or an adult care facility.

e. It is an exempt organization under section 501(c)(3) of the Code.

~~(6) Unreimbursed costs. – The costs a facility incurs for providing charity care or community benefits after subtracting payment or reimbursement received from any source for the care or benefits. Unreimbursed costs include costs paid from funds generated by a program described in subdivision (c)(5) of this section.~~

~~(c) Total Exclusion. – A retirement facility qualifies for total exclusion under this section if it meets all of the following conditions:~~

~~(1) It is exempt from tax under Article 4 of this Chapter and private shareholders do not benefit from its operations.~~

~~(2) All of its revenues, less operating and capital expenses, are applied to providing uncompensated goods and services to the elderly and to the local community, or are applied to an endowment or a reserve for these purposes.~~

~~(3) Its charter provides that in the event of dissolution, its assets will revert or be conveyed to an entity that is organized exclusively for charitable, educational, scientific, or religious purposes, and is an exempt organization under section 501(c)(3) of the Code.~~

~~(4) Repealed by Session Laws 2001-17, s. 1.~~

~~(5) It has an active program to generate funds through one or more sources, such as gifts, grants, trusts, bequests, endowment, or an annual giving program, to assist the retirement facility in serving persons who might not be able to reside there without financial assistance or subsidy.~~

~~(6) It meets at least one of the following conditions:~~

~~a. The facility serves all residents without regard to the residents' ability to pay.~~

~~b. At least five percent (5%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both.~~

~~(d) Partial Exclusion. A retirement facility qualifies for a partial exclusion under this subsection if it meets conditions under subdivisions (c)(1) through (c)(5) of this section and at least one percent (1%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both. The percentage of the retirement facility's assessed value that is excluded from taxation is the applicable percentage provided in the following table, based on the minimum percentage of the facility's resident revenue that it provides in charity care to its residents, in community benefits, or in both:~~

~~Partial Exclusion~~	~~Minimum Percentage of Resident Revenue~~
~~80%~~	~~4%~~
~~60%~~	~~3%~~
~~40%~~	~~2%~~
~~20%~~	~~1%~~

Exclusion. – A retirement facility qualifies for an exclusion under this section if it provides housing to qualifying residents. The exclusion amount is equal to the percentage of residents who are qualifying residents multiplied by fifty percent (50%) of the appraised value of the qualified retirement facility.

(e) Application for Exclusion. – The application requirements of G.S. 105-282.1 apply to this section."

SECTION 4. G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this

Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes.

(2) Educational institutions not operated for profit.

(3) Churches, orphanages, and other charitable or religious institutions and organizations not operated for profit.

(4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A. The refund due shall be equal to the sales and use taxes subject to a refund under this subdivision multiplied by the percentage of residents who are qualifying residents.

Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity.

A hospital that is not allowed a refund under this subsection of sales and use taxes paid on its direct purchases of tangible personal property is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work.

The refunds allowed under this subsection for certain nonprofit entities and for medicines and drugs purchased by hospitals do not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c).

A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15."

SECTION 5. Sections 1, 2, and 3 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Section 4 of this act becomes effective July 1, 2008, and applies to sales made on or after that date. The remainder of this act is effective when it becomes law.

SENATE BILL 1051:
Equitable Residential Property Tax Relief

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 30, 2007
Introduced by:		**Summary by:**	Dan Ettefagh
Version:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 1051 would increase the income limit for the homestead property tax exclusion and would modify the exclusion for qualified retirement facilities. The bill would also modify the calculation of sales and use taxes refunded to qualified retirement facilities. Finally, the bill simplifies the definition for income used for the homestead exclusion. The PCS makes a technical correction to harmonize the language of the statute with the intended effective date and limits the tax exclusion to non-profit qualified retirement facilities.***

CURRENT LAW: Under current law, the property tax homestead exclusion in G.S. 105-277.1 grants an exclusion from property tax to North Carolina residents who (i) are at least 65 years of age or totally and permanently disabled and (ii) have an income not exceeding the income eligibility limit. The amount of the exclusion is the greater of $20,000 or 50% of the appraised value of the qualifying owner's permanent residence. The income eligibility limit is indexed according to the cost-of-living adjustment. The applicable income eligibility limit for 2006 is $19,700 and for 2007 is $20,500.

Under current law, qualified retirement facilities receive a partial or total exemption if they are licensed as a continuing care retirement community, are designed for elderly residents, include independent living units for elderly residents, and include a skilled nursing facility or an adult care facility. The total exemption occurs where the qualified retirement community (1) is exempt from income tax and private shareholders do not benefit from its operations, (2) applies all revenues (less operating and capital expenses) to providing uncompensated goods and services to the elderly and local community or to an endowment or reserve for these purposes, (3) has a charter providing that, in the event of dissolution, its assets will revert or be conveyed to a tax-exempt entity (under 501(c)(3) of the Code) that is organized exclusively for charitable, educational, scientific, or religious purposes, (4) has an active program to generate funds to assist the retirement facility in serving persons needing financial assistance to reside there, and (5) serves all residents without regard to ability to pay or provides at least 5% of the revenue in charity care to residents, in community benefits, or both (a partial exemption occurs where the facility meets these requirements and provides at least 1% of the revenue in charity care to residents, in community benefits, or both).

Under current law, qualified retirement facilities whose property is excluded from property tax are permitted a semiannual refund of sales and use taxes paid on tangible personal property and services other than electricity, telecommunications service, and ancillary service.

BILL ANALYSIS: The bill would increase the income eligibility limit to $25,000 until July 1, 2008, and would index that amount for taxable years beginning on or after July 1, 2008, according to the cost-of-living adjustment.

In addition, the bill would eliminate the current system of partial or total exemptions for qualified retirement facilities and would replace it with a system calculating the property tax exclusion as a function of the percentage of residents who use the facility as a permanent residence and meet the requirements of a qualifying owner under the property tax homestead exclusion, with a maximum exclusion of 50% of the appraised value of the facility. This maximum percentage is based on the

percentage of excluded appraised value of a qualifying owner's permanent residence under the property tax homestead exclusion.

Finally, the bill would make the sales and use tax refund for qualified retirement facilities a function of the percentage of facility residents who use the facility as a permanent residence and meet the requirements of a qualifying owner under the property tax homestead exclusion.

EFFECTIVE DATE: The changes to the property tax homestead exclusion and qualified retirement facilities' property taxes would become effective for taxes imposed for taxable years beginning on or after July 1, 2008. The change to the sales and use tax refund for qualifying purchases of qualified retirement facilities becomes effective July 1, 2008, and applies to sales made on or after that date.

BACKGROUND: North Carolina used to exempt from property tax homes for the aged, sick, and infirm if used exclusively for a charitable purpose and if non-profit. In response to a court ruling that certain homes were not charitable, the General Assembly in 1987 enacted a property tax exemption for certain homes for the "aged, sick, or infirm" if owned and operated by a nonprofit organization that was religious or Masonic, irrespective of whether the facility was operated as a charity. In 1998, this system was struck down on First Amendment grounds because of the requirement of affiliation with a religious or Masonic organization. Following this ruling, the General Assembly enacted the current tax treatment for qualified retirement facilities.

S1051e1-SMMC

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 1, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to SB 1051

FISCAL IMPACT ($millions)

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
General Fund	$0	$1.2	$2.7	$2.9	$3.0
Local Governments					
Homestead Income	$0	($16.0)	($17.1)	($18.3)	($19.5)
CCRC Property Tax	*$4.9 - $9.9 – See Assumptions and Methodology*				
Local Sales Tax	$0	$0.8	$1.7	$1.8	$1.9

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, NC Local Governments

EFFECTIVE DATE: Sections 1, 2, and 3 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Section 4 of this act becomes effective July 1, 2008, and applies to sales made on or after that date. The remainder of this act is effective when it becomes law.

BILL SUMMARY:

The PCS to Senate Bill 1051 increases the income eligibility limit for a qualifying property owner for the property tax Homestead exclusion to $25,000 beginning in 2008, with annual indexing thereafter according to the Social Security Cost of Living Adjustment (COLA). The bill also deletes the current provisions for total and partial exclusions of qualifying Continuing Care Retirement Communities (CCRCs) from property taxation and replaces them with a partial exclusion calculated as the percentage of facility residents qualifying for the Homestead exclusion multiplied by 50 percent of the appraised value. Similarly, the bill eliminates the current sales and use tax refund for qualifying CCRCs and replaces it with a partial refund based on the percentage of Homestead-eligible residents.

ASSUMPTIONS AND METHODOLOGY:

Homestead Income Limit Increase

The current homestead exclusion applies to persons age 65 or older or totally and permanently disabled with income of $20,500 or less for calendar year 2007. Thus, this bill would affect elderly and disabled persons with incomes between $20,500 and $25,000. The income eligibility limit would continue to increase each year based on the cost-of-living adjustments (COLA) for Social Security payments.

According to the 2005 American Community Survey (ACS), there were 60,325 households in North Carolina with occupants age 65 or older that fell within the $20,000 to $25,000 income range. It is estimated that 61% of persons in this income range own their own home. Therefore, as of 2005, there were 36,798 (60,325 * 61%) homeowners 65 or older with household incomes between $20,000 and $25,000.

The next step in the analysis is to calculate an average property value. According to the US Census Bureau, the median home value for 2004 for the 65 and older population in North Carolina was $107,143. The value is adjusted downward by 15% to account for the fact that home values of taxpayers in the targeted income group for this analysis are lower than the median for all homeowners in the 65 and older age group.

The median home value is further reduced to account for the sales assessment ratio, which is the average assessed value divided by the average market value. The current average statewide sales assessment ratio is 86%. The resulting median tax value for property owners over 65 in the target income group is $78,322. Because the tax credit applies to 50% of the property value, the amount of the exclusion per property owner is estimated to be $39,161. Applying the average weighted tax rate for counties, municipalities and special tax districts and multiplying by the number of property owners results in the estimated revenue loss.

Growth for future years is based on the change in the number of eligible taxpayers and the increase in property values. The increase in eligible taxpayers is estimated by calculating the average increase in the 65 and older population in North Carolina for the most recent available four-year period (2000 to 2004), which is 1.5% annually. Property values are assumed to increase by 5% each year.

Continuing Care Retirement Community (CCRC) Property Tax Changes

Under current law, qualifying CCRCs may receive a full or partial exemption from property tax. To qualify for a full exemption the CCRC must be a tax-exempt non-profit. In addition to certain other criteria, the facility must meet at least one of the following conditions in order to receive a full exclusion:

a. The facility serves all residents without regard to the residents' ability to pay.

b. At least five percent (5%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both.

CCRCs can also receive a partial exclusion if they have a lower charity care and community benefit to resident revenue ratio between 1% and 5%. If that ratio is greater than 4% the CCRC is exempt from 80% of the value of their property. If the ratio is greater than 3%, then 60% is exempt. If the ratio is greater than 2% a 40% exemption applies. If the ratio is more than 1% the facility receives a 20% exemption. Community benefits are defined as the unreimbursed cost to the facility of providing charitable donations, donated volunteer services, donations and voluntary payments to government agencies, and services, including health, recreation, community research, and educational activities. These services can be provided to the community at large, including the elderly population.

According to the Department of Insurance, there are currently fifty-six (56) Continuing Care Retirement Communities in North Carolina. Forty-nine (49) of these facilities are non-profit institutions.

In the spring 2007 the North Carolina Association Tax Assessors' Association surveyed all 56 CCRCs to determine the amount of property that is currently exempted under G.S. 105-278.6A (CCRC exemption) and the amount of property that is exempted separately through Medical Care Commission (MCC) Bond financing.[1] Twenty-three (23) of the non-profit facilities indicated that they received a property tax exclusion under G.S. 105-278.6A. Additional information regarding property values, entrance fees, monthly fees and tax status were available from finance reports and the Department of Insurance.

To estimate the impact of the bill, the tax loss from the CCRC exclusion was calculated. The amount of the tax exemption under SB 1051 was then estimated by multiplying the percentage of Homestead-eligible residents by the assessed value of all of the non-profit facilities, less any MCC exclusion. Based on discussions with the Department of Insurance and after considering the entrance and monthly fees for CCRCs, FRD believes the percentage of Homestead-eligible residents is less than 5%. The difference between the current exemption and the estimated exemption under SB 1051 is $4.9 million. FRD believes the impact of the bill may be higher because some of the other facilities that did not respond to the survey may be receiving a full or partial exemption. To estimate the maximum impact of the bill, a separate calculation was used to estimate the current tax loss assuming all of the non-profits that did not respond to the survey received the full exemption. Using this assumption the savings for local governments under SB

[1] G.S. 131A-21 provides that health care facilities financed with Medical Care Commission bonds are exempt from property taxes. Several CCRCs receive full or partial property tax exemptions under this statute.

1051 would be $9.9 million. This is considered to be the maximum of the range of impact for the bill.

Continuing Care Retirement Community (CCRC) Sales Tax Changes
Under current law, CCRCs receive a refund of sales and use taxes paid on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the facility. During FY 2004-05, refunds for these facilities totaled $3.8 million. The PCS to SB 1051 repeals the full refund and replaces it with a partial refund based on the percentage of Homestead-eligible residents. The fiscal impact is determined by applying the 5% estimate of Homestead-eligible residents and projecting increases for future years based on Fiscal Research's current baseline sales tax growth estimates. Because the refund is distributed semi-annually, the fiscal impact of FY 08-09 is approximately one-half the annual amount. The table below displays the projection for refunds under current law and under SB 2051.

Fiscal Impact of Section 4 of SB 1051 (Combined State and Local)					
	FY 07-08	**FY 08-09**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Current Refunds	$4,236,570	$4,422,977	$4,666,246	$4,922,885	$5,193,649
Refunds under SB 1051	N/A	$2,432,636	$233,312	$246,144	$259,682
Fiscal Impact	**N/A**	**$1,990,341**	**$4,432,934**	**$4,676,741**	**$4,933,967**

SOURCES OF DATA: US Census, American Community Survey, NC Department of Insurance, NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1051

Short Title:	Equitable Residential Property Tax Relief.	(Public)
Sponsors:	Senators Goss, Queen, Snow, Boseman, Clodfelter, Nesbitt; and Atwater.	
Referred to:	Finance.	

March 21, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE INCOME LIMIT FOR THE HOMESTEAD PROPERTY TAX EXCLUSION AND TO TREAT THE ELDERLY WHO LIVE IN THEIR OWN HOME THE SAME AS THOSE WHO LIVE IN A RETIREMENT COMMUNITY.

The General Assembly of North Carolina enacts:

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"**§ 105-278.6A. Qualified retirement facility.**

(a) Classification. – Buildings, the land they actually occupy, additional adjacent land reasonably necessary for the convenient use of the buildings, and personal property owned by a qualified retirement facility and used in the operation of that facility are

designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and are excluded from taxation to the extent provided in this section.

(b) Definitions. – The following definitions apply in section:

~~(1) Charity care. – The unreimbursed costs to the facility of providing health care, housing, or other services to a resident who is uninsured, underinsured, or otherwise unable to pay for all or part of the services rendered.~~

~~(2) Community benefits. – The unreimbursed costs to the facility of providing the following:~~

~~a. Services, including health, recreation, community research, and education activities provided to the community at large, including the elderly.~~

~~b. Charitable donations.~~

~~c. Donated volunteer services.~~

~~d. Donations and voluntary payments to government agencies.~~

(3) Financial reporting period. – The calendar year or tax year ending prior to the date the retirement facility applies for an exclusion under this section.

(3a) Qualifying resident. – An individual whose permanent residence is a retirement facility and who meets the requirements of a qualifying owner under G.S. 105-277.1(a).

~~(4) Resident revenue. – Annual revenue paid by a resident for goods and services and one year's share of the initial resident fee amortized in accordance with generally accepted accounting principles.~~

(5) Retirement facility. – A community that meets all of the following conditions:

a. It is licensed under Article 64 of Chapter 58 of the General Statutes.

b. It is designed for elderly residents.

c. It includes independent living units for elderly residents.

d. It includes a skilled nursing facility or an adult care facility.

~~(6) Unreimbursed costs. – The costs a facility incurs for providing charity care or community benefits after subtracting payment or reimbursement received from any source for the care or benefits. Unreimbursed costs include costs paid from funds generated by a program described in subdivision (c)(5) of this section.~~

~~(c) Total Exclusion. – A retirement facility qualifies for total exclusion under this section if it meets all of the following conditions:~~

~~(1) It is exempt from tax under Article 4 of this Chapter and private shareholders do not benefit from its operations.~~

~~(2) All of its revenues, less operating and capital expenses, are applied to providing uncompensated goods and services to the elderly and to the~~

~~local community, or are applied to an endowment or a reserve for these purposes.~~

~~(3) Its charter provides that in the event of dissolution, its assets will revert or be conveyed to an entity that is organized exclusively for charitable, educational, scientific, or religious purposes, and is an exempt organization under section 501(c)(3) of the Code.~~

~~(4) Repealed by Session Laws 2001-17, s. 1.~~

~~(5) It has an active program to generate funds through one or more sources, such as gifts, grants, trusts, bequests, endowment, or an annual giving program, to assist the retirement facility in serving persons who might not be able to reside there without financial assistance or subsidy.~~

~~(6) It meets at least one of the following conditions:~~

~~a. The facility serves all residents without regard to the residents' ability to pay.~~

~~b. At least five percent (5%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both.~~

~~(d) Partial Exclusion. A retirement facility qualifies for a partial exclusion under this subsection if it meets conditions under subdivisions (c)(1) through (c)(5) of this section and at least one percent (1%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both. The percentage of the retirement facility's assessed value that is excluded from taxation is the applicable percentage provided in the following table, based on the minimum percentage of the facility's resident revenue that it provides in charity care to its residents, in community benefits, or in both:~~

~~Partial Exclusion~~	~~Minimum Percentage of Resident Revenue~~
~~80%~~	~~4%~~
~~60%~~	~~3%~~
~~40%~~	~~2%~~
~~20%~~	~~1%~~

Exclusion. – A retirement facility qualifies for an exclusion under this section if it provides housing to qualifying residents. The exclusion amount is equal to the percentage of residents who are qualifying residents multiplied by fifty percent (50%) of the appraised value of the qualified retirement facility.

(e) Application for Exclusion. – The application requirements of G.S. 105-282.1 apply to this section."

SECTION 4. G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than

electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes.

(2) Educational institutions not operated for profit.

(3) Churches, orphanages, and other charitable or religious institutions and organizations not operated for profit.

(4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A. The refund due shall be equal to the sales and use taxes subject to a refund under this subdivision multiplied by the percentage of residents who are qualifying residents.

Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity.

A hospital that is not allowed a refund under this subsection of sales and use taxes paid on its direct purchases of tangible personal property is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work.

The refunds allowed under this subsection for certain nonprofit entities and for medicines and drugs purchased by hospitals do not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c).

A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15."

SECTION 5. Sections 1, 2, and 3 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Section 4 of this act becomes effective July 1, 2008, and applies to sales made on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1203

Short Title:	Present-Use Value Changes.	(Public)
Sponsors:	Senators Nesbitt, Goss, Queen, Snow, Boseman, Clodfelter; Atwater, Bingham, Graham, Hartsell, Kinnaird, Stevens, and Tillman.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR QUALIFYING WILDLIFE CONSERVATION LAND, TO REDUCE THE ACREAGE REQUIREMENT FOR AGRICULTURAL LAND, AND TO CLARIFY THE PRESENT-USE VALUATION OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.3(a)(1) reads as rewritten:

"(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which consists of at least ~~10~~ five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars ($1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals."

SECTION 2. Article 12 of Subchapter II of Chapter 105 of the General States is amended by adding the following new section to read:

"**§ 105-277.14. Taxation of land used for wildlife conservation.**

(a) Classification. – Land qualifying as wildlife conservation land is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section.

(b) Contents of Application. – Property is eligible for classification under this section if a timely and proper application is filed with the assessor of the county in

which the property is located. The application must show that the property meets the following requirements and must also contain any other relevant information required by the assessor to properly appraise the property:

(1) The land is managed and maintained under a written sound management plan that has been certified by the North Carolina Wildlife Commission.

(2) The land contains priority wildlife habitats identified in the North Carolina Wildlife Action Plan, supports State or federally listed threatened or endangered wildlife species, or is operated under a State or federal natural resources management plan for which wildlife habitat is its primary objective.

(3) The land consists of at least 10 acres.

(4) The land is owned by a natural person or by a family business entity.

(c) Timely Application Required. – An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed or within 30 days of the date shown on a notice of change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred or becomes ineligible for use-value appraisal because of a change in use or acreage. An application required due to transfer of the land may be submitted at any time during the calendar year but must be submitted within 60 days of the date of the property's transfer. Notwithstanding this subsection, a late application may be approved by the board of equalization and review upon a showing of good cause. If the board of equalization and review is not in session, then the board of county commissioners may approve the late application. An untimely application approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed. Decisions of the county board may be appealed to the Property Tax Commission.

(d) Appeal. – Decisions of the assessor regarding the qualifications or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. An appeal must be made within 60 days after the decision of the assessor. If the owner submits additional information to the assessor under G.S. 105-296(j), the appeal must be made within 60 days after the assessor's decision based on the additional information. Decisions of the county board may be appealed to the Property Tax Commission.

(e) Appraisal at Present-Use Value. – Upon receipt of a properly executed application, the assessor must appraise the property at its present-use value. If the majority of the property is woodland, then the property will be appraised as if it were classified as forestland under G.S. 105-277.3. If the majority of the property is open land, then the property will be appraised as if it were classified as agricultural land under G.S. 105-277.3.

(f) Deferred Taxes. – Land meeting the conditions for classification under this section must be taxed on the basis of the value of the land for its present use as defined in subsection (e) of this section. The difference between the taxes due on the present-use basis and the taxes that would have been payable in the absence of this classification,

together with any interest, penalties, or costs that may accrue thereon, is a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes must be carried forward in the records of the taxing unit or units as deferred taxes. Other than a change in the use of the land that qualifies the land for present-use value as forestland, the taxes become due and payable when the land fails to meet any condition or requirement for classification under this section. Failure to have an application approved is ground for disqualification. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the land had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the qualifying tract of land fails to meet a condition or requirement for classification, the assessor must determine the amount of deferred taxes applicable to that part and that amount becomes payable with interest as provided above. Upon the payment of any taxes deferred under this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished. The deferred taxes for any given year may be paid in that year without the qualifying tract of land becoming ineligible for deferred status.

(g) Exceptions. – Notwithstanding the provisions in subsection (f) of this section, if property loses its eligibility for present-use value classification solely due to one of the following reasons, no deferred taxes are due, and the lien for the deferred taxes is extinguished:

(1) The property is conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base under G.S. 105-275(12) or G.S. 105-275(29).

(2) The property is conveyed by gift to the State, a political subdivision of the State, or the United States.

(h) Definitions. – The following definitions apply in this section:

(1) Family business entity. – A corporation, a general partnership, or a limited liability company whose members are all natural persons. Each member must either be a relative of another member or a relative of and have inherited the membership from a decedent who was a member of the entity.

(2) Member. – A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.

(3) Relative. – Defined in G.S. 105-277.2(5a).

SECTION 3. G.S. 105-277.3(d1) reads as rewritten:

"(d1) Exception for Easements on Qualified Conservation Lands Previously Appraised at Use Value. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual

production or income requirements of this ~~section.~~section; and (ii) the taxpayer received no more than fifty percent (50%) of the fair market value of the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to an enforceable conservation easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

SENATE BILL 1203:
Present-Use Value Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 30, 2007
Introduced by:	Sen. Nesbitt	**Summary by:**	Martha Walston
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1203 would make three changes to the present-use value property tax laws:

- ***It would reduce the acreage requirement for agricultural land appraised and taxed at its present-use value from 10 acres to five acres.***
- ***It would designate real property that is managed and maintained primarily to protect wildlife habitats as a special class of property for property tax purposes. The property must consist of at least 10 acres, be owned by a natural person or a family business, and be under a sound management plan certified by the N.C. Wildlife Commission. The property would be appraised at its present-use value as if it were agricultural land if the majority of the property is open space land. The property would be appraised at its present-use value as if it were forestland if the majority of the property is woodland. If the property lost its classification, the taxpayer would be required to pay 3 years of deferred taxes.***
- ***It would clarify that property appraised at present-use value would continue to qualify for use value appraisal as long as the property was subject to a conservation easement that qualifies for the conservation income tax credit for donated lands and the taxpayer received no more than 50% of the fair market value of the donated property interest as compensation, even if the property no longer meets the production or income requirements for qualified farmland.***

CURRENT LAW: Agricultural land, horticultural land, and forestland that meet certain size, commercial production, and ownership requirements may qualify as a special class of property subject to taxation at its present-use value rather than its fair market value. The difference between the taxes due on the present-use value and the taxes that would have been payable based on market value, together with any interest, penalties, or costs, are a lien on the property. The difference in the taxes is carried forward in the records of the taxing unit as deferred taxes. The deferred taxes for the preceding three years become payable whenever the property loses its present-use value eligibility.

BILL ANALYSIS: Wildlife conservation classification

Senate Bill 1203 would designate wildlife conservation land as a special class of property for property tax purposes. To qualify for the wildlife conservation classification, the taxpayer must apply to the tax assessor and show the following:

- The land is managed and maintained under a written sound management plan that has been certified by the North Carolina Wildlife Commission.
- The land contains priority wildlife habitats identified in the North Carolina Wildlife Action Plan[1], supports State or federally listed threatened or endangered wildlife species[2], or is operated

[1] The North Carolina Wildlife Action Plan, developed in compliance with a Congressional mandate, was submitted in 2005 to provide a conservation blueprint to advance the sound management of fish and wildlife resources into the future. The Plan identifies fish and wildlife resources and priority conservation needs associated with those resources. There are currently eight identified priority wildlife habitats in the State.

[2] There are currently 41 federally-listed threatened or endangered animal species and 67 State-listed animal species.

under a State or federal natural resources management plan for which wildlife habitat is its primary objective.[3]

- The land must consist of at least 10 acres.

If the majority of the land meeting the above classification is woodland, then it will be appraised at its present-use value as if it were forestland. If the majority of the land is open land, then it will be appraised at its present-use value as if it were agricultural land. If the land fails to meet the wildlife conservation classification, then deferred taxes for the preceding three years become payable.

Present-use value treatment of land subject to conservation easement

Senate Bill 1203 would also allow present-use valued property that becomes subject to a conservation easement that qualifies for the conservation income tax credit for donated lands, to remain in present-use value as long as the taxpayer received no more than 50% of the fair market value of the donated property interest in compensation.

North Carolina provides an income tax credit to individual and corporate taxpayers who donate an interest in real property for conservation purposes to the State, a local government, or a body that is organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions. The property interest must be donated in perpetuity and be useful for public beach access or use, public access to public waters or trails, fish or wildlife conservation, or other similar conservation purposes. For individual taxpayers, the credit is equal to 25% of the fair market value of the donated property interest and cannot exceed $250,000. For corporate taxpayers, the credit is equal to 25% of the fair market value of the donated property interest and cannot exceed $500,000.[4]

In section 2 of S.L. 2002-184, the General Assembly created an exception to the present-use value statutes for land appraised at its present-use value that becomes subject to a conservation easement that would qualify for the conservation income tax credit. This exception allows the land subject to the easement to remain in present-use value for property tax purposes, even though the land no longer meets the production and income requirements of present-use value. The Property Tax Division within the Department of Revenue has given this exception a narrow interpretation, thus allowing the property to stay in present-use value only when the entire conservation easement is donated. In contrast, the Income Tax Division within the Department has allowed an income tax credit for any percentage of the easement value that is donated. For example, if a taxpayer donates an easement for conservation purposes to the State valued at $100,000 and receives $60,000 for the easement, the taxpayer has donated an easement worth $40,000. The taxpayer is then allowed an income tax credit equal to 25% of the donated value, or $10,000. However, because the taxpayer received some compensation for the easement, the Property Tax Division denies the property present-use value status and requires the taxpayer to pay deferred taxes.

EXPLANATION OF PROPERTY ASSESSED AND TAXED AT PRESENT-USE VALUE:

Since 1973, the General Assembly has provided that farmland (agricultural land, horticultural land, and forestland) must be appraised, assessed, and taxed at its present-use value, as opposed to its market value. The present-use value classification has helped preserve farmland by insulating it from the rising

[3] This category includes the following state or federal natural resource management plans: Forest Stewardship, CURE, Wildlife Habitat Incentives Program, and EQUIP.

[4] HB 463 and SB 241 would equalize the cap for the tax credit for corporations and pass-through entities at $500,000. The bills would also delete the phrase "other similar land conservation purposes" and substitute the following six new conservation purposes: forestland or farmland conservation, watershed protection, conservation or natural areas, conservation of natural or scenic river areas, conservation of predominantly natural parkland, or historic landscape conservation.

property tax values caused by competing market pressure to develop farmland for commercial and residential purposes. To determine the present-use value of farmland, tax assessors generally use a manual that explains legislative changes in the present-use value statutes, shows the rates to be used in determining present-use value, and explains the methodology the counties can use.[5] The Use-Value Manual sets out estimated net income for agricultural land and horticultural land using estimated cash rental rates for various classes of soil or for geographic areas. The net income is then divided by a capitalization rate between 6% and 7% to determine the present-use value. The recommended net income ranges for forestland are based on geographic areas, and the capitalization rate for forestland is set at 9%. The value per acre for the best agricultural land may not exceed $1,200. The Department of Revenue is given the responsibility of conducting studies of cash rents for agricultural land on a regional basis and providing this information to the Use-Value Advisory Board.

Classifications of use value land

The following types of land are appraised, assessed, and taxed at its present-use value, as opposed to fair market value if they meet certain ownership requirements:

- Agricultural land must be actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program and consist of at least one tract with a minimum of 10 acres in actual production. For the preceding three years, the land must have produced an average gross income of at least $1,000.
- Horticultural land must be actively engaged in the commercial production of growing fruits or vegetables or nursery or floral products under a sound management program and consist of at least one tract with a minimum of five acres in actual production. For the preceding three years, the land must have produced an average gross income of at least $1,000.
- Forestland must be actively engaged in the commercial growing of trees under a sound management program and consist of at least one tract with a minimum of 20 acres in actual production. There is no specific income requirement.

Ownership requirements

To qualify for use value the property must be owned by one of the following:

- A natural person who (1) lives on the land, (2) has owned the land in their family for at least four years, or (3) was a member or beneficiary of a business entity or trust and received the land from the business entity or trust that qualified for classification at use value in the hands of the entity or trust when it was transferred to the person.
- An eligible business entity or trust that owned the land itself or by one or more of its members or creators for the last four years.

Exceptions to the four-year ownership requirement

- Land may qualify for use value when purchased by a new owner if the land is eligible at the time of transfer for use value classification of the same basis as other use value property owned by the new owner.
- Land may qualify for use value if at the time of transfer to a new owner the land was in the use value program and the new owner accepts liability for the deferred taxes.[6]

S1203e1-SMLA

[5] The Use Value Manual is an advisory manual prepared and distributed annually to each tax assessor by the Department of Revenue. The Use-Value Advisory Board submits a recommended manual each year to the Department. The Use-Value Board is under the supervision of the Agricultural Extension Service at NCSU and consists of nine members.

[6] The four-year ownership requirement continues to apply to land that was eligible for, but not in, the use value program at the time of transfer if the purchaser has no other use value land.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 1305
PROPOSED COMMITTEE SUBSTITUTE S1305-CSMC-19 [v.1]

5/1/2007 4:40:51 PM

Short Title: Present-Use Value Easement Tax Benefit. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE PROPERTY TAX OF AGRICULTURAL LAND, HORTICULTURAL LAND, AND FORESTLAND WHERE A PERPETUAL EASEMENT CONTINUING THE PRESENT USE IS PLACED ON THE LAND.

Whereas, there is a projected substantial increase of property values in the State of North Carolina, and this increase further increases pressure on values for family-owned farms, open land, and woodland; and

Whereas, there is an increasing need to preserve these lands which benefit the public at large; and

Whereas, there is need for statewide legislation to allow families owning properties of this nature to have the ability to pass these properties on for posterity so that families are better enabled to proudly pass their heritage on to future generations whole and intact; and

Whereas, it is recognized that several programs dedicated to this purpose already exist, to wit: conservation easements, land trusts, and government ownership; however, this proposed legislation would enable a single family to permanently designate the use of their property by statute, and by so recording that designation on the public registry, this legislation would enable those individual owners to control their own rights and to proudly pass their property on to future generations in whole and without fear of future commercial development; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.4A. Agricultural, horticultural, and forestland – Reduced taxation.**

(a) Property coming within one of the classes defined in G.S. 105-277.3 and taxed at present-use value under G.S. 105-277.4 is taxable at fifty percent (50%) of the general tax rate levied on the property by the taxing unit in which the property is situated if the following conditions are met:

(1) The owner donates an easement on the property requiring the property to continue to be used in a manner consistent with its current use.

(2) The easement is made in perpetuity."

SECTION 2. This act is effective for taxable years beginning on or after July 1, 2008.

SENATE BILL 1305:
Present-Use Value Easement Tax Credit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 29, 2007
Introduced by:	Sen. Queen	**Summary by:**	Martha Walston
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1305 would reduce the property tax rate of agricultural land, horticultural land, or forestland that is taxed at present-use value by 50% if the property meets the following conditions:

- ***The owner donates an easement on the property requiring the property to continue to be used in a manner consistent with its current use.***
- ***The easement is made in perpetuity.***

CURRENT LAW: Agricultural land, horticultural land, and forestland (hereinafter farmland) that meet certain size, commercial production, and ownership requirements may qualify as a special class of property subject to taxation at its present-use value rather than its fair market value. The difference between the taxes due on the present-use value and the taxes that would have been payable based on market value, together with any interest, penalties, or costs, are a lien on the property. The difference in the taxes is carried forward in the records of the taxing unit as deferred taxes. The deferred taxes for the preceding three years become payable whenever the property loses its present-use value eligibility.

BILL ANALYSIS: Senate Bill 1305 would reduce the property tax rate by 50% of present-use value farmland if the owner donates an easement on the property requiring the property to continue to be used in a manner consistent with its current use. The easement must be donated in perpetuity.

The purpose of Senate Bill 1305 is to give owners of farmland and their future generations a property tax break if the land is restricted to its current present use forever.

EFFECTIVE DATE: Taxable years beginning on or after July 1, 2008.

S1305e1-SMLA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1305

Short Title: Present-Use Value Easement Tax Credit. (Public)

Sponsors: Senator Queen.

Referred to: Finance.

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE PROPERTY TAX OF AGRICULTURAL LAND, HORTICULTURAL LAND, AND FORESTLAND WHERE A PERPETUAL EASEMENT CONTINUING THE PRESENT USE IS PLACED ON THE LAND.

Whereas, there is a projected substantial increase of property values in the State of North Carolina, and this increase further increases pressure on values for family-owned farms, open land, and woodland; and

Whereas, there is an increasing need to preserve these lands which benefit the public at large; and

Whereas, there is need for statewide legislation to allow families owning properties of this nature to have the ability to pass these properties on for posterity so that families are better enabled to proudly pass their heritage on to future generations whole and intact; and

Whereas, it is recognized that several programs dedicated to this purpose already exist, to wit: conservation easements, land trusts, and government ownership; however, this proposed legislation would enable a single family to permanently designate the use of their property by statute, and by so recording that designation on the public registry, this legislation would enable those individual owners to control their own rights and to proudly pass their property on to future generations in whole and without fear of future commercial development; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.4A. Agricultural, horticultural, and forestland – Reduced taxation.**

(a) Property coming within one of the classes defined in G.S. 105-277.3 and taxed at present-use value under G.S. 105-277.4 is taxable at fifty percent (50%) of the general tax rate levied on the property by the taxing unit in which the property is situated if the following conditions are met:

(1) The owner donates an easement on the property requiring the property to continue to be used in a manner consistent with its current use.

(2) The easement is made in perpetuity."

SECTION 2. This act is effective for taxable years beginning on or after July 1, 2008.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 2, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: Senate Bill 1305 (First Edition)

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES: Local Governments	*See Assumptions and Methodology*				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, Local Governments

EFFECTIVE DATE: Taxable years beginning on or after July 1, 2008.

BILL SUMMARY:
Senate Bill 1305 would reduce the property tax rate of agricultural land, horticultural land, or forestland that is taxed at present-use value by 50% if the owner donates a perpetual easement on the property requiring it to continue to be used in a manner consistent with its current use.

ASSUMPTIONS AND METHODOLOGY:
The 2005 tax value of all land in the present use value program is over $10 billion. The report from which this information is taken did not include information from 13 counties, so the actual amount is higher. Assuming the value is approximately $10 billion, then the tax value of the property is approximately $65 million. Thus, if all landowners donated perpetual easements, the fiscal impact of the SB 1305 would be approximately $32.5 million.

The Department of Revenue and the NC Association of Tax Collectors do not have data available that would indicate how many landowners would donate perpetual easements, however the actual number of landowners participating would be limited, particularly in high-growth counties, where the potential for development would deter many landowners from considering perpetual easements.

SOURCES OF DATA: NC Department of Revenue, NC Tax Collectors Association

TECHNICAL CONSIDERATIONS: None

North Carolina's State and Federally Listed Wildlife Species

Last updated June 2004

The species listed in this document have been granted protection by the United States Fish and Wildlife Service, under the Federal Endangered Species Act (16 U.S.C. 1531 to 1543) and/or the North Carolina Wildlife Resources Commission, under the State Endangered Species Act (G.S. 113-331 to 113-337). This list was updated as of February 2004.

Legend

E - Endangered. Any native or once native species of wild animal whose continued existence as a viable component of the state's fauna is determined by the Wildlife Resources Commission to be in jeopardy or any wild animal determined to be an "endangered animal" pursuant to the Endangered Species Act.

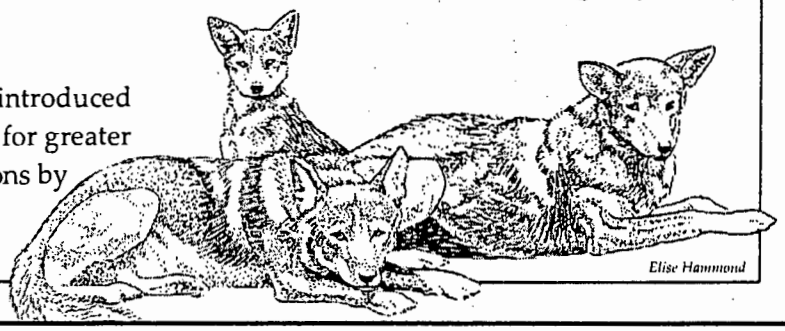
T - Threatened. Any native or once native species of wild animal that is likely to become an endangered species within the forseeable future throughout all, or significant, portions of its range, or one that is designated "threatened" pursuant to the Endangered Species Act.

T (S/A) - Threatened due to Similarity of Appearance. Designation of a species (subspecies or population segment) as federally listed, even though not otherwise federally listed, because it so closely resembles in appearance a federally listed species that enforcement personnel would have difficulty in differentiating between the listed and unlisted species.

SC - Special Concern. Any species of wild animal native or once native to North Carolina that is determined by the North Carolina Wildlife Resources Commission to require monitoring but that may be taken under regulations adopted under the provisions of Article 25.

FSC - Federal Species of Concern. A species of concern as designated by the U.S. Fish and Wildlife Service. Further research and field study are needed to determine the conservation status. Future listing may or may not be warranted.

XN - Experimental Population. Designation of introduced populations of federally listed species; it allows for greater flexibility in the management of these populations by local, state, and federal agencies.



Elise Hammond

	Common Name	Scientific Name	State Status	Federal Status
Amphibians				
	Carolina gopher frog	*Rana capito capito*	T	FSC
	Common mudpuppy	*Necturus maculosus*	SC	
	Crevice salamander	*Plethodon longicrus (=yonahlossee, pop)*	SC	
	Dwarf salamander [silver morph]	*Eurycea quadridigitata*	SC	
	Eastern hellbender	*Cryptobranchus alleganiensis*	SC	FSC
	Eastern tiger salamander	*Ambystoma tigrinum*	T	
	Four-toed salamander	*Hemidactylium scutatum*	SC	
	Green salamander	*Aneides aeneus*	E	FSC
	Junaluska salamander	*Eurycea junaluska*	T	FSC
	Longtail salamander	*Eurycea longicauda*	SC	
	Mole salamander	*Ambystoma talpoideum*	SC	
	Mountain chorus frog	*Pseudacris brachyphona*	SC	
	Neuse River waterdog	*Necturus lewisi*	SC	
	River frog	*Rana heckscheri*	SC	
	Southern zigzag salamander	*Plethodon ventralis*	SC	
	Wehrle's salamander	*Plethodon wehrlei*	T	
	Weller's salamander	*Plethodon welleri*	SC	
Birds				
	American peregrine falcon	*Falco peregrinus*	E	
	Bachman's sparrow	*Aimophila aestivalis*	SC	FSC
	Bachman's warbler	*Vermivora bachmanii*	E	E
	Bald eagle	*Haliaeetus leucocephalus*	T	T
	Bewick's wren	*Thryomanes bewickii altus*	E	FSC
	Black skimmer	*Rynchops niger*	SC	
	Black vulture	*Coragyps atratus*	SC	
	Black-capped chickadee	*Poecile atricapillus practicus*	SC	FSC
	Brown creeper	*Certhia americana*	SC	
	Common tern	*Sterna hirundo*	SC	
	Cooper's hawk	*Accipiter cooperii*	SC	
	Glossy ibis	*Plegadis falcinellus*	SC	
	Gull-billed tern	*Sterna nilotica*	T	
	Ivory-billed woodpecker	*Campephilus principalis*	E	E
	Kirtland's warbler	*Dendroica kirtlandii*	E	E
	Least tern	*Sterna antillarum*	SC	
	Little blue heron	*Egretta caerulea*	SC	
	Loggerhead shrike	*Lanius ludovicianus*	SC	
	Northern saw-whet owl	*Aegolius acadicus* (pop)	T	FSC
	Olive-sided flycatcher	*Contopus cooperi*	SC	FSC

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	Common Name	Scientific Name	State Status	Federal Status
Birds				
	Piping plover	*Charadrius melodus melodus*	T	T
	Red crossbill	*Loxia curvirostra* (pop)	SC	FSC
	Red-cockaded woodpecker	*Picoides borealis*	E	E
	Roseate tern	*Sterna dougallii*	E	E
	Snowy egret	*Egretta thula*	SC	
	Tricolored heron	*Egretta tricolor*	SC	
	Wood stork	*Mycteria americana*	E	E
	Yellow-bellied sapsucker	*Sphyrapicus varius appalachiensis*	SC	FSC
Crustaceans				
	Broad River spiny crayfish	*Cambarus spicatus*	SC	
	Chowanoke crayfish	*Orconectes virginiensis*	SC	FSC
	Greensboro burrowing crayfish	*Cambarus catagius*	SC	
	Hiwassee headwaters crayfish	*Cambarus parrishi*	SC	FSC
	Little Tennessee River crayfish	*Cambarus georgiae*	SC	
	North Carolina spiny crayfish	*Orconectes carolinensis*	SC	
	Oconee stream crayfish	*Cambarus chaugaensis*	SC	
	Waccamaw crayfish	*Procambarus braswelli*	SC	
Fishes				
	American brook lamprey	*Lampetra appendix*	T	
	Atlantic sturgeon	*Acipenser oxyrinchus*	SC	
	Banded sculpin	*Cottus carolinae*	T	
	Bigeye jumprock	*Scartomyzon ariommus*	T	
	Blotchside logperch	*Percina burtoni*	E	
	Bluefin killifish	*Lucania goodei*	SC	
	Blueside darter	*Etheostoma jessiae*	SC	
	Bridle shiner	*Notropis bifrenatus*	SC	
	Broadtail madtom	*Noturus* sp	SC	FSC
	Cape Fear shiner	*Notropis mekistocholas*	E	E
	Carolina darter	*Etheostoma collis*	SC	FSC
	Carolina madtom	*Noturus furiosus*	SC	FSC
	Carolina pygmy sunfish	*Elassoma boehlkei*	T	FSC
	Cutlips minnow	*Exoglossum maxillingua*	E	
	Dusky darter	*Percina sciera*	E	
	Freshwater drum	*Aplodinotus grunniens*	T	
	Highfin carpsucker	*Carpiodes velifer*	SC	
	Kanawha minnow	*Phenacobius teretulus*	SC	FSC
	Lake sturgeon	*Acipenser fulvescens*	SC	FSC

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Fishes *(continued)*				
	Least brook lamprey	*Lampetra aepyptera*	T	
	Least killifish	*Heterandria formosa*	SC	
	Logperch	*Percina caprodes*	T	
	Longhead darter	*Percina macrocephala*	SC	FSC
	Mooneye	*Hiodon tergisus*	SC	
	Mountain madtom	*Noturus eleutherus*	SC	
	Olive darter	*Percina squamata*	SC	FSC
	Orangefin madtom	*Noturus gilberti*	E	FSC
	Paddlefish	*Polyodon spathula*	E	FSC
	Pinewoods darter	*Etheostoma mariae*	SC	FSC
	River carpsucker	*Carpiodes carpio*	SC	
	Riverweed darter	*Etheostoma podostemone*	SC	
	Rosyface chub	*Hybopsis rubrifrons*	T	
	Rosyside dace [Little Tennessee River]	*Clinostomus funduloides* ssp	SC	FSC
	Rustyside sucker	*Thoburnia hamiltoni*	E	FSC
	Sandhills chub	*Semotilus lumbee*	SC	FSC
	Sharphead darter	*Etheostoma acuticeps*	T	
	Sharpnose darter	*Percina oxyrhynchus*	SC	
	Shortnose sturgeon	*Acipenser brevirostrum*	E	E
	Snubnose darter	*Etheostoma simoterum*	SC	
	Spotfin chub	*Cyprinella monacha*	T	T
	Stonecat	*Noturus flavus*	E	
	Striped shiner	*Luxilus chrysocephalus*	T	
	Thinlip chub	*Cyprinella* sp	SC	
	Turquoise darter	*Etheostoma inscriptum*	SC	
	Waccamaw darter	*Etheostoma perlongum*	T	FSC
	Waccamaw killifish	*Fundulus waccamensis*	SC	FSC
	Waccamaw silverside	*Menidia extensa*	T	T
	Wounded darter	*Etheostoma vulneratum*	SC	FSC
	Yellowfin shiner	*Notropis lutipinnis*	SC	
Mammals				
	Appalachian woodrat	*Neotoma magister*	SC	FSC
	Carolina northern flying squirrel	*Glaucomys sabrinus coloratus*	E	E
	Eastern cougar	*Puma concolor couguar*	E	E
	Eastern small-footed myotis (bat)	*Myotis leibii*	SC	FSC
	Eastern woodrat [Coastal plain]	*Neotoma floridana floridana*	T	
	Eastern woodrat [S. Appalachian]	*Neotoma floridana haematoreia*	SC	FSC
	Elk	*Cervus canadensis*	SC	

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Mammals				
(continued)	Fin whale	*Balaenoptera physalus*	- - -	E
	Gray myotis (bat)	*Myotis grisescens*	E	E
	Humpback whale	*Megaptera novaeangliae*	- - -	E
	Indiana myotis (bat)	*Myotis sodalis*	E	E
	Long-tailed shrew	*Sorex dispar*	SC	
	Manatee	*Trichechus manatus*	E	E
	Northern long-eared myotis (bat)	*Myotis septentrionalis*	SC	
	Pungo white-footed mouse	*Peromyscus leucopus easti*	SC	
	Rafinesque's big-eared bat	*Corynorhinus rafinesquii*	T	FSC
	Red wolf	*Canis rufus*	- - -	E/XN
	Right whale	*Eubalaena australis*	- - -	E
	Rock vole	*Microtus chrotorrhinus carolinensis*	SC	FSC
	Southeastern myotis (bat)	*Myotis austroriparius*	SC	FSC
	Southern water shrew	*Sorex palustris punctulatus*	SC	FSC
	Sperm whale	*Physeter macrocephalus*	- - -	E
	Star-nosed mole [Coastal plain]	*Condylura cristata* (pop)	SC	
	Virginia big-eared bat	*Corynorhinus townsendii virginianus*	E	E
Mollusks				
	Alewife floater	*Anodonta implicata*	T	
	Appalachian elktoe	*Alasmidonta raveneliana*	E	E
	Appalachian gloss	*Zonitoides patuloides*	SC	
	Atlantic pigtoe	*Fusconaia masoni*	E	FSC
	Barrel floater	*Anodonta couperiana*	E	
	Bidentate dome	*Ventridens coelaxis*	SC	
	Big-tooth covert	*Fumonelix jonesiana*	T	
	Black mantleslug	*Pallifera hemphilli*	SC	
	Blackwater ancylid	*Ferrissia hendersoni*	SC	
	Blue-footed lancetooth	*Haplotrema kendeighi*	SC	
	Brook floater	*Alasmidonta varicosa*	E	FSC
	Cape Fear spike	*Elliptio marsupiobesa*	SC	
	Cape Fear threetooth	*Triodopsis soelneri*	T	FSC
	Carolina creekshell	*Villosa vaughaniana*	E	FSC
	Carolina fatmucket	*Lampsilis radiata conspicua*	T	
	Carolina heelsplitter	*Lasmigona decorata*	E	E
	Clingman covert	*Fumonelix wheatleyi clingmanicus*	T	FSC
	Creeper	*Strophitus undulatus*	T	
	Dark glyph	*Glyphyalinia junaluskana*	SC	
	Dwarf proud globe	*Patera clarki*	SC	

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Mollusks (continued)				
	Dwarf threetooth	*Triodopsis fulciden*	SC	
	Dwarf wedgemussel	*Alasmidonta heterodon*	E	E
	Eastern lampmussel	*Lampsilis radiata radiata*	T	
	Eastern pondmussel	*Ligumia nasuta*	T	
	Engraved covert	*Fumonelix orestes*	T	
	Fragile glyph	*Glyphyalinia clingmani*	E	FSC
	Fringed coil	*Helicodiscus fimbriatus*	SC	
	Glossy supercoil	*Paravitrea placentula*	SC	
	Great Smoky slitmouth	*Stenotrema depilatum*	SC	
	Green floater	*Lasmigona subviridis*	E	FSC
	Greenfield rams-horn	*Helisoma eucosmium*	E	FSC
	High mountain supercoil	*Paravitrea andrewsae*	SC	
	Honey glyph	*Glyphyalinia vanattai*	SC	
	James spinymussel	*Pleurobema collina*	---	E
	Knotty elimia	*Elimia interrupta*	E	
	Lamellate supercoil	*Paravitrea lamellidens*	SC	
	Little-wing pearlymussel	*Pegias fabula*	E	E
	Magnificent rams-horn	*Planorbella magnifica*	E	FSC
	Mirey Ridge supercoil	*Paravitrea clappi*	SC	
	Mountain creekshell	*Villosa vanuxemensis*	T	
	Noonday globe	*Patera clarki nantahala*	T	T
	Notched rainbow	*Villosa constricta*	SC	
	Open supercoil	*Paravitrea umbilicaris*	SC	
	Pink glyph	*Glyphyalinia pentadelphia*	SC	
	Pod lance	*Elliptio folliculata*	SC	
	Purple wartyback	*Cyclonaias tuberculata*	E	
	Queen crater	*Appalachina chilhoweensis*	SC	
	Rainbow	*Villosa iris*	SC	
	Ramp Cove supercoil	*Paravitrea lacteodens*	SC	
	Roan supercoil	*Paravitrea varidens*	T	FSC
	Roanoke slabshell	*Elliptio roanokensis*	T	
	Savannah lilliput	*Toxolasma pullus*	E	FSC
	Saw-tooth disc	*Discus bryanti*	SC	
	Sculpted supercoil	*Paravitrea ternaria*	T	FSC
	Seep mudalia	*Leptoxis dilatata*	T	
	Slippershell mussel	*Alasmidonta viridis*	E	
	Smoky Mountain covert	*Inflectarius ferrissi*	T	
	Spike	*Elliptio dilatata*	SC	

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Mollusks (continued)				
	Spiral coil	*Helicodiscus bonamicus*	SC	
	Tar river spinymussel	*Elliptio steinstansana*	E	E
	Tennessee clubshell	*Pleurobema oviforme*	E	FSC
	Tennessee heelsplitter	*Lasmigona holstonia*	E	FSC
	Tennessee pigtoe	*Fusconaia barnesiana*	E	
	Tidewater mucket	*Leptodea ochracea*	T	
	Triangle floater	*Alasmidonta undulata*	T	
	Velvet covert	*Inflectarius subpalliatus*	SC	
	Waccamaw ambersnail	*Catinella waccamawensis*	T	
	Waccamaw snail	*Amnicola* sp	SC	
	Waccamaw fatmucket	*Lampsilis fullerkati*	T	FSC
	Waccamaw siltsnail	*Cincinnatia* sp	SC	
	Waccamaw spike	*Elliptio waccamawensis*	E	FSC
	Wavy-rayed lampmussel	*Lampsilis fasciola*	SC	
	Yellow lampmussel	*Lampsilis cariosa*	E	FSC
	Yellow lance	*Elliptio lanceolata*	E	FSC
Reptiles				
	American alligator	*Alligator mississippiensis*	T	T (S/A)
	Atlantic ridley turtle	*Lepidochelys kempii*	E	E
	Bog turtle	*Clemmys (=Glyptemys) muhlenbergii*	T	T (S/A)
	Carolina pigmy rattlesnake	*Sistrurus miliarius miliarius*	SC	
	Carolina water snake	*Nerodia sipedon williamengelsi*	SC	
	Diamondback terrapin	*Malaclemys terrapin*	SC	FSC
	Eastern coral snake	*Micrurus fulvius*	E	
	Eastern diamondback rattlesnake	*Crotalus adamanteus*	E	
	Eastern spiny softshell turtle	*Apalone spinifera spinifera*	SC	
	Green turtle	*Chelonia mydas*	T	T
	Hawksbill turtle	*Eretmochelys imbricata*	E	E
	Leatherback turtle	*Dermochelys coriacea*	E	E
	Loggerhead turtle	*Caretta caretta*	T	T
	Mimic glass lizard	*Ophisaurus mimicus*	SC	FSC
	Northern pine snake	*Pituophis melanoleucus melanoleucus*	SC	FSC
	Outer banks kingsnake	*Lampropeltis getula sticticeps*	SC	
	Smooth green snake	*Opheodrys (=Liochlorophis) vernalis*	SC	
	Southern hognose snake	*Heterodon simus*	SC	FSC
	Stripeneck musk turtle	*Sternotherus minor peltifer*	SC	
	Timber rattlesnake	*Crotalus horridus*	SC	

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	Common Name	Scientific Name	State Status	Federal Status
Others Listed	American burying beetle	*Nicrophorus americanus*	---	E
	Saint Francis' satyr (butterfly)	*Neonympha mitchellii francisci*	---	E
	Spruce-fir moss spider	*Microhexura montivaga*	---	E

Definitions:

pop - a unique geographic population within a broader ranging species.

sp - undescribed species that does not have a formal description or name assigned to it in scientific literature.

ssp - an undescribed subspecies that does not have a formal description or name assigned to it in scientific literature.

This publication is for informational purposes only. It represents the most current information available. In all cases, this information may or may not have been incorporated in the NCAC 10I .0100 Endangered and Threatened Species listings.

Legend

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XN - Experimental population	--- No State Status
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1203

What are the priority habitats identified in the North Carolina Wildlife Action Plan and what are examples of management practices that might be used to establish or maintain these habitats?

1.) **Early successional habitats** – are areas with little or no forest canopy where lots of sunlight reaches the ground. These habitats usually contain grasses, briars, vines, young trees, or other brushy or weedy plants. Early successional habitats provide food and cover for many wildlife species.

Some practices used to establish or maintain early successional habitats include: establishment of borders containing native plants around fields or along ditch banks, prescribed burning, timber thinning, mowing, discing, or herbicide spraying.

2.) **Longleaf pine forests** – once predominated the pine forests in the southeast and in North Carolina. Because most longleaf pine forests were cut and converted to other pine species or to other land uses, many of the wildlife species that occur in longleaf pine forests are rare, threatened, or endangered.

Some practices used to establish or maintain longleaf pine forests include: reforestation, prescribed burning, timber thinning, and hardwood control.

3.) **Floodplain forests** – occur along major rivers and streams and provide important wildlife habitats and other benefits such as improving water quality. In addition, floodplain forests often serve as corridors that connect other, usually larger, areas important to maintaining the diversity of our wildlife resources.

Some practices used to establish or maintain floodplain forest include: reforestation, selective timber harvest, and beaver control.

4.) **Beach and estuarine islands** – usually contains multiple habitats that may be small in size but provide an ecosystem that contains a wide diversity of wildlife. These islands provide many wildlife benefits ranging from those related to water quality to serving as nesting and rearing habitats for many species of coastal birds.

Subjected to the forces of winds and tides, beach and estuarine islands are in a constant state of change. Every island is different, but some practices that can be used in some situations to establish or maintain these islands include protection from development, protection from human disturbance, renourishment, or prescribed burning.

5.) **Maritime forests** – occur along our coasts in the areas immediately behind the dunes. Maritime forests are listed as a priority habitat in the Wildlife Action Plan because the distribution of these forests has decreased and the fragmentation has increased primarily due to human development.

Some practices used to establish or maintain maritime forests include reforestation, protection from development, and protection from human disturbance.

6.) **Small wetland communities** – occur throughout North Carolina and provide many benefits to wildlife and fish species, including many species of reptiles and amphibians, and air and water quality. These wetlands are ecosystems unto themselves and within the landscapes in which they occur significantly increase our wildlife and fish diversity.

Some practices that can be used to establish or maintain small wetland communities include: wetland restoration, water level management, runoff management, control of exotic and invasive plants and wildlife, and native plant management.

7.) **Mountain bogs** – are a unique habitat in western North Carolina that contains many wildlife species including the rare bog turtle. Many species of birds and mammals also use the bogs. Benefits, in additional to serving as wildlife habitat, include improved water quality.

In any particular location, bogs occur were there is a unique combination of topography, soil type, hydrology, and vegetation. Some practices that can be used to establish or maintain mountain bogs include: restoration, water control, runoff control, protection from drainage, protection from development, and vegetation control.

8.) **High elevation forests** – in western North Carolina are unique because of both the plant and animals species present. Because of the elevation and associated climates, many species, including several rare wildlife species, that typically occur further north, are found in our high elevation forests.

Some practices that can be used to establish or maintain high elevation forests include: reforestation, protection from development, exotic insect control or eradication, and selective timber harvest.

9.) **Rock outcrops** – are areas where many large rocks and boulders are exposed. These outcrops not only increase the plant diversity in the area but also provide habitat to many species of wildlife, especially reptiles and amphibians.

Most practices used to maintain rock outcrops relate to protection of the area from development and human disturbance.

10.) **Caves and mines** – are important wildlife habitats, especially for bats.

The attractiveness of the caves and mines in NC, especially for bats, is enhanced by controlling human access and disturbance, usually by constructing bat gates. Bat gates are erected over the entrance to the cave or mine. The gates allow bats to pass through the entrance, but prevent the passage of humans or large animals.

11.) **Streams and riparian zones** – that occur throughout our state collectively support more wildlife and fish species than any other of the priority habitats. The benefits of our streams and riparian zones to the conservation of our natural resources and to quality of our environment are incalculable.

Some of the practices used to establish and maintain our streams and riparian zones include: stream restoration, establishment of adequate streamside management zones, maintenance of appropriate canopy cover, protection from development, runoff management, vegetation control, and livestock exclusion.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1309
PROPOSED COMMITTEE SUBSTITUTE S1309-CSMC-16 [v.3]

5/1/2007 1:27:54 PM

Short Title: Property Tax Reform Act Of 2007. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO REFORM THE PROPERTY TAX LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. TIMING OF PROPERTY TAX REVALUATIONS.

SECTION 1.1. G.S. 105-286 reads as rewritten:

"**§ 105-286. Time for general reappraisal of real property.**

(a) ~~Octennial Plan. — Unless the date shall be advanced as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every eighth year thereafter, shall reappraise all real property in accordance with the provisions of G.S. 105-283 and 105-317.~~

~~(1) Schedule of Initial Reappraisals. —~~

~~Division One — 1972: Avery, Camden, Cherokee, Cleveland, Cumberland, Guilford, Harnett, Haywood, Lee, Montgomery, Northampton, and Robeson.~~

~~Division Two — 1973: Caldwell, Carteret, Columbus, Currituck, Davidson, Gaston, Greene, Hyde, Lenoir, Madison, Orange, Pamlico, Pitt, Richmond, Swain, Transylvania, and Washington.~~

~~Division Three — 1974: Ashe, Buncombe, Chowan, Franklin, Henderson, Hoke, Jones, Pasquotank, Rowan, and Stokes.~~

~~Division Four — 1975: Alleghany, Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New Hanover, Surry, Tyrrell, and Yadkin.~~

~~Division Five — 1976: Bertie, Caswell, Forsyth, Iredell, Jackson, Lincoln, Onslow, Person, Perquimans, Rutherford, Union, Vance, Wake, Wilson, and Yancey.~~

~~Division Six — 1977: Alamance, Durham, Edgecombe, Gates, Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.~~

~~Division Seven 1978: Alexander, Anson, Beaufort, Clay, Craven, Davie, Duplin, and Granville.~~

~~Division Eight 1979: Burke, Chatham, Graham, Hertford, Johnston, McDowell, Mecklenburg, Moore, Pender, Rockingham, Sampson, Scotland, Watauga, and Wayne.~~

~~(2) Advancing Scheduled Octennial Reappraisal. Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided herein, real property in that county shall thereafter be reappraised every eighth year following the advanced date unless, in accordance with the provisions of this subdivision (a)(2), an earlier date shall be adopted by resolution of the board of county commissioners, in which event a new schedule of octennial reappraisals shall thereby be established for that county.~~

Appraisal. – Each county of the State shall reappraise all real property in accordance with the provisions of G.S. 105-283 and G.S.105-317 in any year following a year in which the sales assessment ratio, as defined in G.S. 105-289(h) does not exceed .90.

~~(b) Fourth-Year Horizontal Adjustments. As of January 1 of the fourth year following a reappraisal of real property conducted under the provisions of subsection (a), above, each county shall review the appraised values of all real property and determine whether changes should be made to bring those values into line with then current true value. If it is determined that the appraised value of all real property or of defined types or categories of real property require such adjustment, the assessor shall revise the values accordingly by horizontal adjustments rather than by actual appraisal of individual properties: That is, by uniform application of percentages of increase or reduction to the appraised values of properties within defined types or categories or within defined geographic areas of the county.~~

(c) Value to Be Assigned Real Property When Not Subject to Appraisal. – In years in which real property within a county is not subject to reappraisal under ~~subsections (a) or (b),~~ subsection (a), above, or under G.S. 105-287, it shall be listed at the value assigned when last appraised under this section or under G.S. 105-287."

SECTION 1.2. G.S. 105-287 reads as rewritten:

"**§ 105-287. Changing appraised value of real property in years in which general reappraisal ~~or horizontal adjustment~~ is not made.**

(a) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property.

(1) Correct a clerical or mathematical error.

(2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal.

(2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.

(2b) Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.

(2c) Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.

(3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b).

(b) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor may not increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in value caused by:

(1) Normal, physical depreciation of improvements;

(2) Inflation, deflation, or other economic changes affecting the county in general; or

(3) Betterments to the property made by:

a. Repainting buildings or other structures;

b. Terracing or other methods of soil conservation;

c. Landscape gardening;

d. Protecting forests against fire; or

e. Impounding water on marshland for non-commercial purposes to preserve or enhance the natural habitat of wildlife.

(c) An increase or decrease in the appraised value of real property authorized by this section shall be made in accordance with the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal. An increase or decrease in appraised value made under this section is effective as of January 1 of the year in which it is made and is not retroactive. This section does not modify or restrict the provisions of G.S. 105-312 concerning the appraisal of discovered property.

(d) Notwithstanding subsection (a), if a tract of land has been subdivided into lots and more than five acres of the tract remain unsold by the owner of the tract, the assessor may appraise the unsold portion as land acreage rather than as lots. A tract is considered subdivided into lots when the lots are located on streets laid out and open for travel and the lots have been sold or offered for sale as lots since the last appraisal of the property."

PART II. ELIMINATE PROPERTY TAX EXEMPTIONS BASED ON BOND FINANCING.

SECTION 2. G.S. 131A-21 reads as rewritten:

"**§ 131A-21. Tax exemption.**

~~The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State and will promote their health and welfare. If bonds or notes are issued by the Commission to provide or improve a health care facility, then until the bonds or notes are retired, the facility for which bonds or notes are issued is exempt from property taxes to the extent provided in this section. If refunding bonds or notes are issued to refund bonds or notes issued to provide or improve a health care facility, the facility will continue to be exempt from property taxes as provided in this section until such time as the refunding bonds or notes are retired, provided that the final maturity of the refunding bonds or notes does not extend beyond the final maturity of the original bonds or notes.~~

~~Property may be exempt from property taxes as provided in this section if a timely application for the exemption is filed with the assessor of the county in which the property is located as required under G.S. 105-282.1. The property tax exemption under this section shall not exceed the lesser of the original principal amount of the bonds or notes or the assessed value for ad valorem tax purposes of the facility. If bonds or notes are issued to finance more than one health care facility, only that portion of the principal amount of the bonds or notes used to provide or improve the particular facility, including any allocable reserves and financing costs, may be considered for the purpose of determining the amount of the exemption allowable under this section. The exemption authorized by this section shall begin with the first full tax year of the taxpayer following the issuance of the bonds and notes. This section does not affect a health care facility's eligibility for a property tax exemption under Subchapter II of Chapter 105 of the General Statutes.~~

Any bonds or notes issued by the Commission under the provisions of this Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance, estate, or gift taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income."

PART III. SYSTEM OF APPRAISAL FOR CABLE COMPANIES BY THE DEPARTMENT OF REVENUE.

SECTION 3.1. G.S. 105-333 reads as rewritten:

"Article 23.

"Public Service Companies.

"**§ 105-333. Definitions.**

The following definitions apply in this Article unless the context requires a different meaning:

(1) Airline company. – A company engaged in the business of transporting passengers and property by aircraft for hire within, into, or from this State.

(2) Bus line company. – A company engaged in the business of transporting passengers and property by motor vehicle for hire over the

public highways of this State (but not including a bus line company operating primarily upon the public streets within a single local taxing unit), whether the transportation is within, into, or from this State.

(2a) Cable company. – A company engaged in the business of providing cable service as defined in G.S. 105-164.3, over a cable system, as defined in 47 U.S.C. § 522.

(3) Distributable system property. – All real property and personal property owned or used by a railroad company other than nondistributable system property.

(4) Electric membership corporation. – A company organized, reorganized, or domesticated under Chapter 117 of the General Statutes and engaged in the business of supplying electricity for light, heat, or power to consumers in this State.

(5) Electric power company. – A company engaged in the business of supplying electricity for light, heat, or power to consumers in this State.

(6) Repealed by Session Laws 1973, c. 783, s. 5.

(7) Flight equipment. – Aircraft fully equipped for flying and used in any operation within this State.

(8) Gas company. – A company engaged in the business of supplying artificial or natural gas to, from, within, or through this State through pipe or tubing for light, heat, or power to consumers in this State.

(9) Locally assigned rolling stock. – Rolling stock that is owned or leased by a motor freight carrier company, specifically assigned to a terminal or other premises, and regularly used at the premises to which assigned.

(10) Motor freight carrier company. – A company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State as provided in this subdivision:

a. As to interstate carrier companies domiciled in North Carolina, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier outside this State or two or more terminals inside this State. For purposes of appraisal and allocation only, the term also includes a North Carolina interstate carrier that does not have a terminal outside this State but whose operations outside the State are sufficient to require the payment of ad valorem taxes on a portion of the value of the rolling stock of the carrier to taxing units in one or more other states.

b. As to interstate carrier companies domiciled outside this State, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier inside this State.

c. As to intrastate carrier companies, this term includes only those carriers that are engaged in the transportation of property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State.

(11) Nondistributable system property. – The following properties owned by a railroad company: land other than right-of-way, depots, machine shops, warehouses, office buildings, other structures, and the contents of the structures listed in this subdivision.

(12) Nonsystem property. – The real and tangible personal property owned by a public service company but not used in its public service activities.

(13) Pipeline company. – A company engaged in the business of transporting natural gas, petroleum products, or other products through pipelines to, from, within, or through this State, or having control of pipelines for such a purpose.

(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a cable company, ~~a telegraph company,~~ a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, a radio common carrier company as defined in G.S. 62-119(3), a cable television company, or a radio or television broadcasting company.

(15) Railroad company. – A company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a passenger service on the lines of any railroad located wholly or partly in this State.

(16) Rolling stock. – Motor vehicles, railroad locomotives, and railroad cars that are propelled by mechanical or electrical power and used upon the highways or, in the case of railroad vehicles, upon tracks.

(17) System property. – The real property and personal property used by a public service company in its public service activities. The term also includes public service company property under construction on the day as of which property is assessed which when completed will be used by the owner in its public service activities.

~~(18) Telegraph company. – A company engaged in the business of transmitting telegraph messages to, from, within, or through the State.~~

(19) Telephone company. – A company engaged in the business of transmitting telephone messages and conversations to, from, within, or through this State.

(20) Repealed by Session Laws 1973, c. 783, s. 5.

(21) True value. – Defined in G.S. 105-283."

SECTION 3.2. G.S. 105-335 reads as rewritten:

"**§ 105-335. Appraisal of property of public service companies.**

(a) Duty to Appraise. – ~~In accordance with the provisions of subsection (b), below, the~~The Department of Revenue ~~shall~~ must appraise for taxation the true value of each public service company ~~(other than bus line, motor freight carrier, and airline companies) as a system (both inside and outside this State). Certain specified properties of bus line, motor freight carrier, and airline companies shall be appraised by the Department in accordance with the provisions of subsection (c), below, and all other properties of such companies shall be listed, appraised, and assessed in the manner prescribed by this Subchapter for the properties of taxpayers other than public service companies.~~in accordance with this section.

(b) Property of ~~Public Service Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, Telephone, and Cable Companies. –

(1) System Property. – Each year, as of January 1, the Department of Revenue ~~shall~~ must appraise at its true value ~~(as defined in G.S. 105-283)~~ the system property used by each public service company both inside and outside this State. Property leased by a public service company shall be included in appraising the value of its system property if necessary to ascertain the true value of the company's system property.

(2) Nonsystem Personal Property. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem tangible personal property subject to taxation in this State.

(3) Nonsystem Real Property. – In accordance with the county in which the public service company's nonsystem real property is located and the schedules set out in G.S. 105-286 and 105-287, the Department of Revenue shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem real property subject to taxation in this State.

(c) Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

(1) Bus Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned or leased by or operated under the control of each bus line company, which bus line company is domiciled in this State or which is regularly engaged in business in this State.

(2) Motor Freight Carrier Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned by a motor freight carrier

company or leased by a motor freight carrier company and operated by its employees which motor freight carrier company is domiciled in this State or is regularly engaged in business in this State at a terminal owned or leased by the carrier.

(3) Flight Equipment. – Each year, as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the flight equipment owned or leased by or operated under the control of each airline company that is domiciled in the State or that is regularly engaged in business at some airport in this State."

SECTION 3.3. G.S. 105-338 reads as rewritten:

"**§ 105-338. Allocation of appraised valuation of system property among local taxing units.**

(a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the Department of Revenue shall allocate the valuations of public service company property among the local taxing units in accordance with the provisions of this section.

(b) System Valuation of ~~Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, Railroad, Telephone, and Cable Companies. –

(1) System Property of Railroad Companies. – The appraised valuation of the distributable system property of a railroad shall be allocated for taxation to the local taxing units in accordance with the ratio of the miles of all the company's tracks in the local taxing unit to the total miles of all the company's tracks in this State, adjusted to reflect density of traffic in the local taxing unit.

(2) System Property of Telephone and Cable Companies. –

a. The Department of Revenue shall divide ~~each telephone company's~~the system property of each telephone company and cable company in this State into the following two classes and shall determine the original cost of that property and the percentage thereof represented by the property in each of the two classes.

– Class 1: Property located in this State that is identified under the applicable uniform system of accounts as central office equipment, ~~large P.B.X.~~personal communication service equipment, motor vehicles, tools and work equipment, office furniture and equipment, materials and supplies, and land and buildings (including towers and other structures).

– Class 2: Property located in this State that does not come within Class 1.

The Department of Revenue shall then apply the percentages obtained in accordance with this subdivision to the appraised valuation of the company's system property in this State and thereby derive the proportions of appraised valuation

to be allocated as Class 1 and Class 2 valuations to local taxing units in accordance with subdivision (b)(2)b, below.

b. Having made the division required by subdivision (b)(2)a, above, the Department of Revenue shall allocate the appraised valuation of the properties in each class among the local taxing units of the State as follows:

– Class 1: The appraised valuations of property in this class shall be allocated among the local taxing units in which such property of the company is situated on January 1 in the proportion that the original cost of such property in the taxing unit bears to the original cost of all such property in this State.

– Class 2: The appraised valuations of property in this class shall be allocated among the local taxing units in which the company operates in the proportion that the miles of the company's ~~single aerial wire and single wire in cable (including single tube in coaxial cable)~~transmission wires or cables in the taxing unit bears to the company's total of ~~such~~ wire or cable miles ~~of the company~~ in this State.

(3) System Property of ~~Other Companies Appraised by the Department of Revenue.~~Electric, Gas, and Pipeline Companies. –

a. The provisions of this subdivision (b)(3) shall govern the allocation of the property of ~~all companies appraised by the Department of Revenue except railroad, telephone, bus line, motor freight carrier, and airline companies.~~electric, gas, and pipeline companies.

b. The appraised valuation of the system property of such a company shall be allocated for taxation to the local taxing units in which the company operates in the proportion that the original cost of the taxable system property in the local taxing unit on January 1 bears to the original cost of all the taxable system property in this State. If in any local taxing unit the company owns system property acquired prior to January 1, 1972, for which the original cost cannot be definitely ascertained, a reasonable estimate of the original cost of that property shall be made by the company, and this estimate shall be used by the Department of Revenue for allocation purposes as if it were the actual original cost of the property.

(c) Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

(1) The appraised valuation of a bus line company's rolling stock shall be allocated for taxation to each local taxing unit according to the ratio of the company's scheduled miles during the calendar year preceding January 1 in each such unit to the company's total scheduled miles in this State for the same period. In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the

valuation for that taxing unit amounts to less than five hundred dollars ($500.00).

(2) The appraised valuation of the rolling stock (other than locally assigned rolling stock) owned or leased by a motor freight carrier company shall be allocated for taxation to each local taxing unit in which the company has a terminal according to the ratio of the tons of freight handled in the calendar year preceding January 1 at the company's terminals within the taxing unit to the total tons of freight handled by the company in this State in the same period. If a North Carolina interstate motor freight carrier company has no terminal outside this State, but has been required to pay ad valorem tax to one or more taxing units outside this State, there shall be allowed a reduction in the North Carolina valuation measured by the ratio of the rolling stock subject to ad valorem taxation outside the State to all of the carrier's rolling stock.

(3) The appraised valuation of an airline company's flight equipment shall be allocated for taxation to each local taxing unit in which an airport used by the company is situated according to the ratio obtained by averaging the following two ratios: the ratio of the company's ground hours in the taxing unit in the year preceding January 1 to the company's ground hours in the State in the same period, and the ratio of the company's gross revenue in the taxing unit in the year preceding January 1 to the company's gross revenue in the State in the same period."

PART IV. SPECIAL RESIDENTIAL APPRAISAL CRITERIA.

SECTION 4.1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-278.2A. Nonconforming residential property.**

(a) Class Defined. – Nonconforming residential property is hereby designated a special class of property under authority of Article V, Section 2(2) of the North Carolina Constitution and shall be taxed in accordance with this section.

(b) Application. – An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed, or within 30 days of the date shown on a notice of a change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred. An application required due to transfer of the land may be submitted at any time during the calendar year but must be submitted within 60 days of the date of the property's transfer.

(b) Nonconforming residential property is property that meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is used as a permanent residence.

(2) Is located in a subdivision that is zoned for a use other than single family residential use.

(3) Is located in a subdivision that has been rezoned more than five years ago from single family residential use to a use other than single family residential use.

(4) Is located in a subdivision that is predominantly characterized by single family residential use.

(c) Upon receipt of a properly executed application, the assessor must appraise the property at its present-use value as established in the schedule prepared pursuant to G.S. 105-317."

SECTION 4.2. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, ~~105-278.~~105-278, or 105-278.2A.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8."

PART V. MONTHLY PROPERTY TAX STATEMENTS.

SECTION 5.1. Mecklenburg County is directed to develop and implement a plan that provides property taxpayers in the county the ability to pay their property taxes in six to 12 periodic installments. This may be accomplished by incorporating a property tax payment on a bill that is currently issued by the county, such as a consolidated water and sewer service bill, an automatic bank draft program,, or another method. A plan meets the requirements of this section if it applies to at least seventy-five percent (75%) of the taxpayers. The county must report its plan to the Revenue Laws Study Committee by February 1, 2008.

SECTION 5.2. G.S. 105-320 reads as rewritten:

"**§ 105-320. Tax receipts; preparation.**

(a) No taxing unit shall adopt a tax receipt form until it has been approved by the Department of Revenue, and no tax receipt form shall be approved unless it shows at least the following information:

...

(6) The rate of tax levied for each unit-wide purpose, the total rate levied for all unit-wide purposes, and the rate levied by or for any special district or subdivision of the unit in which the taxpayer's property is subject to taxation. ~~(In lieu of showing this information on the tax receipt, it~~ (Other than separately stating the rate of tax for public school purposes and the total rate of tax for all other purposes on the receipt, the information required under this subdivision may be furnished on a separate sheet of paper, properly identified, at the time the official receipt is delivered upon payment).

..."

PART VI. PROPERTY TAX COLLECTION ON MOBILE HOMES.

SECTION 6.1. G.S. 105-316.1 reads as rewritten:

"**§ 105-316.1. Tax permit required to move or repossess mobile home.**

~~(a)~~ In order to protect the local taxing units of this State against the nonpayment of ad valorem taxes on mobile homes, ~~it is hereby declared to be unlawful for any~~ a person ~~other than a mobile home manufacturer or retailer to~~may not remove or cause to be removed any mobile home situated at a premises in this State without first obtaining a tax permit from the tax collector of the county in which the mobile home is situated. This section also applies to a person who takes possession of a mobile home, whether by judicial or nonjudicial authority, as a holder of a lien on the mobile home and who either moves the mobile home to another location or sells the mobile home on site. The tax permit shall be conspicuously displayed near the license tag on the rear of the mobile home at all times during its transportation. Permits required by G.S. 105-316.1 through 105-316.8 may be obtained at the office of the county tax collector during normal business hours.

~~(b) Except as provided in G.S. 105-316.4, manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the tax permits required by this section. Persons or firms transporting mobile homes shall, however, be responsible for seeing that a proper license tag, and when required under this section, a tax permit, are properly displayed thereon at all times during their transportation.~~This section does not apply to a mobile home manufacturer or retailer who moves a mobile home from its factory or sales lot to a premises owned or leased by the purchaser of the mobile home."

SECTION 6.2. G.S. 105-316.2 reads as rewritten:

"**§ 105-316.2. Requirements for obtaining permit.**

(a) ~~In order to obtain the permits herein provided, persons other than manufacturers and retailers of mobile homes shall be required to (i) pay all taxes due to be paid by the owner to the county or to any other taxing unit therein; or (ii) show proof the tax collector that no taxes are due to be paid; or (iii) demonstrate to the tax collector~~

~~that the removal of the mobile home will not jeopardize the collection of any taxes due or to become due to the county or to any taxing unit therein.~~

~~(b) In addition to complying with the provisions of subsection (a) above, owners of mobile homes required to obtain the permits herein provided~~Before moving a mobile home, the owner of a mobile home must apply for a permit as required by G.S. 105-316.1, and either pay all taxes due by the owner to the county and to any other taxing unit in the county or show proof to the tax collector that no taxes are due to be paid. The owner shall also furnish the following information to the tax collector:

(1) The name and address of the owner,

(2) The address or location of the premises from which the mobile home is to be moved,

(3) The address or location of the place to which the mobile home is to be moved, and

(4) The name and address of the carrier who is to transport the mobile home.

(b) Before taking possession of a mobile home, the holder of a lien on the mobile home must apply for a permit as required by G.S. 105-316.1 and either pay all taxes due on the mobile home or show proof to the tax collector that no taxes are due to be paid on the mobile home. The holder of the lien must also notify the tax collector of the location in North Carolina to which the mobile home is to be taken or if the mobile home will be sold on site."

SECTION 6.3. G.S. 105-316.3 reads as rewritten:

"**§ 105-316.3. Issuance of permits.**

(a) ~~Except as otherwise provided in G.S. 105-316.2 above, no~~No permit required by G.S. 105-316.1 through 105-316.8 shall be issued by the tax collector unless and until all taxes due to be paid by ~~the owner to the county or to any other taxing unit therein.~~either the owner or the repossessing agent, including any penalties or interest thereon, have been paid. Any taxes which have not yet been computed but which will become due during the current calendar year shall be determined as in the case of prepayments.

(b) Upon compliance with the provisions of G.S. 105-316.1 through 105-316.8, the tax collector shall issue, without charge, a permit authorizing the removal or repossession of the mobile home. ~~He~~ The tax collector shall also maintain a record of all permits issued.

(c) A permit issued under this section is valid for a period of 30 days; however, the 30-day period may not extend beyond December 31 of the calendar year in which the permit is issued."

SECTION 6.4. G.S. 105-316.4 is repealed.

SECTION 6.5. G.S. 105-316.5 reads as rewritten:

"**§ 105-316.5. Form of permit.**

The permit shall be in substantially the following form:

TAX PERMIT

County of _____ Permit Number _____
State of North Carolina Date of Issuance _____
Permission is hereby granted to: _____
(Name & address of ~~owner~~)owner or repossessing agent)

_____
(Name & address of carrier if mobile home is to be moved)

to remove and/or repossess the following described mobile home:

_____
(Make, model, size, serial number, etc.)

The mobile home is to be moved as follows:

From: _____
(Address)
To: _____
(Address)
This permit is issued in accordance with the provisions of G.S. 105-316.1 through G.S. 105-316.8 of the General Statutes of North Carolina.
(Signed) _____
Tax Collector
(or Deputy Tax Collector)
County of _____."

SECTION 6.6. Article 18 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-316.5A. Taxes levied on repossessed mobile homes.**

Any person holding a lien on a mobile home, who repossesses the mobile home, must pay the property taxes levied on the mobile home before a new title may be issued depicting change of ownership."

SECTION 6.7. G.S. 105-316.6 reads as rewritten:

"**§ 105-316.6. Penalties for violations.**

(a) Any person required by G.S. 105-316.1 through 105-316.8 to obtain a tax permit and to pay taxes who fails to do so or who fails to properly display ~~same~~ the permit shall be guilty of a Class 3 misdemeanor. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any ~~manufacturer or retailer of mobile homes~~person who aids or abets any ~~owner~~ person covered by G.S. 105-316.1 through 105-316.8 to defeat in any manner the purpose of G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the tax permit required by G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(d) Any law-enforcement officer of this State who apprehends any person violating the provisions of G.S. 105-316.1 through 105-316.8 shall detain such person and mobile home until satisfactory arrangements have been made to meet the requirements of G.S. 105-316.1 through 105-316.8."

SECTION 6.8. G.S. 105-355 reads as rewritten:

"**§ 105-355. Creation of tax lien; date as of which lien attaches.**

(a) Lien on Real Property. – Regardless of the time at which liability for a tax for a given fiscal year may arise or the exact amount thereof be determined, the lien for taxes levied on a parcel of real property shall attach to the parcel taxed on the date as of which property is to be listed under G.S. 105-285, and the lien for taxes levied on personal property shall attach to all real property of the taxpayer in the taxing unit on the same date. All penalties, interest, and costs allowed by law shall be added to the amount of the lien and shall be regarded as attaching at the same time as the lien for the principal amount of the taxes. For purposes of this subsection (a):

(1) Taxes levied on real property listed in the name of a life tenant under G.S. 105-302 (c)(8) shall be a lien on the fee as well as the life estate.

(2) Taxes levied on improvements on or separate rights in real property owned by one other than the owner of the land, whether or not listed separately from the land under G.S. 105-302 (c)(11), shall be a lien on both the improvements or rights and on the land.

(b) Lien on Mobile Home Listed as Personal Property. – The lien for taxes levied on a mobile home listed as personal property shall attach to the mobile home and to all real property of the taxpayer in the taxing unit on the date as of which property is to be listed under G.S. 105-285.

~~(b)~~(c) Lien on Personal Property. – Taxes levied on real and personal property (including penalties, interest, and costs allowed by law) shall be a lien on personal property from and after levy or attachment and garnishment of the personal property levied upon or attached."

SECTION 6.9. G.S. 105-366 is amended by adding a new subsection to read:

"**§ 105-366. Remedies against personal property.**

...

(e) Remedies Against Repossessing Agents of Mobile Homes. –

(1) Any person who takes possession of a mobile home whether by judicial or nonjudicial authority, as a holder of a lien on the mobile home, is liable for the property taxes due on the mobile home and must obtain a permit and pay the property taxes as required by G.S. 105-316.2. This subsection does not apply to a county or city.

(2) Any person found in violation of this subsection is subject to the penalties set out in G.S. 105-316.6. In addition, a person who fails to pay property taxes on the mobile home within 30 days of the date of notice of demand for payment from the tax collector shall be subject to the enforced collection remedies provided in G.S. 105-367 and G.S. 105-368."

SECTION 6.10. G.S. 143-143.15 is amended by adding a new subsection to read:

"(c) A licensed dealer or set-up contractor must present a tax permit required under G.S. 105-316.1 before a local jurisdiction may issue a permit for the setup or installation of a manufactured home. This subsection also applies to a homeowner who obtains a permit on behalf of a licensed dealer or set-up contractor. This subsection does not apply to the initial sale and setup or installation of a new manufactured home."

PART VII. EFFECTIVE DATES.

SECTION 7. Parts I, III, and IV of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Part II of this act is effective when it becomes law and applies to bonds issued on or after that date. Part VI of this act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of part VI of this act are not abated or affected by this act, and the statutes that would be applicable but for part VI of this act remain applicable to those prosecutions. Section 5.2 is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of this act is effective when it becomes law.

SENATE BILL 1309:
Property Tax Reform Act Of 2007

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 24, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Dan Ettefagh
Version:	First Edition		Martha Walston
			Committee Counsel

SUMMARY: Senate Bill 1309 would do the following:

- *Change the octennial property tax revaluation cycle to a system of revaluation triggered by the sales assessment ratio for a county not exceeding .90.*
- *Eliminate the property tax exemption for health care facilities receiving the exemption solely because of the issuance of bonds or notes by the North Carolina Medical Care Commission until such time as the bonds or notes are retired.*
- *Broaden the authority of the Department of Revenue to treat cable companies like telephone companies by providing for central appraisal of cable company property, make clarifying changes, and delete the reference to "telegraph company" since these companies are obsolete*
- *Require present-use valuation for residential property subdivisions that are nonconforming to the zoning use.*
- *Direct the development of a pilot program in Mecklenburg County that allows taxpayers to pay their property taxes in periodic installments.*
- *Require tax receipt forms to separately state the rate of tax for public school purposes and the total rate of tax for all other purposes on the receipt.*
- *Make changes to the statutes governing property tax collection on mobile homes.*

The PCS makes technical corrections necessary to preserve the existing tax exemption for bonds and notes issued by the North Carolina Medical Care Commission.

PART I. TIMING OF PROPERTY TAX REVALUATIONS.

Under current law, counties are required to reappraise real property at least every eight years in a staggered system. The law provides for horizontal adjustments every fourth year of the cycle, in which the counties review the appraised values of the real property and compare it to the current true value to determine whether an adjustment needs to be made to normalize the appraised value to the current true value. In practice, many counties have chosen to have a shorter reappraisal cycle of four or six years, and horizontal adjustments are infrequently utilized.

Part I of Senate Bill 1309 would eliminate the current octennial plan for general reappraisals of real property. Instead of a fixed schedule, the bill would establish a non-fixed system in which reappraisals occur in a county in any year following a year in which the ratio of the appraised value of real property to the true value of real property fell to 90% or less. This change would eliminate the need for horizontal adjustment provisions in the reappraisal system.

PART II. ELIMINATE PROPERTY TAX EXEMPTIONS BASED ON BOND FINANCING.

Under current law, any part of a health care facility financed by bonds or notes issued by the Medical Care Commission is exempt from property tax until the bonds or notes are retired. The amount of the exemption cannot exceed the lesser of the principal amount of the bonds or notes or the assessed value of the facility. When bonds or notes are used to finance an expansion or renovation of an existing facility, only the new part of the facility or the renovated part may be exempt from property tax.

Part 2 of the bill would eliminate the property tax exemption for a health care facility that is based solely on the fact that the health care facility was financed using bonds or notes issued by the North Carolina Medical Care Commission and continues until such time as those bonds or notes are retired. The bill would not affect any current property tax exemption received by a health care facility and would be prospective only. If a health care facility otherwise qualified for a separate property tax exemption, it would continue to receive that exemption so long as it qualified.

PART III. SYSTEM OF APPRAISAL FOR CABLE COMPANIES BY THE DEPARTMENT OF REVENUE.

Under current law, each year the North Carolina Department of Revenue must appraise, at its true value the system property[1] used by each public service company (other than bus line, motor freight carrier, and airline companies) both within and without the State. The Department must also appraise the rolling stock[2] of a bus line company or motor freight carrier company, and the flight equipment of an airline company each year. In determining the true value, the Department must consider (i) the market value of the company's capital stock and debt, (ii) the book value of the company's system property as reflected in the books of account kept under the regulations of the appropriate federal or State regulatory agency and what it would cost to replace or reproduce the system property, less a reasonable allowance for depreciation, (iii) gross receipts and operation income of the company, and (iv) any other factor or information that in the judgment of the Department has a bearing on the true value of the company's system property. If a public service company is operating both inside and outside the State, then the Department must apportion, for taxation in North Carolina, a fair and reasonable share of the value of the company using property, business, and mileage factors. The Department must allocate the valuations of public service company property among the local taxing units. Each local taxing unit then applies its tax rate to the apportioned valuation just as it does for any other type of property.

Part 3 of the bill would authorize the Department of Revenue to appraise cable companies as part of its duty to appraise system property used by public service companies. In practice most counties use only the cost approach in appraising cable companies, since they do not have the capability to consider other approaches such as the gross receipts and operation income of a company. The determination of the true value of the property of cable companies would be more accurately determined by transferring the duty to appraise from the counties to the Department. Also these companies would no longer need to list their property at the county level. It should also be noted that during the 2006 Session, the General Assembly replaced the authorization of counties and cities to award a franchise for cable service with a State franchising authority, effective January 1, 2007.

PART IV. SPECIAL RESIDENTIAL APPRAISAL CRITERIA.

Under current law, residential property is valued at its true value, regardless of whether the general characteristics of the subdivision in which the property is located conform to the zoning for the subdivision.

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[1] System property refers to the real and tangible personal property used by a public service company in its public service activities.

[2] Rolling stock refers to motor vehicles, railroad locomotives, and railroad cars.

Part 4 of the bill would designate nonconforming residential property as a special class of property to be taxed at its present use value instead of its true value. Nonconforming residential properties are those property located in a subdivision that, despite a zoning change to something other than single family residential use, remains primarily single family residential use in character. The qualifying characteristics of nonconforming residential property is that the property are (i) used as a permanent residence; (ii) located in a subdivision zoned for a use other than single family residential use; (iii) located in a subdivision that was formerly zoned for single family residential use but was rezoned away from that use more than five years ago; (iv) located in a subdivision that remains predominately characterized by single family residential use.

PART V. MONTHLY PROPERTY TAX STATEMENTS.

Under current law, property is to be listed and appraised as of January 1 of the current year. The rate of tax on the property is determined by the county in June of the current year. Tax bills are due and payable September 1 of the current year through January 5 of the following year without interest. Tax bills that have not been paid as of January 5 of the following year begin to accrue interest at 2% for the remainder of January and ¾% each month thereafter.

Under current law, a tax receipt form must provide, *inter alia*, the rate of tax levied for each unit-wide purpose, the total rate levied for all unit-wide purposes, and the rate levied by or for any special district or subdivision of the unit in which the taxpayer's property is subject to taxation. A taxing unit may, instead of providing this information on the tax receipt form, provide this information on a separate sheet of paper at the time an official receipt is delivered.

Part 5 of the bill would require Mecklenburg County to develop and implement a pilot program applicable to at least 75% of the taxpayers that would provide them with the information and ability to pay their property taxes in six to twelve periodic installments. Mecklenburg County is required to report its plan to the Revenue Laws Study Committee by February 1, 2008. In addition, part 5 of the bill requires that tax receipt forms list at least two items of information on the form itself: the rate of tax for public school purposes and the total rate of tax for all other purposes. Other items of information, as with the current practice, could be furnished on a separate but properly identified sheet of paper delivered at the time the official receipt is delivered upon payment or furnished on the tax receipt form itself.

PART VI. PROPERTY TAX COLLECTION ON MOBILE HOMES.

Under current law, it is unlawful for anyone, other than a mobile home manufacturer or retailer to move a mobile home from one location to another without first obtaining a county tax permit. A licensed carrier does not have to obtain a permit, but the carrier must ensure display of the permit when required. A mobile home is defined as a manufactured home under G.S. 105-273(13)[3] or a structure designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation and capable of being transported from placed to place on wheels attached to its frame. Trailers and vehicles required to be registered annually fall outside of the definition of mobile home.

In order to obtain a permit, the applicant must do one of the following: (i) pay all taxes due to be paid or coming due on September 1 by the owner to the city or county (the owner is the person owning the home on January 1), (ii) show proof to the tax collector that no taxes are due, or (iii) demonstrate to the

[3] Under G.S. 105-273(13), a manufactured home is real property when it is a residential structure; the moving hitch, wheels, and axles have been removed; the home is placed on a permanent foundation; and the home is either situated on land owned by the owner of the manufactured home or on land in which the owner of the home has a 20-year lease that provides for disposition of the home on termination of the lease.

tax collector that removal of the home will not jeopardize collection of taxes. The permit applicant must provide the name and address of the owner, the current location or address of the home, the location or address of the place to which the home is to be moved, and the name and address of the carrier. There is no charge for the permit. It is a class 3 misdemeanor for failure to obtain a permit.[4] Law enforcement officers must detain a person and mobile home until permit requirements are met.

The holder of a lien who intends to take possession of the mobile home may obtain a permit if the holder informs the tax collector of the place to which the home is to be moved and pays taxes due on the mobile home within 7 days of issuance of the permit. A repossessor, who is a nonresident, must pay at the time the permit is issued. Once the taxes on the mobile home are paid, the home is no longer subject to levy or attachment of any lien for other taxes owed by the owner.

If taxes are not paid on a mobile home, the tax collector may go against the taxpayer by garnishing wages, attaching bank accounts or monies due, using debt setoff, or levying on the home by taking possession and selling. The county must advertise the sale for at least 10 days and should store the home where it cannot be damaged, stolen, or destroyed. Expenses associated with the levy (tow expense, advertisement) are deducted from sale proceeds. If the taxpayer pays the taxes after the levy, but before the sale, the taxpayer must also pay all costs of the levy. The home must be sold to the highest bidder for cash, and the sale is final.

Part 6 of the bill would require repossessors to (i) obtain a permit before taking possession of the mobile home, (ii) inform the tax collector of where the home will be taken or if it will be sold on-site, and (iii) pay taxes levied on the home before issuance of a new title. It would also provide (iv) that the lien for taxes levied on the mobile home listed as personal property attaches to the home and to all real property of the taxpayer situated in the taxing unit and (v) for enforced collection remedies against repossessor (these include levy and sale of the mobile home and attachment and garnishment). Finally, this part would require that the tax permit be presented before the local government can issue a permit for setup or installation of the home, except if the setup is for an initial sale or the installation of a new home. The permit would be valid for a period of 30 days, and this 30-day period could not extend beyond December 31 of the calendar year in which the permit is issued.

EFFECTIVE DATE: Parts 1, 3, and 4 are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Part 2 is effective when it becomes law and applies to bonds issued on or after that date. Part 6 becomes effective December 1, 2007, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of part 6 are not abated or affected and the statutes that would be applicable but for part 6 remain applicable to those prosecutions. Section 5.2 regarding tax receipt forms is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of the act is effective when it becomes law.

BACKGROUND:

With respect to part 3 of the bill, counties have requested central appraisal of these companies, since many of the counties do not have the capability to determine the true value of the companies' property.

The North Carolina Association of County Commissioners and the North Carolina Tax Collectors Association requested the changes in part 6 of the bill in order to remedy the situation where repossessed mobile homes are being sold on site. Often the tax collectors are not aware of the sales until after they are completed and the former owner has disappeared. Once the mobile home is transferred to a new owner for value, the county's ability to collect taxes due by levy and sale of the mobile home expires.

[4] A class 3 misdemeanor carries a maximum punishment of 20 days and payment of a fine of not more than $200.

The following number of mobile home permits has been issued in Johnston County:

Number of permits	Year
421	2000
398	2002
225	2004
200	2006

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1309

Short Title:	Property Tax Reform Act Of 2007.	(Public)
Sponsors:	Senators Clodfelter, Goss, Queen, Snow, Boseman, Nesbitt; and Atwater.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO REFORM THE PROPERTY TAX LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. TIMING OF PROPERTY TAX REVALUATIONS.

SECTION 1.1. G.S. 105-286 reads as rewritten:

"**§ 105-286. Time for general reappraisal of real property.**

(a) ~~Octennial Plan. Unless the date shall be advanced as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every eighth year thereafter, shall reappraise all real property in accordance with the provisions of G.S. 105-283 and 105-317.~~

~~(1) Schedule of Initial Reappraisals.~~

~~Division One — 1972: Avery, Camden, Cherokee, Cleveland, Cumberland, Guilford, Harnett, Haywood, Lee, Montgomery, Northampton, and Robeson.~~

~~Division Two — 1973: Caldwell, Carteret, Columbus, Currituck, Davidson, Gaston, Greene, Hyde, Lenoir, Madison, Orange, Pamlico, Pitt, Richmond, Swain, Transylvania, and Washington.~~

~~Division Three — 1974: Ashe, Buncombe, Chowan, Franklin, Henderson, Hoke, Jones, Pasquotank, Rowan, and Stokes.~~

~~Division Four — 1975: Alleghany, Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New Hanover, Surry, Tyrrell, and Yadkin.~~

~~Division Five — 1976: Bertie, Caswell, Forsyth, Iredell, Jackson, Lincoln, Onslow, Person, Perquimans, Rutherford, Union, Vance, Wake, Wilson, and Yancey.~~

~~Division Six — 1977: Alamance, Durham, Edgecombe, Gates, Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.~~

~~Division Seven 1978: Alexander, Anson, Beaufort, Clay, Craven, Davie, Duplin, and Granville.~~

~~Division Eight 1979: Burke, Chatham, Graham, Hertford, Johnston, McDowell, Mecklenburg, Moore, Pender, Rockingham, Sampson, Scotland, Watauga, and Wayne.~~

~~(2) Advancing Scheduled Octennial Reappraisal. Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided herein, real property in that county shall thereafter be reappraised every eighth year following the advanced date unless, in accordance with the provisions of this subdivision (a)(2), an earlier date shall be adopted by resolution of the board of county commissioners, in which event a new schedule of octennial reappraisals shall thereby be established for that county.~~

Appraisal. – Each county of the State shall reappraise all real property in accordance with the provisions of G.S. 105-283 and G.S.105-317 in any year following a year in which the sales assessment ratio, as defined in G.S. 105-289(h) does not exceed .90.

~~(b) Fourth-Year Horizontal Adjustments. As of January 1 of the fourth year following a reappraisal of real property conducted under the provisions of subsection (a), above, each county shall review the appraised values of all real property and determine whether changes should be made to bring those values into line with then current true value. If it is determined that the appraised value of all real property or of defined types or categories of real property require such adjustment, the assessor shall revise the values accordingly by horizontal adjustments rather than by actual appraisal of individual properties. That is, by uniform application of percentages of increase or reduction to the appraised values of properties within defined types or categories or within defined geographic areas of the county.~~

(c) Value to Be Assigned Real Property When Not Subject to Appraisal. – In years in which real property within a county is not subject to reappraisal under ~~subsections (a) or (b),~~ subsection (a), above, or under G.S. 105-287, it shall be listed at the value assigned when last appraised under this section or under G.S. 105-287."

SECTION 1.2. G.S. 105-287 reads as rewritten:

"**§ 105-287. Changing appraised value of real property in years in which general reappraisal ~~or horizontal adjustment~~ is not made.**

(a) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property.

(1) Correct a clerical or mathematical error.

(2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal.

(2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.

(2b) Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.

(2c) Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.

(3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b).

(b) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor may not increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in value caused by:

(1) Normal, physical depreciation of improvements;

(2) Inflation, deflation, or other economic changes affecting the county in general; or

(3) Betterments to the property made by:

a. Repainting buildings or other structures;

b. Terracing or other methods of soil conservation;

c. Landscape gardening;

d. Protecting forests against fire; or

e. Impounding water on marshland for non-commercial purposes to preserve or enhance the natural habitat of wildlife.

(c) An increase or decrease in the appraised value of real property authorized by this section shall be made in accordance with the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal. An increase or decrease in appraised value made under this section is effective as of January 1 of the year in which it is made and is not retroactive. This section does not modify or restrict the provisions of G.S. 105-312 concerning the appraisal of discovered property.

(d) Notwithstanding subsection (a), if a tract of land has been subdivided into lots and more than five acres of the tract remain unsold by the owner of the tract, the assessor may appraise the unsold portion as land acreage rather than as lots. A tract is considered subdivided into lots when the lots are located on streets laid out and open for travel and the lots have been sold or offered for sale as lots since the last appraisal of the property."

PART II. ELIMINATE PROPERTY TAX EXEMPTIONS BASED ON BOND FINANCING.

SECTION 2. G.S. 131A-21 is repealed.

PART III. SYSTEM OF APPRAISAL FOR CABLE COMPANIES BY THE DEPARTMENT OF REVENUE.

SECTION 3.1. G.S. 105-333 reads as rewritten:

"Article 23.

"Public Service Companies.

"**§ 105-333. Definitions.**

The following definitions apply in this Article unless the context requires a different meaning:

(1) Airline company. – A company engaged in the business of transporting passengers and property by aircraft for hire within, into, or from this State.

(2) Bus line company. – A company engaged in the business of transporting passengers and property by motor vehicle for hire over the public highways of this State (but not including a bus line company operating primarily upon the public streets within a single local taxing unit), whether the transportation is within, into, or from this State.

(2a) Cable company. – A company engaged in the business of providing cable service as defined in G.S. 105-164.3, over a cable system, as defined in 47 U.S.C. § 522.

(3) Distributable system property. – All real property and personal property owned or used by a railroad company other than nondistributable system property.

(4) Electric membership corporation. – A company organized, reorganized, or domesticated under Chapter 117 of the General Statutes and engaged in the business of supplying electricity for light, heat, or power to consumers in this State.

(5) Electric power company. – A company engaged in the business of supplying electricity for light, heat, or power to consumers in this State.

(6) Repealed by Session Laws 1973, c. 783, s. 5.

(7) Flight equipment. – Aircraft fully equipped for flying and used in any operation within this State.

(8) Gas company. – A company engaged in the business of supplying artificial or natural gas to, from, within, or through this State through pipe or tubing for light, heat, or power to consumers in this State.

(9) Locally assigned rolling stock. – Rolling stock that is owned or leased by a motor freight carrier company, specifically assigned to a terminal or other premises, and regularly used at the premises to which assigned.

(10) Motor freight carrier company. – A company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State as provided in this subdivision:

a. As to interstate carrier companies domiciled in North Carolina, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier outside this State or two or more terminals inside this State. For purposes of appraisal and allocation only, the term also includes a North Carolina interstate carrier that does not have a terminal outside this State but whose operations outside the State are sufficient to require the payment of ad valorem taxes on a portion of the value of the rolling stock of the carrier to taxing units in one or more other states.

b. As to interstate carrier companies domiciled outside this State, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier inside this State.

c. As to intrastate carrier companies, this term includes only those carriers that are engaged in the transportation of property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State.

(11) Nondistributable system property. – The following properties owned by a railroad company: land other than right-of-way, depots, machine shops, warehouses, office buildings, other structures, and the contents of the structures listed in this subdivision.

(12) Nonsystem property. – The real and tangible personal property owned by a public service company but not used in its public service activities.

(13) Pipeline company. – A company engaged in the business of transporting natural gas, petroleum products, or other products through pipelines to, from, within, or through this State, or having control of pipelines for such a purpose.

(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a cable company, ~~a telegraph company,~~ a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, a radio common carrier company as defined in G.S. 62-119(3), a cable television company, or a radio or television broadcasting company.

(15) Railroad company. – A company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a

passenger service on the lines of any railroad located wholly or partly in this State.

(16) Rolling stock. – Motor vehicles, railroad locomotives, and railroad cars that are propelled by mechanical or electrical power and used upon the highways or, in the case of railroad vehicles, upon tracks.

(17) System property. – The real property and personal property used by a public service company in its public service activities. The term also includes public service company property under construction on the day as of which property is assessed which when completed will be used by the owner in its public service activities.

~~(18) Telegraph company. – A company engaged in the business of transmitting telegraph messages to, from, within, or through the State.~~

(19) Telephone company. – A company engaged in the business of transmitting telephone messages and conversations to, from, within, or through this State.

(20) Repealed by Session Laws 1973, c. 783, s. 5.

(21) True value. – Defined in G.S. 105-283."

SECTION 3.2. G.S. 105-335 reads as rewritten:

"**§ 105-335. Appraisal of property of public service companies.**

(a) Duty to Appraise. – ~~In accordance with the provisions of subsection (b), below, the~~The Department of Revenue ~~shall~~ must appraise for taxation the true value of each public service company ~~(other than bus line, motor freight carrier, and airline companies) as a system (both inside and outside this State). Certain specified properties of bus line, motor freight carrier, and airline companies shall be appraised by the Department in accordance with the provisions of subsection (c), below, and all other properties of such companies shall be listed, appraised, and assessed in the manner prescribed by this Subchapter for the properties of taxpayers other than public service companies.~~in accordance with this section.

(b) Property of ~~Public Service Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, Telephone, and Cable Companies. –

(1) System Property. – Each year, as of January 1, the Department of Revenue ~~shall~~ must appraise at its true value ~~(as defined in G.S. 105-283)~~ the system property used by each public service company both inside and outside this State. Property leased by a public service company shall be included in appraising the value of its system property if necessary to ascertain the true value of the company's system property.

(2) Nonsystem Personal Property. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem tangible personal property subject to taxation in this State.

(3) Nonsystem Real Property. – In accordance with the county in which the public service company's nonsystem real property is located and the schedules set out in G.S. 105-286 and 105-287, the Department of

Revenue shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem real property subject to taxation in this State.

(c) Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

(1) Bus Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned or leased by or operated under the control of each bus line company, which bus line company is domiciled in this State or which is regularly engaged in business in this State.

(2) Motor Freight Carrier Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned by a motor freight carrier company or leased by a motor freight carrier company and operated by its employees which motor freight carrier company is domiciled in this State or is regularly engaged in business in this State at a terminal owned or leased by the carrier.

(3) Flight Equipment. – Each year, as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the flight equipment owned or leased by or operated under the control of each airline company that is domiciled in the State or that is regularly engaged in business at some airport in this State."

SECTION 3.3. G.S. 105-338 reads as rewritten:

"**§ 105-338. Allocation of appraised valuation of system property among local taxing units.**

(a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the Department of Revenue shall allocate the valuations of public service company property among the local taxing units in accordance with the provisions of this section.

(b) System Valuation of ~~Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, Railroad, Telephone, and Cable Companies. –

(1) System Property of Railroad Companies. – The appraised valuation of the distributable system property of a railroad shall be allocated for taxation to the local taxing units in accordance with the ratio of the miles of all the company's tracks in the local taxing unit to the total miles of all the company's tracks in this State, adjusted to reflect density of traffic in the local taxing unit.

(2) System Property of Telephone and Cable Companies. –

a. The Department of Revenue shall divide ~~each telephone company's~~the system property of each telephone company and cable company in this State into the following two classes and shall determine the original cost of that property and the percentage thereof represented by the property in each of the two classes.

– Class 1: Property located in this State that is identified under the applicable uniform system of accounts as central office equipment, ~~large P.B.X.~~personal communication service equipment, motor vehicles, tools and work equipment, office furniture and equipment, materials and supplies, and land and buildings (including towers and other structures).

– Class 2: Property located in this State that does not come within Class 1.

The Department of Revenue shall then apply the percentages obtained in accordance with this subdivision to the appraised valuation of the company's system property in this State and thereby derive the proportions of appraised valuation to be allocated as Class 1 and Class 2 valuations to local taxing units in accordance with subdivision (b)(2)b, below.

b. Having made the division required by subdivision (b)(2)a, above, the Department of Revenue shall allocate the appraised valuation of the properties in each class among the local taxing units of the State as follows:

– Class 1: The appraised valuations of property in this class shall be allocated among the local taxing units in which such property of the company is situated on January 1 in the proportion that the original cost of such property in the taxing unit bears to the original cost of all such property in this State.

– Class 2: The appraised valuations of property in this class shall be allocated among the local taxing units in which the company operates in the proportion that the miles of the company's ~~single aerial wire and single wire in cable (including single tube in coaxial cable)~~transmission wires or cables in the taxing unit bears to the company's total of ~~such~~ wire or cable miles ~~of the company~~ in this State.

(3) System Property of ~~Other Companies Appraised by the Department of Revenue.~~Electric, Gas, and Pipeline Companies. –

a. The provisions of this subdivision (b)(3) shall govern the allocation of the property of ~~all companies appraised by the Department of Revenue except railroad, telephone, bus line, motor freight carrier, and airline companies.~~electric, gas, and pipeline companies.

b. The appraised valuation of the system property of such a company shall be allocated for taxation to the local taxing units in which the company operates in the proportion that the original cost of the taxable system property in the local taxing unit on January 1 bears to the original cost of all the taxable system property in this State. If in any local taxing unit the company owns system property acquired prior to January 1,

1972, for which the original cost cannot be definitely ascertained, a reasonable estimate of the original cost of that property shall be made by the company, and this estimate shall be used by the Department of Revenue for allocation purposes as if it were the actual original cost of the property.

(c) Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

(1) The appraised valuation of a bus line company's rolling stock shall be allocated for taxation to each local taxing unit according to the ratio of the company's scheduled miles during the calendar year preceding January 1 in each such unit to the company's total scheduled miles in this State for the same period. In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the valuation for that taxing unit amounts to less than five hundred dollars ($500.00).

(2) The appraised valuation of the rolling stock (other than locally assigned rolling stock) owned or leased by a motor freight carrier company shall be allocated for taxation to each local taxing unit in which the company has a terminal according to the ratio of the tons of freight handled in the calendar year preceding January 1 at the company's terminals within the taxing unit to the total tons of freight handled by the company in this State in the same period. If a North Carolina interstate motor freight carrier company has no terminal outside this State, but has been required to pay ad valorem tax to one or more taxing units outside this State, there shall be allowed a reduction in the North Carolina valuation measured by the ratio of the rolling stock subject to ad valorem taxation outside the State to all of the carrier's rolling stock.

(3) The appraised valuation of an airline company's flight equipment shall be allocated for taxation to each local taxing unit in which an airport used by the company is situated according to the ratio obtained by averaging the following two ratios: the ratio of the company's ground hours in the taxing unit in the year preceding January 1 to the company's ground hours in the State in the same period, and the ratio of the company's gross revenue in the taxing unit in the year preceding January 1 to the company's gross revenue in the State in the same period."

PART IV. SPECIAL RESIDENTIAL APPRAISAL CRITERIA.

SECTION 4.1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-278.2A. Nonconforming residential property.**

(a) Class Defined. – Nonconforming residential property is hereby designated a special class of property under authority of Article V, Section 2(2) of the North Carolina Constitution and shall be taxed in accordance with this section.

(b) Application. – An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed, or within 30 days of the date shown on a notice of a change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred. An application required due to transfer of the land may be submitted at any time during the calendar year but must be submitted within 60 days of the date of the property's transfer.

(b) Nonconforming residential property is property that meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is used as a permanent residence.

(2) Is located in a subdivision that is zoned for a use other than single family residential use.

(3) Is located in a subdivision that has been rezoned more than five years ago from single family residential use to a use other than single family residential use.

(4) Is located in a subdivision that is predominantly characterized by single family residential use.

(c) Upon receipt of a properly executed application, the assessor must appraise the property at its present-use value as established in the schedule prepared pursuant to G.S. 105-317."

SECTION 4.2. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, ~~105-278.~~105-278, or 105-278.2A.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8."

PART V. MONTHLY PROPERTY TAX STATEMENTS.

SECTION 5.1. Mecklenburg County is directed to develop and implement a plan that provides property taxpayers in the county the ability to pay their property taxes in six to 12 periodic installments. This may be accomplished by incorporating a property tax payment on a bill that is currently issued by the county, such as a consolidated water and sewer service bill, an automatic bank draft program,, or another method. A plan meets the requirements of this section if it applies to at least seventy-five percent (75%) of the taxpayers. The county must report its plan to the Revenue Laws Study Committee by February 1, 2008.

SECTION 5.2. G.S. 105-320 reads as rewritten:

"**§ 105-320. Tax receipts; preparation.**

(a) No taxing unit shall adopt a tax receipt form until it has been approved by the Department of Revenue, and no tax receipt form shall be approved unless it shows at least the following information:

...

(6) The rate of tax levied for each unit-wide purpose, the total rate levied for all unit-wide purposes, and the rate levied by or for any special district or subdivision of the unit in which the taxpayer's property is subject to taxation. ~~(In lieu of showing this information on the tax receipt, it~~ (Other than separately stating the rate of tax for public school purposes and the total rate of tax for all other purposes on the receipt, the information required under this subdivision may be furnished on a separate sheet of paper, properly identified, at the time the official receipt is delivered upon payment).

..."

PART VI. PROPERTY TAX COLLECTION ON MOBILE HOMES.

SECTION 6.1. G.S. 105-316.1 reads as rewritten:

"**§ 105-316.1. Tax permit required to move or repossess mobile home.**

~~(a)~~ In order to protect the local taxing units of this State against the nonpayment of ad valorem taxes on mobile homes, ~~it is hereby declared to be unlawful for any~~ a person ~~other than a mobile home manufacturer or retailer to~~may not remove or cause to be removed any mobile home situated at a premises in this State without first obtaining a tax permit from the tax collector of the county in which the mobile home is situated. This section also applies to a person who takes possession of a mobile home, whether by judicial or nonjudicial authority, as a holder of a lien on the mobile home and who either moves the mobile home to another location or sells the mobile home on site. The tax permit shall be conspicuously displayed near the license tag on the rear of the mobile home at all times during its transportation. Permits required by G.S. 105-316.1 through 105-316.8 may be obtained at the office of the county tax collector during normal business hours.

~~(b) Except as provided in G.S. 105-316.4, manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the tax permits required by this section. Persons or firms transporting mobile homes shall, however, be responsible for~~

~~seeing that a proper license tag, and when required under this section, a tax permit, are properly displayed thereon at all times during their transportation.~~This section does not apply to a mobile home manufacturer or retailer who moves a mobile home from its factory or sales lot to a premises owned or leased by the purchaser of the mobile home."

SECTION 6.2. G.S. 105-316.2 reads as rewritten:

"**§ 105-316.2. Requirements for obtaining permit.**

(a) ~~In order to obtain the permits herein provided, persons other than manufacturers and retailers of mobile homes shall be required to (i) pay all taxes due to be paid by the owner to the county or to any other taxing unit therein; or (ii) show proof the tax collector that no taxes are due to be paid; or (iii) demonstrate to the tax collector that the removal of the mobile home will not jeopardize the collection of any taxes due or to become due to the county or to any taxing unit therein.~~

~~(b) In addition to complying with the provisions of subsection (a) above, owners of mobile homes required to obtain the permits herein provided~~Before moving a mobile home, the owner of a mobile home must apply for a permit as required by G.S. 105-316.1, and either pay all taxes due by the owner to the county and to any other taxing unit in the county or show proof to the tax collector that no taxes are due to be paid. The owner shall also furnish the following information to the tax collector:

(1) The name and address of the owner,

(2) The address or location of the premises from which the mobile home is to be moved,

(3) The address or location of the place to which the mobile home is to be moved, and

(4) The name and address of the carrier who is to transport the mobile home.

(b) Before taking possession of a mobile home, the holder of a lien on the mobile home must apply for a permit as required by G.S. 105-316.1 and either pay all taxes due on the mobile home or show proof to the tax collector that no taxes are due to be paid on the mobile home. The holder of the lien must also notify the tax collector of the location in North Carolina to which the mobile home is to be taken or if the mobile home will be sold on site."

SECTION 6.3. G.S. 105-316.3 reads as rewritten:

"**§ 105-316.3. Issuance of permits.**

(a) ~~Except as otherwise provided in G.S. 105-316.2 above, no~~No permit required by G.S. 105-316.1 through 105-316.8 shall be issued by the tax collector unless and until all taxes due to be paid by ~~the owner to the county or to any other taxing unit therein,~~either the owner or the repossessing agent, including any penalties or interest thereon, have been paid. Any taxes which have not yet been computed but which will become due during the current calendar year shall be determined as in the case of prepayments.

(b) Upon compliance with the provisions of G.S. 105-316.1 through 105-316.8, the tax collector shall issue, without charge, a permit authorizing the removal or repossession of the mobile home. ~~He~~ The tax collector shall also maintain a record of all permits issued.

(c) A permit issued under this section is valid for a period of 30 days; however, the 30-day period may not extend beyond December 31 of the calendar year in which the permit is issued."

SECTION 6.4. G.S. 105-316.4 is repealed.

SECTION 6.5. G.S. 105-316.5 reads as rewritten:

"**§ 105-316.5. Form of permit.**

The permit shall be in substantially the following form:

TAX PERMIT

County of _____ Permit Number _____
State of North Carolina Date of Issuance _____
Permission is hereby granted to: _____
(Name & address of ~~owner)~~owner or repossessing agent)

_____
(Name & address of carrier if mobile home is to be moved)

to remove and/or repossess the following described mobile home:

_____
(Make, model, size, serial number, etc.)

The mobile home is to be moved as follows:

From: _____
(Address)
To: _____
(Address)

This permit is issued in accordance with the provisions of G.S. 105-316.1 through G.S. 105-316.8 of the General Statutes of North Carolina.

(Signed) _____
Tax Collector
(or Deputy Tax Collector)
County of _____."

SECTION 6.6. Article 18 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-316.5A. Taxes levied on repossessed mobile homes.**

Any person holding a lien on a mobile home, who repossesses the mobile home, must pay the property taxes levied on the mobile home before a new title may be issued depicting change of ownership."

SECTION 6.7. G.S. 105-316.6 reads as rewritten:

"**§ 105-316.6. Penalties for violations.**

(a) Any person required by G.S. 105-316.1 through 105-316.8 to obtain a tax permit and to pay taxes who fails to do so or who fails to properly display ~~same~~ the

permit shall be guilty of a Class 3 misdemeanor. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any ~~manufacturer or retailer of mobile homes~~person who aids or abets any ~~owner~~ person covered by G.S. 105-316.1 through 105-316.8 to defeat in any manner the purpose of G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the tax permit required by G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(d) Any law-enforcement officer of this State who apprehends any person violating the provisions of G.S. 105-316.1 through 105-316.8 shall detain such person and mobile home until satisfactory arrangements have been made to meet the requirements of G.S. 105-316.1 through 105-316.8."

SECTION 6.8. G.S. 105-355 reads as rewritten:

"**§ 105-355. Creation of tax lien; date as of which lien attaches.**

(a) Lien on Real Property. – Regardless of the time at which liability for a tax for a given fiscal year may arise or the exact amount thereof be determined, the lien for taxes levied on a parcel of real property shall attach to the parcel taxed on the date as of which property is to be listed under G.S. 105-285, and the lien for taxes levied on personal property shall attach to all real property of the taxpayer in the taxing unit on the same date. All penalties, interest, and costs allowed by law shall be added to the amount of the lien and shall be regarded as attaching at the same time as the lien for the principal amount of the taxes. For purposes of this subsection (a):

(1) Taxes levied on real property listed in the name of a life tenant under G.S. 105-302 (c)(8) shall be a lien on the fee as well as the life estate.

(2) Taxes levied on improvements on or separate rights in real property owned by one other than the owner of the land, whether or not listed separately from the land under G.S. 105-302 (c)(11), shall be a lien on both the improvements or rights and on the land.

(b) Lien on Mobile Home Listed as Personal Property. – The lien for taxes levied on a mobile home listed as personal property shall attach to the mobile home and to all real property of the taxpayer in the taxing unit on the date as of which property is to be listed under G.S. 105-285.

~~(b)~~(c) Lien on Personal Property. – Taxes levied on real and personal property (including penalties, interest, and costs allowed by law) shall be a lien on personal property from and after levy or attachment and garnishment of the personal property levied upon or attached."

SECTION 6.9. G.S. 105-366 is amended by adding a new subsection to read:

"**§ 105-366. Remedies against personal property.**

...

(e) Remedies Against Repossessing Agents of Mobile Homes. –

(1) Any person who takes possession of a mobile home whether by judicial or nonjudicial authority, as a holder of a lien on the mobile home, is liable for the property taxes due on the mobile home and must obtain a permit and pay the property taxes as required by G.S. 105-316.2. This subsection does not apply to a county or city.

(2) Any person found in violation of this subsection is subject to the penalties set out in G.S. 105-316.6. In addition, a person who fails to pay property taxes on the mobile home within 30 days of the date of notice of demand for payment from the tax collector shall be subject to the enforced collection remedies provided in G.S. 105-367 and G.S. 105-368."

SECTION 6.10. G.S. 143-143.15 is amended by adding a new subsection to read:

"(c) A licensed dealer or set-up contractor must present a tax permit required under G.S. 105-316.1 before a local jurisdiction may issue a permit for the setup or installation of a manufactured home. This subsection also applies to a homeowner who obtains a permit on behalf of a licensed dealer or set-up contractor. This subsection does not apply to the initial sale and setup or installation of a new manufactured home."

PART VII. EFFECTIVE DATES.

SECTION 7. Parts I, III, and IV of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Part II of this act is effective when it becomes law and applies to bonds issued on or after that date. Part VI of this act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of part VI of this act are not abated or affected by this act, and the statutes that would be applicable but for part VI of this act remain applicable to those prosecutions. Section 5.2 is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1309

Short Title:	Property Tax Reform Act Of 2007.	(Public)
Sponsors:	Senators Clodfelter, Goss, Queen, Snow, Boseman, Nesbitt; and Atwater.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO REFORM THE PROPERTY TAX LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. TIMING OF PROPERTY TAX REVALUATIONS.

SECTION 1.1. G.S. 105-286 reads as rewritten:

"**§ 105-286. Time for general reappraisal of real property.**

(a) ~~Octennial Plan. — Unless the date shall be advanced as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every eighth year thereafter, shall reappraise all real property in accordance with the provisions of G.S. 105-283 and 105-317.~~

~~(1) Schedule of Initial Reappraisals. —~~

~~Division One — 1972: Avery, Camden, Cherokee, Cleveland, Cumberland, Guilford, Harnett, Haywood, Lee, Montgomery, Northampton, and Robeson.~~

~~Division Two — 1973: Caldwell, Carteret, Columbus, Currituck, Davidson, Gaston, Greene, Hyde, Lenoir, Madison, Orange, Pamlico, Pitt, Richmond, Swain, Transylvania, and Washington.~~

~~Division Three — 1974: Ashe, Buncombe, Chowan, Franklin, Henderson, Hoke, Jones, Pasquotank, Rowan, and Stokes.~~

~~Division Four — 1975: Alleghany, Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New Hanover, Surry, Tyrrell, and Yadkin.~~

~~Division Five — 1976: Bertie, Caswell, Forsyth, Iredell, Jackson, Lincoln, Onslow, Person, Perquimans, Rutherford, Union, Vance, Wake, Wilson, and Yancey.~~

~~Division Six — 1977: Alamance, Durham, Edgecombe, Gates, Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.~~

~~Division Seven 1978: Alexander, Anson, Beaufort, Clay, Craven, Davie, Duplin, and Granville.~~

~~Division Eight 1979: Burke, Chatham, Graham, Hertford, Johnston, McDowell, Mecklenburg, Moore, Pender, Rockingham, Sampson, Scotland, Watauga, and Wayne.~~

~~(2) Advancing Scheduled Octennial Reappraisal. Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided herein, real property in that county shall thereafter be reappraised every eighth year following the advanced date unless, in accordance with the provisions of this subdivision (a)(2), an earlier date shall be adopted by resolution of the board of county commissioners, in which event a new schedule of octennial reappraisals shall thereby be established for that county.~~

Appraisal. – Each county of the State shall reappraise all real property in accordance with the provisions of G.S. 105-283 and G.S.105-317 in any year following a year in which the sales assessment ratio, as defined in G.S. 105-289(h) does not exceed .90.

~~(b) Fourth-Year Horizontal Adjustments. As of January 1 of the fourth year following a reappraisal of real property conducted under the provisions of subsection (a), above, each county shall review the appraised values of all real property and determine whether changes should be made to bring those values into line with then current true value. If it is determined that the appraised value of all real property or of defined types or categories of real property require such adjustment, the assessor shall revise the values accordingly by horizontal adjustments rather than by actual appraisal of individual properties. That is, by uniform application of percentages of increase or reduction to the appraised values of properties within defined types or categories or within defined geographic areas of the county.~~

(c) Value to Be Assigned Real Property When Not Subject to Appraisal. – In years in which real property within a county is not subject to reappraisal under ~~subsections (a) or (b),~~ subsection (a), above, or under G.S. 105-287, it shall be listed at the value assigned when last appraised under this section or under G.S. 105-287."

SECTION 1.2. G.S. 105-287 reads as rewritten:

"**§ 105-287. Changing appraised value of real property in years in which general reappraisal ~~or horizontal adjustment~~ is not made.**

(a) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property.

(1) Correct a clerical or mathematical error.

(2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal.

(2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.

(2b) Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.

(2c) Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.

(3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b).

(b) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor may not increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in value caused by:

(1) Normal, physical depreciation of improvements;

(2) Inflation, deflation, or other economic changes affecting the county in general; or

(3) Betterments to the property made by:

a. Repainting buildings or other structures;

b. Terracing or other methods of soil conservation;

c. Landscape gardening;

d. Protecting forests against fire; or

e. Impounding water on marshland for non-commercial purposes to preserve or enhance the natural habitat of wildlife.

(c) An increase or decrease in the appraised value of real property authorized by this section shall be made in accordance with the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal. An increase or decrease in appraised value made under this section is effective as of January 1 of the year in which it is made and is not retroactive. This section does not modify or restrict the provisions of G.S. 105-312 concerning the appraisal of discovered property.

(d) Notwithstanding subsection (a), if a tract of land has been subdivided into lots and more than five acres of the tract remain unsold by the owner of the tract, the assessor may appraise the unsold portion as land acreage rather than as lots. A tract is considered subdivided into lots when the lots are located on streets laid out and open for travel and the lots have been sold or offered for sale as lots since the last appraisal of the property."

PART II. ELIMINATE PROPERTY TAX EXEMPTIONS BASED ON BOND FINANCING.

SECTION 2. G.S. 131A-21 is repealed.

PART III. SYSTEM OF APPRAISAL FOR CABLE COMPANIES BY THE DEPARTMENT OF REVENUE.

SECTION 3.1. G.S. 105-333 reads as rewritten:

"Article 23.

"Public Service Companies.

"**§ 105-333. Definitions.**

The following definitions apply in this Article unless the context requires a different meaning:

(1) Airline company. – A company engaged in the business of transporting passengers and property by aircraft for hire within, into, or from this State.

(2) Bus line company. – A company engaged in the business of transporting passengers and property by motor vehicle for hire over the public highways of this State (but not including a bus line company operating primarily upon the public streets within a single local taxing unit), whether the transportation is within, into, or from this State.

(2a) Cable company. – A company engaged in the business of providing cable service as defined in G.S. 105-164.3, over a cable system, as defined in 47 U.S.C. § 522.

(3) Distributable system property. – All real property and personal property owned or used by a railroad company other than nondistributable system property.

(4) Electric membership corporation. – A company organized, reorganized, or domesticated under Chapter 117 of the General Statutes and engaged in the business of supplying electricity for light, heat, or power to consumers in this State.

(5) Electric power company. – A company engaged in the business of supplying electricity for light, heat, or power to consumers in this State.

(6) Repealed by Session Laws 1973, c. 783, s. 5.

(7) Flight equipment. – Aircraft fully equipped for flying and used in any operation within this State.

(8) Gas company. – A company engaged in the business of supplying artificial or natural gas to, from, within, or through this State through pipe or tubing for light, heat, or power to consumers in this State.

(9) Locally assigned rolling stock. – Rolling stock that is owned or leased by a motor freight carrier company, specifically assigned to a terminal or other premises, and regularly used at the premises to which assigned.

(10) Motor freight carrier company. – A company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State as provided in this subdivision:

a. As to interstate carrier companies domiciled in North Carolina, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier outside this State or two or more terminals inside this State. For purposes of appraisal and allocation only, the term also includes a North Carolina interstate carrier that does not have a terminal outside this State but whose operations outside the State are sufficient to require the payment of ad valorem taxes on a portion of the value of the rolling stock of the carrier to taxing units in one or more other states.

b. As to interstate carrier companies domiciled outside this State, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier inside this State.

c. As to intrastate carrier companies, this term includes only those carriers that are engaged in the transportation of property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State.

(11) Nondistributable system property. – The following properties owned by a railroad company: land other than right-of-way, depots, machine shops, warehouses, office buildings, other structures, and the contents of the structures listed in this subdivision.

(12) Nonsystem property. – The real and tangible personal property owned by a public service company but not used in its public service activities.

(13) Pipeline company. – A company engaged in the business of transporting natural gas, petroleum products, or other products through pipelines to, from, within, or through this State, or having control of pipelines for such a purpose.

(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a cable company, ~~a telegraph company,~~ a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, a radio common carrier company as defined in G.S. 62-119(3), a cable television company, or a radio or television broadcasting company.

(15) Railroad company. – A company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a

passenger service on the lines of any railroad located wholly or partly in this State.

(16) Rolling stock. – Motor vehicles, railroad locomotives, and railroad cars that are propelled by mechanical or electrical power and used upon the highways or, in the case of railroad vehicles, upon tracks.

(17) System property. – The real property and personal property used by a public service company in its public service activities. The term also includes public service company property under construction on the day as of which property is assessed which when completed will be used by the owner in its public service activities.

~~(18) Telegraph company. – A company engaged in the business of transmitting telegraph messages to, from, within, or through the State.~~

(19) Telephone company. – A company engaged in the business of transmitting telephone messages and conversations to, from, within, or through this State.

(20) Repealed by Session Laws 1973, c. 783, s. 5.

(21) True value. – Defined in G.S. 105-283."

SECTION 3.2. G.S. 105-335 reads as rewritten:

"**§ 105-335. Appraisal of property of public service companies.**

(a) Duty to Appraise. – ~~In accordance with the provisions of subsection (b), below, the~~The Department of Revenue ~~shall~~ must appraise for taxation the true value of each public service company ~~(other than bus line, motor freight carrier, and airline companies) as a system (both inside and outside this State). Certain specified properties of bus line, motor freight carrier, and airline companies shall be appraised by the Department in accordance with the provisions of subsection (c), below, and all other properties of such companies shall be listed, appraised, and assessed in the manner prescribed by this Subchapter for the properties of taxpayers other than public service companies.~~in accordance with this section.

(b) Property of ~~Public Service Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, Telephone, and Cable Companies. –

(1) System Property. – Each year, as of January 1, the Department of Revenue ~~shall~~ must appraise at its true value ~~(as defined in G.S. 105-283)~~ the system property used by each public service company both inside and outside this State. Property leased by a public service company shall be included in appraising the value of its system property if necessary to ascertain the true value of the company's system property.

(2) Nonsystem Personal Property. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem tangible personal property subject to taxation in this State.

(3) Nonsystem Real Property. – In accordance with the county in which the public service company's nonsystem real property is located and the schedules set out in G.S. 105-286 and 105-287, the Department of

Revenue shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem real property subject to taxation in this State.

(c) Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

(1) Bus Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned or leased by or operated under the control of each bus line company, which bus line company is domiciled in this State or which is regularly engaged in business in this State.

(2) Motor Freight Carrier Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned by a motor freight carrier company or leased by a motor freight carrier company and operated by its employees which motor freight carrier company is domiciled in this State or is regularly engaged in business in this State at a terminal owned or leased by the carrier.

(3) Flight Equipment. – Each year, as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the flight equipment owned or leased by or operated under the control of each airline company that is domiciled in the State or that is regularly engaged in business at some airport in this State."

SECTION 3.3. G.S. 105-338 reads as rewritten:

"**§ 105-338. Allocation of appraised valuation of system property among local taxing units.**

(a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the Department of Revenue shall allocate the valuations of public service company property among the local taxing units in accordance with the provisions of this section.

(b) System Valuation of ~~Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, Railroad, Telephone, and Cable Companies. –

(1) System Property of Railroad Companies. – The appraised valuation of the distributable system property of a railroad shall be allocated for taxation to the local taxing units in accordance with the ratio of the miles of all the company's tracks in the local taxing unit to the total miles of all the company's tracks in this State, adjusted to reflect density of traffic in the local taxing unit.

(2) System Property of Telephone and Cable Companies. –

a. The Department of Revenue shall divide ~~each telephone company's~~the system property of each telephone company and cable company in this State into the following two classes and shall determine the original cost of that property and the percentage thereof represented by the property in each of the two classes.

– Class 1: Property located in this State that is identified under the applicable uniform system of accounts as central office equipment, ~~large P.B.X.~~personal communication service equipment, motor vehicles, tools and work equipment, office furniture and equipment, materials and supplies, and land and buildings (including towers and other structures).

– Class 2: Property located in this State that does not come within Class 1.

The Department of Revenue shall then apply the percentages obtained in accordance with this subdivision to the appraised valuation of the company's system property in this State and thereby derive the proportions of appraised valuation to be allocated as Class 1 and Class 2 valuations to local taxing units in accordance with subdivision (b)(2)b, below.

b. Having made the division required by subdivision (b)(2)a, above, the Department of Revenue shall allocate the appraised valuation of the properties in each class among the local taxing units of the State as follows:

– Class 1: The appraised valuations of property in this class shall be allocated among the local taxing units in which such property of the company is situated on January 1 in the proportion that the original cost of such property in the taxing unit bears to the original cost of all such property in this State.

– Class 2: The appraised valuations of property in this class shall be allocated among the local taxing units in which the company operates in the proportion that the miles of the company's ~~single aerial wire and single wire in cable (including single tube in coaxial cable)~~transmission wires or cables in the taxing unit bears to the company's total of ~~such~~ wire or cable miles ~~of the company~~ in this State.

(3) System Property of ~~Other Companies Appraised by the Department of Revenue.~~Electric, Gas, and Pipeline Companies. –

a. The provisions of this subdivision (b)(3) shall govern the allocation of the property of ~~all companies appraised by the Department of Revenue except railroad, telephone, bus line, motor freight carrier, and airline companies.~~electric, gas, and pipeline companies.

b. The appraised valuation of the system property of such a company shall be allocated for taxation to the local taxing units in which the company operates in the proportion that the original cost of the taxable system property in the local taxing unit on January 1 bears to the original cost of all the taxable system property in this State. If in any local taxing unit the company owns system property acquired prior to January 1,

1972, for which the original cost cannot be definitely ascertained, a reasonable estimate of the original cost of that property shall be made by the company, and this estimate shall be used by the Department of Revenue for allocation purposes as if it were the actual original cost of the property.

(c) Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

(1) The appraised valuation of a bus line company's rolling stock shall be allocated for taxation to each local taxing unit according to the ratio of the company's scheduled miles during the calendar year preceding January 1 in each such unit to the company's total scheduled miles in this State for the same period. In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the valuation for that taxing unit amounts to less than five hundred dollars ($500.00).

(2) The appraised valuation of the rolling stock (other than locally assigned rolling stock) owned or leased by a motor freight carrier company shall be allocated for taxation to each local taxing unit in which the company has a terminal according to the ratio of the tons of freight handled in the calendar year preceding January 1 at the company's terminals within the taxing unit to the total tons of freight handled by the company in this State in the same period. If a North Carolina interstate motor freight carrier company has no terminal outside this State, but has been required to pay ad valorem tax to one or more taxing units outside this State, there shall be allowed a reduction in the North Carolina valuation measured by the ratio of the rolling stock subject to ad valorem taxation outside the State to all of the carrier's rolling stock.

(3) The appraised valuation of an airline company's flight equipment shall be allocated for taxation to each local taxing unit in which an airport used by the company is situated according to the ratio obtained by averaging the following two ratios: the ratio of the company's ground hours in the taxing unit in the year preceding January 1 to the company's ground hours in the State in the same period, and the ratio of the company's gross revenue in the taxing unit in the year preceding January 1 to the company's gross revenue in the State in the same period."

PART IV. SPECIAL RESIDENTIAL APPRAISAL CRITERIA.

SECTION 4.1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-278.2A. Nonconforming residential property.**

(a) Class Defined. – Nonconforming residential property is hereby designated a special class of property under authority of Article V, Section 2(2) of the North Carolina Constitution and shall be taxed in accordance with this section.

(b) Application. – An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed, or within 30 days of the date shown on a notice of a change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred. An application required due to transfer of the land may be submitted at any time during the calendar year but must be submitted within 60 days of the date of the property's transfer.

(b) Nonconforming residential property is property that meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is used as a permanent residence.

(2) Is located in a subdivision that is zoned for a use other than single family residential use.

(3) Is located in a subdivision that has been rezoned more than five years ago from single family residential use to a use other than single family residential use.

(4) Is located in a subdivision that is predominantly characterized by single family residential use.

(c) Upon receipt of a properly executed application, the assessor must appraise the property at its present-use value as established in the schedule prepared pursuant to G.S. 105-317."

SECTION 4.2. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, ~~105-278.~~105-278, or 105-278.2A.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8."

PART V. MONTHLY PROPERTY TAX STATEMENTS.

SECTION 5.1. Mecklenburg County is directed to develop and implement a plan that provides property taxpayers in the county the ability to pay their property taxes in six to 12 periodic installments. This may be accomplished by incorporating a property tax payment on a bill that is currently issued by the county, such as a consolidated water and sewer service bill, an automatic bank draft program,, or another method. A plan meets the requirements of this section if it applies to at least seventy-five percent (75%) of the taxpayers. The county must report its plan to the Revenue Laws Study Committee by February 1, 2008.

SECTION 5.2. G.S. 105-320 reads as rewritten:

"**§ 105-320. Tax receipts; preparation.**

(a) No taxing unit shall adopt a tax receipt form until it has been approved by the Department of Revenue, and no tax receipt form shall be approved unless it shows at least the following information:

...

(6) The rate of tax levied for each unit-wide purpose, the total rate levied for all unit-wide purposes, and the rate levied by or for any special district or subdivision of the unit in which the taxpayer's property is subject to taxation. ~~(In lieu of showing this information on the tax receipt, it~~ (Other than separately stating the rate of tax for public school purposes and the total rate of tax for all other purposes on the receipt, the information required under this subdivision may be furnished on a separate sheet of paper, properly identified, at the time the official receipt is delivered upon payment).

..."

PART VI. PROPERTY TAX COLLECTION ON MOBILE HOMES.

SECTION 6.1. G.S. 105-316.1 reads as rewritten:

"**§ 105-316.1. Tax permit required to move or repossess mobile home.**

~~(a)~~ In order to protect the local taxing units of this State against the nonpayment of ad valorem taxes on mobile homes, ~~it is hereby declared to be unlawful for any~~ a person ~~other than a mobile home manufacturer or retailer to~~may not remove or cause to be removed any mobile home situated at a premises in this State without first obtaining a tax permit from the tax collector of the county in which the mobile home is situated. This section also applies to a person who takes possession of a mobile home, whether by judicial or nonjudicial authority, as a holder of a lien on the mobile home and who either moves the mobile home to another location or sells the mobile home on site. The tax permit shall be conspicuously displayed near the license tag on the rear of the mobile home at all times during its transportation. Permits required by G.S. 105-316.1 through 105-316.8 may be obtained at the office of the county tax collector during normal business hours.

~~(b) Except as provided in G.S. 105-316.4, manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the tax permits required by this section. Persons or firms transporting mobile homes shall, however, be responsible for~~

~~seeing that a proper license tag, and when required under this section, a tax permit, are properly displayed thereon at all times during their transportation.~~This section does not apply to a mobile home manufacturer or retailer who moves a mobile home from its factory or sales lot to a premises owned or leased by the purchaser of the mobile home."

SECTION 6.2. G.S. 105-316.2 reads as rewritten:

"**§ 105-316.2. Requirements for obtaining permit.**

(a) ~~In order to obtain the permits herein provided, persons other than manufacturers and retailers of mobile homes shall be required to (i) pay all taxes due to be paid by the owner to the county or to any other taxing unit therein; or (ii) show proof the tax collector that no taxes are due to be paid; or (iii) demonstrate to the tax collector that the removal of the mobile home will not jeopardize the collection of any taxes due or to become due to the county or to any taxing unit therein.~~

~~(b) In addition to complying with the provisions of subsection (a) above, owners of mobile homes required to obtain the permits herein provided~~Before moving a mobile home, the owner of a mobile home must apply for a permit as required by G.S. 105-316.1, and either pay all taxes due by the owner to the county and to any other taxing unit in the county or show proof to the tax collector that no taxes are due to be paid. The owner shall also furnish the following information to the tax collector:

(1) The name and address of the owner,

(2) The address or location of the premises from which the mobile home is to be moved,

(3) The address or location of the place to which the mobile home is to be moved, and

(4) The name and address of the carrier who is to transport the mobile home.

(b) Before taking possession of a mobile home, the holder of a lien on the mobile home must apply for a permit as required by G.S. 105-316.1 and either pay all taxes due on the mobile home or show proof to the tax collector that no taxes are due to be paid on the mobile home. The holder of the lien must also notify the tax collector of the location in North Carolina to which the mobile home is to be taken or if the mobile home will be sold on site."

SECTION 6.3. G.S. 105-316.3 reads as rewritten:

"**§ 105-316.3. Issuance of permits.**

(a) ~~Except as otherwise provided in G.S. 105-316.2 above, no~~No permit required by G.S. 105-316.1 through 105-316.8 shall be issued by the tax collector unless and until all taxes due to be paid by ~~the owner to the county or to any other taxing unit therein,~~either the owner or the repossessing agent, including any penalties or interest thereon, have been paid. Any taxes which have not yet been computed but which will become due during the current calendar year shall be determined as in the case of prepayments.

(b) Upon compliance with the provisions of G.S. 105-316.1 through 105-316.8, the tax collector shall issue, without charge, a permit authorizing the removal or repossession of the mobile home. ~~He~~ The tax collector shall also maintain a record of all permits issued.

(c) A permit issued under this section is valid for a period of 30 days; however, the 30-day period may not extend beyond December 31 of the calendar year in which the permit is issued."

SECTION 6.4. G.S. 105-316.4 is repealed.

SECTION 6.5. G.S. 105-316.5 reads as rewritten:

"**§ 105-316.5. Form of permit.**

The permit shall be in substantially the following form:

TAX PERMIT

County of _____ Permit Number _____
State of North Carolina Date of Issuance _____
Permission is hereby granted to: _____
(Name & address of ~~owner)~~owner or repossessing agent)

_____
(Name & address of carrier if mobile home is to be moved)

to remove and/or repossess the following described mobile home:

_____
(Make, model, size, serial number, etc.)

The mobile home is to be moved as follows:

From: _____
(Address)
To: _____
(Address)
This permit is issued in accordance with the provisions of G.S. 105-316.1 through G.S. 105-316.8 of the General Statutes of North Carolina.
(Signed) _____
Tax Collector
(or Deputy Tax Collector)
County of _____."

SECTION 6.6. Article 18 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-316.5A. Taxes levied on repossessed mobile homes.**

Any person holding a lien on a mobile home, who repossesses the mobile home, must pay the property taxes levied on the mobile home before a new title may be issued depicting change of ownership."

SECTION 6.7. G.S. 105-316.6 reads as rewritten:

"**§ 105-316.6. Penalties for violations.**

(a) Any person required by G.S. 105-316.1 through 105-316.8 to obtain a tax permit and to pay taxes who fails to do so or who fails to properly display ~~same~~ the

permit shall be guilty of a Class 3 misdemeanor. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any ~~manufacturer or retailer of mobile homes~~person who aids or abets any ~~owner~~ person covered by G.S. 105-316.1 through 105-316.8 to defeat in any manner the purpose of G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the tax permit required by G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(d) Any law-enforcement officer of this State who apprehends any person violating the provisions of G.S. 105-316.1 through 105-316.8 shall detain such person and mobile home until satisfactory arrangements have been made to meet the requirements of G.S. 105-316.1 through 105-316.8."

SECTION 6.8. G.S. 105-355 reads as rewritten:

"**§ 105-355. Creation of tax lien; date as of which lien attaches.**

(a) Lien on Real Property. – Regardless of the time at which liability for a tax for a given fiscal year may arise or the exact amount thereof be determined, the lien for taxes levied on a parcel of real property shall attach to the parcel taxed on the date as of which property is to be listed under G.S. 105-285, and the lien for taxes levied on personal property shall attach to all real property of the taxpayer in the taxing unit on the same date. All penalties, interest, and costs allowed by law shall be added to the amount of the lien and shall be regarded as attaching at the same time as the lien for the principal amount of the taxes. For purposes of this subsection (a):

(1) Taxes levied on real property listed in the name of a life tenant under G.S. 105-302 (c)(8) shall be a lien on the fee as well as the life estate.

(2) Taxes levied on improvements on or separate rights in real property owned by one other than the owner of the land, whether or not listed separately from the land under G.S. 105-302 (c)(11), shall be a lien on both the improvements or rights and on the land.

(b) Lien on Mobile Home Listed as Personal Property. – The lien for taxes levied on a mobile home listed as personal property shall attach to the mobile home and to all real property of the taxpayer in the taxing unit on the date as of which property is to be listed under G.S. 105-285.

~~(b)~~(c) Lien on Personal Property. – Taxes levied on real and personal property (including penalties, interest, and costs allowed by law) shall be a lien on personal property from and after levy or attachment and garnishment of the personal property levied upon or attached."

SECTION 6.9. G.S. 105-366 is amended by adding a new subsection to read:

"**§ 105-366. Remedies against personal property.**

...

(e) Remedies Against Repossessing Agents of Mobile Homes. –

(1) Any person who takes possession of a mobile home whether by judicial or nonjudicial authority, as a holder of a lien on the mobile home, is liable for the property taxes due on the mobile home and must obtain a permit and pay the property taxes as required by G.S. 105-316.2. This subsection does not apply to a county or city.

(2) Any person found in violation of this subsection is subject to the penalties set out in G.S. 105-316.6. In addition, a person who fails to pay property taxes on the mobile home within 30 days of the date of notice of demand for payment from the tax collector shall be subject to the enforced collection remedies provided in G.S. 105-367 and G.S. 105-368."

SECTION 6.10. G.S. 143-143.15 is amended by adding a new subsection to read:

"(c) A licensed dealer or set-up contractor must present a tax permit required under G.S. 105-316.1 before a local jurisdiction may issue a permit for the setup or installation of a manufactured home. This subsection also applies to a homeowner who obtains a permit on behalf of a licensed dealer or set-up contractor. This subsection does not apply to the initial sale and setup or installation of a new manufactured home."

PART VII. EFFECTIVE DATES.

SECTION 7. Parts I, III, and IV of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Part II of this act is effective when it becomes law and applies to bonds issued on or after that date. Part VI of this act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of part VI of this act are not abated or affected by this act, and the statutes that would be applicable but for part VI of this act remain applicable to those prosecutions. Section 5.2 is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 1, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS for Senate Bill 1309 (First Edition)

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
General Fund	*No General Fund Impact*				
Local Governments	*See Assumptions and Methodology*				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, NC Local Governments

EFFECTIVE DATE: Parts 1, 3, and 4 are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Part 2 is effective when it becomes law and applies to bonds issued on or after that date. Part 6 becomes effective December 1, 2007, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of part 6 are not abated or affected and the statutes that would be applicable but for part 6 remain applicable to those prosecutions. Section 5.2 regarding tax receipt forms is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of the act is effective when it becomes law.

BILL SUMMARY:
The PCS for Senate Bill 1309 would do the following:

- Change the octennial property tax revaluation cycle to a system of revaluation triggered by the sales assessment ratio for a county not exceeding .90.
- Eliminate the property tax exemption for health care facilities receiving the exemption solely because of the issuance of bonds or notes by the North Carolina Medical Care Commission until such time as the bonds or notes are retired.
- Broaden the authority of the Department of Revenue to treat cable companies like telephone companies by providing for central appraisal of cable company property, make clarifying changes, and delete the reference to "telegraph company" since these companies are obsolete
- Require present-use valuation for residential property subdivisions that are nonconforming to the zoning use.
- Direct the development of a pilot program in Mecklenburg County that allows taxpayers to pay their property taxes in periodic installments.
- Require tax receipt forms to separately state the rate of tax for public school purposes and the total rate of tax for all other purposes on the receipt.
- Make changes to the statutes governing property tax collection on mobile homes.

The PCS makes technical corrections necessary to preserve the existing tax exemption for bonds and notes issued by the North Carolina Medical Care Commission.

ASSUMPTIONS AND METHODOLOGY:
Part I. Timing of Property Tax Revaluations
Under current law, counties are required to reappraise real property at least every eight years in a staggered system. Part I of Senate Bill 1309 would eliminate the current octennial plan for general reappraisals of real property. Instead of a fixed schedule, the bill would establish a non-fixed system in which reappraisals occur in a county in any year following a year in which the ratio of the appraised value of real property to the true value of real property fell to 90% or less. This would have the effect of narrowing the gap between assessed values and market values and preventing the property tax burden from becoming weighted more heavily toward properties increasing relatively slowly or decreasing in value. Because it is unknown to what extent counties will adjust tax rates following the likelihood of more frequent revaluations, the FRD is unable to determine the fiscal impact.

Part II. Eliminate Property Tax Exemptions Based on Bond Financing

Under current law, any part of a health care facility financed by bonds or notes issued by the Medical Care Commission is exempt from property tax until the bonds or notes are retired. The amount of the exemption cannot exceed the lesser of the principal amount of the bonds or notes or the assessed value of the facility. When bonds or notes are used to finance an expansion or renovation of an existing facility, only the new part of the facility or the renovated part may be exempt from property tax.

Part 2 of the bill would eliminate the property tax exemption for a health care facility that is based solely on the fact that the health care facility was financed using bonds or notes issued by the North Carolina Medical Care Commission and continues until such time as those bonds or notes are retired. The bill would not affect any current property tax exemption received by a health care facility and would be prospective only. If a health care facility otherwise qualified for a separate property tax exemption, it would continue to receive that exemption so long as it qualified.

Since its inception in 1975, the Medical Care Commission (MCC) has issued approximately $11 billion in bonds or notes to fund the creation and expansion of North Carolina health care facilities. As of June 30, 2006, the total outstanding principal amount of all loans was $5.9 billion. Because the bill is prospective, the legislation will not affect facilities funded under existing bonds. The legislation will have little effect on the state's non-profit hospitals since these hospitals already receive a property tax exemption for most of their holding under G.S. 105-278.8 (charitable hospital). Some health care facilities, including some Continuing Care Retirement Communities (CCRCs) and hospital-owned physician practices would potentially lose their exemptions once the bonds are paid, however, there would be little impact in the next five years.

Part III. System of Appraisal for Cable Companies by the Department of Revenue

Under current law, each year the North Carolina Department of Revenue must appraise, at its true value the system property used by each public service company (other than bus line, motor freight carrier, and airline companies) both within and without the State. The Department must also appraise the rolling stock of a bus line company or motor freight carrier company, and the flight equipment of an airline company each year.

The NC Department of Revenue uses an appraisal method that uses income as a factor in appraising public service company property. County assessors utilize the cost approach, which does not use income as a factor. Because of the differences in appraisal methods, there may be some differences in appraised value of cable company property included in this bill however, the amount of the impact cannot be determined until the appraisals are conducted.

Part IV. Special Residential Appraisal Criteria

Under current law, residential property is valued at its true value, regardless of whether the general characteristics of the subdivision in which the property is located conform to the zoning for the subdivision.

Part 4 of the bill would designate nonconforming residential property as a special class of property to be taxed at its present use value instead of its true value. Nonconforming residential properties are those property located in a subdivision that, despite a zoning change to something other than single family residential use, remains primarily single family residential use in character.

FRD does not have sufficient data to determine the impact of this change. Several tax assessors indicated that such a change would have a relatively minor fiscal impact however, data was not available regarding the number or value of properties that would be impacted.

Part V. Monthly Property Tax Statements

Under current law, property is to be listed and appraised as of January 1 of the current year. The rate of tax on the property is determined by the county in June of the current year. Tax bills are due and payable September 1 of the current year through January 5 of the following year without interest. Tax bills that have not been paid as of January 5 of the following year begin to accrue interest at 2% for the remainder of January and ¾% each month thereafter.

Part 5 of the bill would require Mecklenburg County to develop and implement a pilot program applicable to at least 75% of the taxpayers that would provide them with the information and ability to pay their property taxes in six to twelve periodic installments. Mecklenburg County is required to report its plan to the Revenue Laws Study Committee by February 1, 2008. In addition, part 5 of the bill requires that tax receipt forms list at least two items of information on the form itself: the rate of tax for public school purposes and the total rate of tax for all other purposes. Other items of information, as with the current practice, could be furnished on a separate but properly identified sheet of paper delivered at the time the official receipt is delivered upon payment or furnished on the tax receipt form itself.

The Mecklenburg County Tax Assessor's Office provided a memo that indicates the cost of implementing monthly tax statements would amount to $9.5 million. The tax collector indicated that this represents a "worst case analysis" and does not take into account cost savings that could be achieved from innovations such as payment booklets, which would reduce the number of required mailings.

Part VI. Property Tax Collection on Mobile Homes

Part VI would strengthen the law regarding property tax collection on mobile homes by requiring the repossessor of a mobile home to (i) obtain a permit before taking possession of the mobile home, (ii) inform the tax collector of where the home will be taken or if it will be sold on-site, and (iii) pay taxes levied on the home before issuance of a new title. It would also provide (iv) that the lien for taxes levied on the mobile home listed as personal property attaches to the home and to all real property of the taxpayer situated in the taxing unit and (v) for enforced collection remedies against repossessor (these include levy and sale of the mobile home and attachment and garnishment). Finally, this part would require that the tax permit be presented before the local government can issue a permit for setup or installation of the home, except if the setup is for an initial sale or the installation of a new home. The permit would be valid for a period of 30 days, and this 30-day period could not extend beyond December 31 of the calendar year in which the permit is issued.

According to the NC Tax Collectors Association, the current tax collection rate for manufactured homes is approximately 85% and the improving the rate to 96% would generate approximately $2.4 million in additional revenue. The total revenue gain would be higher because this figure does not include municipalities.

EFFECTIVE DATE: Parts 1, 3, and 4 are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Part 2 is effective when it becomes law and applies to bonds issued on or after that date. Part 6 becomes effective December 1, 2007, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of part 6 are not abated or affected and the statutes that would be applicable but for part 6 remain

applicable to those prosecutions. Section 5.2 regarding tax receipt forms is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of the act is effective when it becomes law.

SOURCES OF DATA: NC Department of Revenue, Mecklenburg County Tax Assessors Office, NC Tax Collectors Association

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 1442
PROPOSED COMMITTEE SUBSTITUTE S1442-CSMCx-12 [v.2]

4/23/2007 10:10:54 AM

Short Title: Circuit Breaker Property Tax Benefit. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A CIRCUIT BREAKER PROPERTY TAX BENEFIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this section:

...

(3a) Property tax relief. – The property tax homestead exclusion provided in this section or the property tax homestead circuit breaker provided in G.S. 105-277.1B.

...."

SECTION 2. G.S. 105-277.1 is amended by adding a new subsection to read:

"**§ 105-277.1. Property tax homestead exclusion.**

...

(e) Election. – An owner who qualifies for both kinds of property tax relief may elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the property tax homestead circuit breaker in order for the property tax homestead circuit breaker to be allowed instead of the property tax homestead exclusion."

SECTION 3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.1B. Property tax homestead circuit breaker.**

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section.

(b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(c) Income Eligibility Limit. – The income eligibility limit provided in G.S. 105-277.1(a2) applies to this section.

(d) Qualifying Owner. – For the purpose of qualifying for the property tax homestead circuit breaker under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) The owner has an income for the preceding calendar year of not more than one hundred fifty percent (150%) of the income eligibility limit specified in subsection (c) of this section.

(2) The owner has occupied the property as a permanent residence for at least five years.

(3) The owner is a North Carolina resident.

(e) Multiple Owners. – When a permanent residence is owned and occupied by two or more persons other than husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners qualify and elect to defer taxes under this section.

(f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his or her permanent residence if it exceeds a percentage of the qualifying owner's income as provided in this section.

Income	**Percentage**
Less than the income eligibility limit	4.0%
100% to 150% of the income eligibility limit	5.0%

(g) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this circuit breaker because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(h) Deferred Taxes. – The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes for the three fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. On or before September 1 of each year, the assessor shall notify each residence owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

(i) Disqualifying Events. – Taxes deferred under this section are payable within nine months after a disqualifying event. The tax for the fiscal year that opens in a calendar year in which deferred taxes become due is computed as if the property was not eligible for property tax relief under this section. Each of the following constitutes a disqualifying event:

(1) The owner transfers the residence. Transfer of the residence under this subdivision is not a disqualifying event if (i) the owner transfers the residence as part of a divorce proceeding to either his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, (ii) that individual occupies or continues to occupy the property as his or her permanent residence and (iii) that individual elects to continue deferring payment of the tax.

(2) The owner dies. Death of the owner under this subdivision is not a disqualifying event if (i) the owner's share passes to either his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, (ii) that individual occupies or continues to occupy the property has his or her permanent residence and (iii) that individual elects to continue deferring payment of the tax.

(3) The owner ceases to use the property as a permanent residence.

(j) Interruption of Qualification. – If the owner of a tax-deferred residence does not qualify under this section for deferral as of January 1 preceding a taxable year for reasons other than a disqualifying event or if the owner of a tax-deferred residence revokes an application for deferral by notifying the assessor in writing, the owner may not defer any additional property taxes under this section without submitting a new application. Deferred taxes from earlier years do not become due because of an interruption of qualification; however, deferred taxes existing at the time of an interruption of qualification shall be carried forward until the occurrence of a disqualifying event. If owner qualifies for tax deferral under this section following an interruption of qualification, the taxing unit or units shall disregard the years during which there was an interruption of qualification for purposes of determining the three fiscal years preceding the current tax year under subsection (g) of this section.

(k) Prepayment. – All or part of the deferred taxes and accrued interest may be paid to the tax collector at any time. Any partial payment is applied first to accrued interest. A residence owner to whom a tax deferral has previously been granted may revoke the application for deferral at any time by notifying the assessor in writing.

(l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

(m) Construction. – This section does not affect the attachment of a lien for personal property taxes against a tax-deferred residence.

(n) Application. – An application for property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1."

SECTION 4. G.S. 150-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible ~~to be exempted or excluded from taxation~~for a property tax benefit must file an application for ~~exemption or exclusion~~the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the ~~exemption or exclusion:~~benefit.

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

e. Special classes of property eligible for tax relief under G.S. 105-277.1B."

SECTION 5. G.S. 105-309(f) reads as rewritten:

"(f) The ~~notice set out below must appear~~assessor must print a homestead tax relief notice on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayer of his or her rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1 and the property tax homestead circuit breaker provided in G.S. 105-277.1B.

~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS.~~

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

~~If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.~~

~~If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1.~~""

SECTION 6. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

SENATE BILL 1442:
Circuit Breaker Property Tax Benefit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	April 16, 2007
Introduced by:	Sen. Snow	**Summary by:**	Dan Ettefagh
Version:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 1442 would create a property tax homestead deferral system based on certain qualifications and income requirements of owners of permanent residences located in North Carolina. The PCS makes clarifying changes with respect to the tax consequences of disqualifying events and interruptions of qualification.***

CURRENT LAW: Under current law, the only homestead property tax benefit is found in G.S. 105-277.1, the property tax homestead exclusion. Under the homestead exclusion, North Carolina residents who are at least 65 years of age or totally and permanently disabled and who meet the income eligibility limit[1] may exclude from taxation the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the permanent residence.

BILL ANALYSIS: Senate Bill 1442 proposes a property tax deferral benefit for North Carolina residents who have owned and occupied property located in the State as a permanent residence for at least five years. The amount of taxes deferred would be based upon the income eligibility limit of the property tax homestead exclusion. Under this system, an owner who met the requirements of the circuit breaker benefit and made less than the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds four percent (4%) of the owner's income. An owner who met the requirements of the circuit breaker benefit and made between the income eligibility limit and one and one-half times the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds five percent (5%) of the owner's income.

Taxes deferred via the circuit breaker benefit would accrue interest and become a lien on the real property of the taxpayer. The general rule is that these deferred taxes would be carried forward until the death of the owner or until the owner transfers the property, at which time the amount of taxes for that year with no circuit breaker benefit plus those taxes deferred for the preceding three fiscal years, together with interest would become due and must be paid within nine months after the date of death or transfer. An exception to this rule exists, allowing the deferral to continue where the residence is transferred to the former owner's spouse, if the spouse qualifies for the circuit breaker benefit, occupies the property has a permanent residence, and elects to continue deferral.

If the owner ceases to use the residence as a permanent residence for a reason other than a temporary absence for reasons of health or an extended absence while confined to a rest home or nursing home while the residence remains either unoccupied or occupied by the owner's spouse or other dependent, the owner loses the benefit of the circuit breaker, and the deferred taxes become due and payable at the same time the tax levied on the residence in that year is due. If the owner fails to qualify for the circuit breaker benefit for a taxable year but continues using the property as a permanent residence, no deferral is allowed for that year but deferred taxes from earlier years do not become due.

[1] The income eligibility limit until July 1, 2003 was $18,000. For taxable years beginning on or after July 1, 2003, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to Social Security benefits, rounded to the nearest $100. In 2006, the income eligibility limit was $19,700.

Other provisions in the bill include:

- The assessor must annually notify each owner electing this tax benefit of the accumulated sum of deferred taxes and interest.
- Prepayment of all or part of taxes deferred to the tax collector is allowed at any time, with partial payments applied first to accrued interest.
- A qualifying owner may revoke a tax deferral application at any time by written notification to the assessor.
- Mortgagees or trustees electing to pay taxes deferred by a qualifying owner do not acquire a right to foreclose as a result.
- Provisions in mortgages, deeds of trust, or other agreements prohibiting a qualifying owner from electing the circuit breaker benefit are void.
- Where property is owned by two or more persons other than husband and wife, all owners must qualify and elect the circuit breaker benefit for it to be available to any of the qualifying owners.
- The tax benefit under this section may not be combined with the property tax homestead exclusion. Owners qualifying for both types of property tax benefit must elect which to utilize.

EFFECTIVE DATE: This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

S1442e1-SMMC

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 1, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: Senate Bill 1442 (First Edition)

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
		No General Fund Impact			
Local Governments		***See Assumptions and Methodology***			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Local Governments, NC Department of Revenue

EFFECTIVE DATE: Effective for taxes imposed for taxable years beginning on or after July 1, 2008.

BILL SUMMARY:
Senate Bill 1442 would create property tax deferral benefit for North Carolina residents who have owned and occupied property located in the State as a permanent residence for at least five years. The amount of taxes deferred would be based upon the income eligibility limit of the property tax homestead exclusion. Under this system, an owner who met the requirements of the circuit breaker benefit and made less than the income eligibility limit could elect to defer the portion of

taxes imposed on the permanent residence that exceeds four percent (4%) of the owner's income. An owner who met the requirements of the circuit breaker benefit and made between the income eligibility limit and one and one-half times the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds five percent (5%) of the owner's income.

ASSUMPTIONS AND METHODOLOGY:

Since the bill allows a deferral of all property taxes in excess of specified income thresholds, a simulation model was developed to determine the estimated tax liability of homeowners in the qualifying income categories compared to their calculated income thresholds. The amount of tax liability in excess of the threshold is the deferred amount. Because the bill includes a rollback provision in the event the homeowner sells the property or otherwise becomes ineligible for the program, the total impact of the bill is determined by subtracting the rollback payments from the amount of deferred taxes in any given year. The rollback provides for payment of current taxes due plus the previous three years. Finally, a participation rate is applied to reflect the estimated percentage of eligible homeowners who will participate in the program.

To determine the value of the deferral, a distribution table was obtained from the American Community Survey of the US Census Bureau. The table provides a distribution of home values by income groups. For each income category the income threshold is calculated based on the mid-point income for the income group. For the $10,000 - $20,000 income group, for example, the income threshold is calculated as 4% * $15,000, or $600. Thus, any property tax liability above $600 is eligible for deferment.

Next, a tax liability for each home value category is calculated and compared to the income threshold. The amount of tax liability in excess of the income threshold for each home value category is amount eligible for deferment for each homeowner in the category. This amount is multiplied by the number of homeowners in the category to determine to total amount of deferred taxes for the category. This process is repeated for each home value category.

For the income categories up to $20,000, an income threshold of 4% is used. This closely approximates the current Homestead income limit of $20,500. The bill establishes an income threshold of 5% for homeowners earning up to 150% of the Homestead limit, or $30,750. Homeowners earning above that amount would not be eligible. For future years, the income values are assumed to grow by 5% per year and home values are projected to grow 5% per year. Population is assumed to grow 2% per year.

The bill limits the program to homeowners who have been in their homes for 5 or more years. The percentage of homeowners in this category is estimated to be 65 percent based on Census data. The rollback amount is calculated based on the assumption that homeowners sell their homes on average every 7 years. Thus, each year of the estimate assumes that 1/7 of the participating homeowners will drop out of the program and pay the appropriate rollback of the current year taxes plus deferred taxes from the previous three years with interest.

Although many other states offer circuit breaker programs, few are structured as deferrals. As a result, it is difficult based on other states' experience to draw conclusions about what level of

participation could be expected with this program in North Carolina. The reason cited by other states for the low participation rates is that homeowners are reluctant to have a lien placed on their homes. Elderly homeowners are reluctant to leave their heirs with a large tax payment.

To estimate a potential participation rate, FRD estimated the total number of years a homeowner would need to reside in the residence in order for the program to be financially beneficial. To qualify for the program, a homeowner must have lived in the home for 5 or more years. Because the rollback period is the equivalent of the current year taxes plus three years of deferred taxes, the homeowner would benefit after 5 years of being in the program. In other words, after five years in the program, the homeowner could continue to participate in the program with no additional years of deferred liability.

Thus, including the five-year period required to qualify for the program, a homeowner would need to live in a home for 10 years in order to benefit from participation. According to Census data, the percentage of homeowners who have lived in their homes for 10 or more years is 45%. An additional 20% of homeowners in these income groups are estimated to be Homestead-eligible and would have the option of either program. Assuming that half these homeowners chose the Homestead program, the percentage of eligible participants would be 35%. The table below indicates the impact based on these assumptions.

Estimated Maximum Impact of SB 1442 ($millions)					
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Local Governments	$0	($96.3)	($73.2)	($63.1)	($52.3)

The actual impact is likely to be much lower given the fact that many homeowners cannot predict how long they will be in a home and may be reluctant based on experience in other states to place a lien on their homes.

SOURCES OF DATA: US Census Bureau

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1442

Short Title:	Circuit Breaker Property Tax Benefit.	(Public)
Sponsors:	Senators Snow, Queen, Goss, Boseman, Clodfelter, and Nesbitt.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A CIRCUIT BREAKER PROPERTY TAX BENEFIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this section:

...

(3a) Property tax relief. – The property tax homestead exclusion provided in this section or the property tax homestead circuit breaker provided in G.S. 105-277.1B.

...."

SECTION 2. G.S. 105-277.1 is amended by adding a new subsection to read:

"**§ 105-277.1. Property tax homestead exclusion.**

...

(e) Election. – An owner who qualifies for both kinds of property tax relief may elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the property tax homestead circuit breaker in order for the property tax homestead circuit breaker to be allowed instead of the property tax homestead exclusion."

SECTION 3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.1B. Property tax homestead circuit breaker.**

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section.

(b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(c) Income Eligibility Limit. – The income eligibility limit provided in G.S. 105-277.1(a2) applies to this section.

(d) Qualifying Owner. – For the purpose of qualifying for the property tax homestead circuit breaker under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) The owner has an income for the preceding calendar year of not more than the income eligibility limit specified in subsection (c) of this section.

(2) The owner has occupied the property as a permanent residence for at least five years.

(3) The owner is a North Carolina resident.

(e) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his or her permanent residence if it exceeds a percentage of the qualifying owner's income as provided in this section.

Income	Percentage
Less than the income eligibility limit	4.0%
100% to 150% of the income eligibility limit	5.0%

(f) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this circuit breaker because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(g) Deferred Taxes. – A residence meeting the conditions for classification under this section must be taxed in accordance with subsection (e) of this section. The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes must be carried forward in the records of the taxing unit or units as deferred taxes. Payment of taxes deferred under this section may be deferred until the death of the owner or until the residence is transferred, at which time the full amount of deferred taxes, together with any interest, penalties, or costs that may have accrued thereon, becomes due. The tax for the fiscal year that opens in a calendar year in which deferred taxes become due is computed as if the property was not eligible for property tax relief under this section, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. The amount due under this subsection must be paid within nine months after the date of death or transfer, unless the residence is transferred to the former owner's spouse and the spouse qualifies for tax deferral under this section and occupies the property as his or her

permanent residence, in which case the spouse may elect to continue deferring payment of the tax.

If the owner of a tax-deferred residence does not qualify under this section for deferral as of January 1 preceding a taxable year, the owner may not defer any additional property taxes that year under this section, but the deferred taxes from earlier years do not become due because of the owner's failure to qualify for the current year.

Except as provided in subsection (f) of this section, in any year in which the owner of a tax-deferred residence no longer occupies the residence as his or her permanent residence, the full amount of deferred taxes, together with any interest, penalties, or costs that may have accrued thereon, becomes due and is due and payable at the same time the tax levied on the residence in that year is otherwise due.

(h) Annual Notification. – On or before September 1 of each year, the assessor shall notify each residence owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

(i) Prepayment. – All or part of the deferred taxes and accrued interest may be paid to the tax collector at any time. Any partial payment is applied first to accrued interest. A residence owner to whom a tax deferral has previously been granted may revoke the application for deferral at any time by notifying the assessor in writing.

(j) Payment by Another. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election.

(k) Anti-Deferral Clauses Void. – Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

(l) Construction. – This section does not affect the attachment of a lien for personal property taxes against a tax-deferred residence.

(m) Application. – An application for property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.

(n) Multiple Ownership. – When a permanent residence is owned and occupied by two or more persons other than husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners qualify and elect to defer taxes under this section."

SECTION 4. G.S. 150-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible ~~to be exempted or excluded from taxation~~for a property tax benefit must file an application for ~~exemption or exclusion~~the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property

or the qualifications or eligibility of the taxpayer necessitating a review of the ~~exemption or exclusion:~~benefit.

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

e. Special classes of property eligible for tax relief under G.S. 105-277.1B."

SECTION 5. G.S. 105-309(f) reads as rewritten:

"(f) The ~~notice set out below must appear~~assessor must print a homestead tax relief notice on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayer of his or her rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1 and the property tax homestead circuit breaker provided in G.S. 105-277.1B.

~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS.~~

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

~~If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor.~~

~~Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.~~

~~If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1.~~""

SECTION 6. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

Circuit Breaker [redacted]erty Tax Scenario One:
Making Less than [redacted]gibility Limit

Income Eligibility Limit (2006)	$19,700
150% Income Eligibility Limit	$29,500

Annual Income	S 1442 Max Property Tax
$5,000	$200
$10,000	$400
$15,000	$600
$19,700	$788

Personal Tax Effect per S1442

Personal Tax Effect per Current Homestead Exemption

Personal Income of $5,000

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes	50% of Home Value	Less $20,000	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 100,000	$ 520	$ 430	$ 950	$ 200	$ 750	$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475	1442
$ 125,000	$ 650	$ 538	$ 1,188	$ 200	$ 988	$ 62,500.0	$ 105,000	$ 325	$ 269	$ 594	1442
$ 150,000	$ 780	$ 645	$ 1,425	$ 200	$ 1,225	$ 75,000.0	$ 130,000	$ 390	$ 323	$ 713	1442
$ 175,000	$ 910	$ 753	$ 1,663	$ 200	$ 1,463	$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831	1442
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 200	$ 1,700	$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950	1442
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 200	$ 1,938	$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,069	1442
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 200	$ 2,175	$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,188	1442
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 200	$ 2,413	$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306	1442
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 200	$ 2,650	$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425	1442

Personal Income of $10,000

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes	50% of Home Value	Less $20,000	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 100,000	$ 520	$ 430	$ 950	$ 400	$ 550	$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475	1442
$ 125,000	$ 650	$ 538	$ 1,188	$ 400	$ 788	$ 62,500.0	$ 105,000	$ 325	$ 269	$ 594	1442
$ 150,000	$ 780	$ 645	$ 1,425	$ 400	$ 1,025	$ 75,000.0	$ 130,000	$ 390	$ 323	$ 713	1442
$ 175,000	$ 910	$ 753	$ 1,663	$ 400	$ 1,263	$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831	1442
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 400	$ 1,500	$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950	1442
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 400	$ 1,738	$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,069	1442
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 400	$ 1,975	$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,188	1442
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 400	$ 2,213	$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306	1442
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 400	$ 2,450	$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425	1442

Personal Income of $15,000

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes	50% of Home Value	Less $20,000	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 100,000	$ 520	$ 430	$ 950	$ 600	$ 350	$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475	Current
$ 125,000	$ 650	$ 538	$ 1,188	$ 600	$ 588	$ 62,500.0	$ 105,000	$ 325	$ 269	$ 594	Current
$ 150,000	$ 780	$ 645	$ 1,425	$ 600	$ 825	$ 75,000.0	$ 130,000	$ 390	$ 323	$ 713	1442
$ 175,000	$ 910	$ 753	$ 1,663	$ 600	$ 1,063	$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831	1442
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 600	$ 1,300	$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950	1442
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 600	$ 1,538	$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,069	1442
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 600	$ 1,775	$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,188	1442
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 600	$ 2,013	$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306	1442
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 600	$ 2,250	$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425	1442

Personal Income of $19,700

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes	50% of Home Value	Less $20,000	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 100,000	$ 520	$ 430	$ 950	$ 788	$ 162	$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475	Current
$ 125,000	$ 650	$ 538	$ 1,188	$ 788	$ 400	$ 62,500.0	$ 105,000	$ 325	$ 269	$ 594	Current
$ 150,000	$ 780	$ 645	$ 1,425	$ 788	$ 637	$ 75,000.0	$ 130,000	$ 390	$ 323	$ 713	Current
$ 175,000	$ 910	$ 753	$ 1,663	$ 788	$ 875	$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831	1442
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 788	$ 1,112	$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950	1442
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 788	$ 1,350	$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,069	1442
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 788	$ 1,587	$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,188	1442
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 788	$ 1,825	$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306	1442
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 788	$ 2,062	$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425	1442

Circuit Breaker [redacted]erty Tax Scenario Two:
Making 100%-150% of Elgiblity Limit

Income Eligibility Limit (2006)	$19,700
150% Income Eligibility Limit	$29,500

Annual Income	S 1442 Max Propert Tax
$19,700	$985
$21,000	$1,050
$25,000	$1,250
$29,550	$1,478

Personal Income of $19,700

Personal Tax Effect per S1442

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes
$ 100,000	$ 520	$ 430	$ 950	$ 985	$ (35)
$ 125,000	$ 650	$ 538	$ 1,188	$ 985	$ 203
$ 150,000	$ 780	$ 645	$ 1,425	$ 985	$ 440
$ 175,000	$ 910	$ 753	$ 1,663	$ 985	$ 678
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 985	$ 915
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 985	$ 1,153
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 985	$ 1,390
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 985	$ 1,628
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 985	$ 1,865

Personal Tax Effect per Current Homestead Exemption

50% of Home Value	Less 20K	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475.0000	Current
$ 62,500.0	$ 105,000	$ 325	$ 269	$ 593.7500	Current
$ 75,000.0	$ 130,000	$ 390	$ 323	$ 712.5000	Current
$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831.2500	Current
$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950.0000	Current
$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,068.7500	1442
$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,187.5000	1442
$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306.2500	1442
$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425.0000	1442

Personal Income of $21,000

Personal Tax Effect per S1442

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes
$ 100,000	$ 520	$ 430	$ 950	$ 1,050	$ (100)
$ 125,000	$ 650	$ 538	$ 1,188	$ 1,050	$ 138
$ 150,000	$ 780	$ 645	$ 1,425	$ 1,050	$ 375
$ 175,000	$ 910	$ 753	$ 1,663	$ 1,050	$ 613
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 1,050	$ 850
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 1,050	$ 1,088
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 1,050	$ 1,325
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 1,050	$ 1,563
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 1,050	$ 1,800

Personal Tax Effect per Current Homestead Exemption

50% of Home Value	Less 20K	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475.0000	Current
$ 62,500.0	$ 105,000	$ 325	$ 269	$ 593.7500	Current
$ 75,000.0	$ 130,000	$ 390	$ 323	$ 712.5000	Current
$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831.2500	Current
$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950.0000	Current
$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,068.7500	1442
$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,187.5000	1442
$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306.2500	1442
$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425.0000	1442

Personal Income of $25,000

Personal Tax Effect per S1442

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes
$ 100,000	$ 520	$ 430	$ 950	$ 1,250	$ (300)
$ 125,000	$ 650	$ 538	$ 1,188	$ 1,250	$ (63)
$ 150,000	$ 780	$ 645	$ 1,425	$ 1,250	$ 175
$ 175,000	$ 910	$ 753	$ 1,663	$ 1,250	$ 413
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 1,250	$ 650
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 1,250	$ 888
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 1,250	$ 1,125
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 1,250	$ 1,363
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 1,250	$ 1,600

Personal Tax Effect per Current Homestead Exemption

50% of Home Value	Less 20K	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475.0000	Current
$ 62,500.0	$ 105,000	$ 325	$ 269	$ 593.7500	Current
$ 75,000.0	$ 130,000	$ 390	$ 323	$ 712.5000	Current
$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831.2500	Current
$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950.0000	Current
$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,068.7500	Current
$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,187.5000	Current
$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306.2500	1442
$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425.0000	1442

Personal Income of $29,550

Personal Tax Effect per S1442

Appraised Home Value	County Tax Millage Rate 52	City Tax Millage Rate 43	Total Property Tax	Max Property Tax per 1442	Total Deferred Taxes
$ 100,000	$ 520	$ 430	$ 950	$ 1,478	$ (528)
$ 125,000	$ 650	$ 538	$ 1,188	$ 1,478	$ (291)
$ 150,000	$ 780	$ 645	$ 1,425	$ 1,478	$ (53)
$ 175,000	$ 910	$ 753	$ 1,663	$ 1,478	$ 185
$ 200,000	$ 1,040	$ 860	$ 1,900	$ 1,478	$ 422
$ 225,000	$ 1,170	$ 968	$ 2,138	$ 1,478	$ 660
$ 250,000	$ 1,300	$ 1,075	$ 2,375	$ 1,478	$ 897
$ 275,000	$ 1,430	$ 1,183	$ 2,613	$ 1,478	$ 1,135
$ 300,000	$ 1,560	$ 1,290	$ 2,850	$ 1,478	$ 1,372

Personal Tax Effect per Current Homestead Exemption

50% of Home Value	Less 20K	County Tax	City Tax	Total Tax Due	Lowers Immediate Tax Bill: 1442 or Current
$ 50,000.0	$ 80,000	$ 260	$ 215	$ 475.0000	Current
$ 62,500.0	$ 105,000	$ 325	$ 269	$ 593.7500	Current
$ 75,000.0	$ 130,000	$ 390	$ 323	$ 712.5000	Current
$ 87,500.0	$ 155,000	$ 455	$ 376	$ 831.2500	Current
$ 100,000.0	$ 180,000	$ 520	$ 430	$ 950.0000	Current
$ 112,500.0	$ 205,000	$ 585	$ 484	$ 1,068.7500	Current
$ 125,000.0	$ 230,000	$ 650	$ 538	$ 1,187.5000	Current
$ 137,500.0	$ 255,000	$ 715	$ 591	$ 1,306.2500	Current
$ 150,000.0	$ 280,000	$ 780	$ 645	$ 1,425.0000	Current

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 9, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 284	Sanford Annexations.	Senator Atwater
SB 604	Wentworth Tax Cap.	Senator Berger
SB 544	Cabarrus Hospital Charter.	Senator Hartsell
SB 545	Cabarrus Quick Take.	Senator Hartsell
SB 546	Mt. Pleasant Deannexation.	Senator Hartsell
SB 580	State Treasurer/Local OPEB Investments.	Senator Clodfelter
SB 667	Tobacco Tax - Affiliated Dealers.	Senator Garrou
SB 966	Amend G.S. 159C-3(15a).	Senator Cowell
SB 509	Motor Vehicle Inspection Failure/Reinspection.	Senator Brown
SB 510	Emission Inspection/Military Exception.	Senator Brown

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

SENATE FINANCE COMMITTEE
Wednesday, May 9, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, May 9, 2007, in room 544 of the Legislative Office Building. Thirty-four members of the committee were present. Senator John Kerr presided. Tamra Fisher of Wake County, Karlen Guyton of Carteret County and Bill Mallett sponsored by Senator Allran served as pages.

S667 – Tobacco Tax – Affiliated Dealers.

Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Garrou was recognized to explain the proposed committee substitute. Senator Clodfelter offered an amendment and moved for its adoption. The motion carried. Senator Apodaca moved to report the PCS as amended favorably and the motion carried. A copy of the committee substitute, the bill, the summary, the amendment and the fiscal memo is attached.

S284 – Sanford Annexations.

Senator Atwater was recognized to explain the House proposed committee substitute. Senator Jenkins moved for concurrence and the motion carried. A copy of the bill and the summary is attached.

S.B. 604 – Wentworth Tax Cap.

Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Berger was recognized to explain the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, and the summary is attached.

S.B. 544 – Cabarrus Hospital Charter.

Senator Hartsell was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 545 – Cabarrus Quick Take.

Senator Hartsell explained the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 546 – Mt. Pleasant Deannexation.

Senator Hartsell explained the bill. Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 580 – State Treasurer/Local OPEB Investments.

Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Clodfelter was recognized to explain the bill. Senator Rand moved for a favorable report and the motion carried. A copy of the proposed committee substitute is attached.

S.B. 966 – Amend G.S. 159C-3(15A).

Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Cowell was recognized to explain the PCS. Vance Holloman, Deputy State Treasurer, was available to answer questions and to speak in favor of the bill. Senator Rand moved to adopt the PCS and the motion carried. A copy of the proposed committee substitute, the bill, and the summary is attached.

S.B. 509 – Motor Vehicle Inspection Failure/Reinspection.

Senator Brown was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill, the proposed committee substitute, the summary and the fiscal note is attached.

The meeting adjourned at 1:42 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Senate Finance Agenda
Wednesday, May 9, 2007

Bill #	Short Title	Sponsor	Materials	Staff	Comments
			Local Bills		
~~S284~~ Reported ✓	Sanford Annexations	Atwater		Judy	FOR CONCURRENCE; prohibits Sanford from annexing in Chatham Co. PS
~~S 664~~ ✓	Wentworth Tax Cap	P. Berger	PCS	Judy/Trina	PS
~~S 544~~ ✓	Cabarrus Hospital Charter	Hartsell		Trina	Subject to crossover PS
~~S 545~~ ✓	Cabarrus Quick Take	Hartsell		Trina	Subject to crossover PS
~~S546~~ ✓	Mt. Pleasant Deannexation	Hartsell		Judy	PS
			Public Bills		
S580	State Treasurer/Local OPEB Investments	Clodfelter	PCS	Trina/Sabra	Subject to crossover
S667 ✓	Tobacco Tax - Affiliated Dealers	Garrou	PCS/FN	Trina Rodney	PS FN pending
S966	Amend G.S. 159C-3(15A)	Cowell	PCS	Cindy	AP Carlton needs to leave by 1:30
S509	Motor Vehicle Inspection Failure/Reinspection	Brown	PCS/FN	Trina Lisa Hollowell	Incorporates SB 510 and SB 724

Senate Finance Committee
Wednesday, May 9, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 284	Sanford Annexations.	Senator Atwater
SB 509	Motor Vehicle Inspection Failure/Reinspection.	Senator Brown
SB 510	Emission Inspection/Military Exception.	Senator Brown
SB 544	Cabarrus Hospital Charter.	Senator Hartsell
SB 545	Cabarrus Quick Take.	Senator Hartsell
SB 546	Mt. Pleasant Deannexation.	Senator Hartsell
SB 580	State Treasurer/Local OPEB Investments.	Senator Clodfelter
SB 604	Wentworth Tax Cap.	Senator Berger
SB 667	Tobacco Tax - Affiliated Dealers.	Senator Garrou
SB 966	Amend G.S. 159C-3(15a).	Senator Cowell

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, May 09, 2007

Senator KERR,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **544** Cabarrus Hospital Charter.
Sequential Referral: None
Recommended Referral: None

S.B. **545** Cabarrus Quick Take.
Sequential Referral: None
Recommended Referral: None

S.B. **546** Mt. Pleasant Deannexation.
Sequential Referral: None
Recommended Referral: None

FAVORABLE AS TO CONCURRENCE

S.B.(HCS #1) **284** Sanford Annexations.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **604** Wentworth Tax Cap.
Draft Number: 75406
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 5

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, May 10, 2007

Senator KERR,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **509** Motor Vehicle Inspection Failure/Reinspection.

Draft Number:	75405
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **580** State Treasurer/Local OPEB Investments.

Draft Number:	55460
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **667** Tobacco Tax - Affiliated Dealers.

Draft Number:	55461
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **966** Amend G.S. 159C-3(15a).

Draft Number:	55462
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 4

Committee Clerk Comments:

SENATE FINANCE COMMITTEE
Wednesday, May 4, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, May 2, 2007, in room 544 of the Legislative Office Building. Thirty-three members of the committee were present. Senator Dan Clodfelter presided.

S620 – Lewiston/Woodville Debt.

Senator Purcell moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Jones was recognized to explain the proposed committee substitute. Senator Weinstein moved for a favorable report and the motion carried. A copy of the committee substitute, the bill, and the summary are attached.

S758 - Limited Driving Privilege/DWLR.

Senator Kerr moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Kerr was recognized to explain the proposed committee substitute. Senator Hagan moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, the summary and the fiscal note are attached.

H.B. 407 – Extend Magnolia ETJ.

Senator Albertson was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary are attached.

S.B. 412 – Homestead Exclusion Modifications.

Dan Ettefagh, a staff attorney with the Bill Drafting Division, was recognized to explain the bill. The bill was taken up for discussion only. A copy of the bill and the summary are attached.

S.B. 1442 – Circuit Breaker Property Tax Benefit.

Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Dan Ettefagh was recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, the fiscal note and the circuit breaker property tax scenario are attached.

S.B. 1051 – Equitable Residential Property Tax Relief.

Senator Weinstein moved to adopt the proposed committee substitute for discussion and the motion carried. Dan Ettefagh was recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, the fiscal note and the circuit breaker property tax scenario are attached.

S.B. 738 – Registration Exemptions/Length Exemptions.

Senator Swindell moved to adopt the proposed committee substitute for discussion and requested the adoption of his amendment and the motion carried. Senator Swindell was recognized to explain the PCS and the amendment. Captain Mike Nichols, NC Highway Patrol, was recognized to answer questions. Senator Albertson moved to adopt the PCS as amended and the motion carried. A copy of the proposed committee substitute, the bill, the summary, the fiscal note and the amendment are attached.

S.B. 1203 – Present-Use Value Changes.

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized to explain the bill. The bill was taken up for discussion only. A copy of the bill, the summary, the fiscal note, NC Wildlife Commission species document, and the NC Wildlife habitat action plan summary are attached.

S.B. 1305 – Present-Use Value Easement Tax Credit.

Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Martha Walston was recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, and the fiscal note are attached.

S.B. 1309 – Property Tax Reform Act of 2007.

Senator Apodaca moved to adopt the proposed committee substitute for discussion and the motion carried. Dan Ettefagh and Martha Walston were recognized to explain the bill. The bill was taken up for discussion only. A copy of the proposed committee substitute, the bill, the summary, and the fiscal note are attached.

Senator Clodfelter recognized Senator Floyd McKissick, who was attending his first Senate Finance meeting as a member.

The meeting adjourned at 2:00 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 9, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mike Abraczinska	DENR-DAQ
Paul Gorney	DENR--DAQ
BRIAN Phillips	DENR-DAQ
Sheria Reid	IOG-The Daily Bulletin
John Robinson	NC-DMV
Johanna Reese	DOT
AL MILAK	NC DOR
GREG RADFORD	NC DOR
Pam Seaman	NC Alliance
Andy Munn	REBIC
David Ingram	Charlotte O
Kevin Leonard	WCSR

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 9, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Marty Bocock	Embarq
Robert B. Partin	Mayor. Town of Scotland Neck
Larry Bawley	LBA
Bob Hagemann	City of Charlotte,
Ron Kimble	" " "
Andy Dulin	" " "
Susan Burgess	" " "
Boyd Cable	" " "
Tim Lipka	" "
Mayor Pro Tem Susan Burgess	" " "
M Mann	NCCA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 9, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Amy Gaulder	HANC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 9, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jon Patenda	NCASA
Alan Troyer	NCAE
Fred Keene	NCAIS
David Thompson	NCACC
Clyde Byers	NCMS
M.C. Fiddes	Durham Co.

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 9, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Vance Hallamon	St. Treasurer
Sharon Edmundson	State Treasurer
Carter Worthy	gen public
Jack Morisey	gen public
Gene Ainsworth	A & A
[illegible]	JD, AL, PA
Debbie Brewer	DMV
Patrick Hannah	Durham Chamber
Jim Blackburn	Association of County Commissioners
Renee Hartis	Town of Stallings 315 Stallings Rd. Stallings, NC
Lynda Payton	Town of Stallings 315 Stallings Rd Matthews 28106
Barb Scogin	CCC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 9, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bruce Thompson	Parker Poe
Theresa Kostrewski	Southern
Paul Meyer	NCACC
Nick Tosco	Sen Chaffee Hlse
Susan Vaughn	Nationwide
Brad Cadenhead	BCBSNC
Ken Wright	BCBSNC
Stana Huggins	NC DST
Roger Bone	Bon of Assoc
John McMillan	mfas
Dennis Marshall	City of Charlotte

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 284*

House Committee Substitute Favorable 4/12/07

Short Title: Sanford Annexations. (Local)

Sponsors:

Referred to:

February 22, 2007

A BILL TO BE ENTITLED

AN ACT ALLOWING THE CITY OF SANFORD TO ANNEX BY VOLUNTARY PETITION AREAS THAT ARE MORE THAN THREE MILES FROM THE CITY'S PRIMARY CORPORATE LIMITS IF THE AREAS ARE CONTIGUOUS TO THE CITY'S SATELLITE CORPORATE LIMITS, AND PROHIBITING THE CITY FROM ANNEXING AREAS WITHIN CHATHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(1) shall not apply to the City of Sanford if the area proposed for annexation is contiguous to the City's satellite corporate limits. For purposes of this act, the term "satellite corporate limits" means the corporate limits of any noncontiguous area annexed pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes by the City of Sanford or pursuant to a local act enacted by the General Assembly authorizing or effecting noncontiguous annexations for the City of Sanford.

SECTION 2. The City of Sanford shall not annex any areas pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes that are located within Chatham County.

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

SENATE BILL 284:
Sanford Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 9, 2007
Introduced by:	Sen. Atwater	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: Senate Bill 284, as it passed the Senate, would allow the City of Sanford to voluntarily annex areas that are more than three miles from the city's primary corporate limits if the areas are contiguous to the City's satellite corporate limits. The House added a provision prohibiting the City of Sanford from annexing areas within Chatham County. THIS BILL IS BACK IN SENATE FINANCE FOR A RECOMMENDATION REGARDING CONCURRENCE.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. **The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.**
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: Senate Bill 284 would exempt the City of Sanford from the first requirement for satellite annexation only under circumstances where the area to be annexed is contiguous to the City's satellite corporate limits but prohibits the City from annexing areas within Chatham County.

The rationale for this standard is that while annexing satellite areas is not inconsistent with the notion that a city should be a single, compact entity, those areas must not be too far from the city's primary limits. The standard does not require the entire annexation area to be within three miles of the primary limits, but only the point of the area that is closest to the annexing city. Approximately 22 municipalities have an exemption from or local modification to this requirement.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: In 2000, the City of Sanford annexed a large tract of land that is currently undeveloped. The City has been approached by a developer who would like to develop a tract that is behind but contiguous to this current satellite area. However, this area is beyond the three-mile limit. If a city is using the satellite procedure to annex an area contiguous to an existing satellite area, the distance must still be measured from the primary corporate limits and not from the satellite limits. Therefore, the City is requesting this legislation so it may annex this tract of land. *(S0284e2-SMRE) Finance Counsel Trina Griffin substantially contributed to this summary.*

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 604
PROPOSED COMMITTEE SUBSTITUTE S604-CSSVx-26 [v.1]

5/8/2007 7:12:12 PM

Short Title: Wentworth Tax Cap. (Local)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO CAP THE AD VALOREM TAX RATE OF THE TOWN OF WENTWORTH.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Wentworth, being Section VII of Chapter 76 of the Private Laws of 1798, as amended by S.L. 1997-322 and S.L. 2003-330, is amended by adding a new section to read:

"Sec. 1.2. Except with an approving vote of the people as provided by G.S. 160A-209(f), the Town may not levy property taxes at a rate higher than thirty-five cents (35¢) on the one hundred dollars' ($100.00) appraised value of property subject to taxation."

SECTION 2. This act becomes effective July 1, 2007.

SENATE BILL 604: Wentworth Tax Cap

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 9, 2007
Introduced by:	Sen. Berger of Rockingham	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 604 is a local bill that amends the Charter of the Town of Wentworth by adding a new section, limiting the property tax rate to 35 cents per $100 appraised value of property subject to taxation, except with an approving vote of the people in accordance with § 160A-209(f). The Proposed Committee Substitute makes two technical corrections and changes the effective date.

CURRENT LAW: G.S. 160A-209 governs the authority of a municipality to levy taxes on property within its boundaries, subject to statutory limitations. A municipality may levy property taxes without restriction as to rate or amount for the following purposes:

1) To pay principal and interest on all general obligation bonds;
2) To supply an unforeseen deficiency in revenue; and
3) To meet the cost of additional law-enforcement personnel and equipment required by civil disorder within the jurisdiction.

For other purposes, as set out in the statute, property taxes may be levied up to a combined rate of $1.50 per $100 appraised value. With an approving vote of the people, any municipality may levy property taxes or increase the property tax rate limitation for any purpose authorized by its charter or general law to appropriate money.

BILL ANALYSIS: Senate Bill 604 is a local bill that amends the Charter of the Town of Wentworth by adding a new section, limiting the property tax rate to 35 cents per $100 appraised value of property subject to taxation, except with an approving vote of the people in accordance with § 160A-209(f).

The Proposed Committee Substitute makes two technical corrections and changes the effective date from "when it becomes law" to July 1, 2007. The House companion to this bill becomes effective beginning with the 2007-2008 fiscal year. This change was made so that the two versions are consistent.

EFFECTIVE DATE: This act would become effective on July 1, 2007.

BACKGROUND: The Town of Wentworth is one of 18 North Carolina municipalities that do not levy an ad valorem tax. Following is a chart of local modifications to § 160A-209:

LOCAL MODIFICATIONS TO § 160A-209*					
MUNICIPALITY	**S. L.**	**BILL #**	**SEC.**	**RATE CAP**	**CURRENT**
CLEMMONS	1985-437	H 436	1.3	.15/$100 VALUATION	.0985
OAK RIDGE	1998-113	H 72	6.1	.20/$100 VALUATION	.0863
PLEASANT GARDEN	1997-344	S 534	5-3(b)	.20/$100 VALUATION	.0500
VARNAMTOWN	1987-1003	H 2212	5.3	.10/$100 VALUATION	.0500
WALKERTOWN	1983-936	H 1494	1.1	.40/$100 VALUATION	.2000

* Maximum tax rate authorized without voter approval in a municipal referendum.

S0604e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 604

Short Title:	Wentworth Tax Cap.	(Local)
Sponsors:	Senator Berger of Rockingham.	
Referred to:	Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO CAP THE AD VALOREM TAX RATE OF THE TOWN OF WENTWORTH.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Wentworth, being Section VII of Chapter 78 of the Private Laws of 1798, as amended by S.L. 1997-322, is amended by adding a new section to read:

"Sec. 1.2. Except with an approving vote of the people as provided by G.S. 160A-209(f), the Town may not levy property taxes at a rate higher than thirty-five cents (35¢) on the one hundred dollars' ($100.00) appraised value of property subject to taxation."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 544

Short Title:	Cabarrus Hospital Charter.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	Judiciary II (Criminal).	

March 7, 2007

A BILL TO BE ENTITLED

AN ACT TO RESTATE THE CHARTER OF CABARRUS MEMORIAL HOSPITAL.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 307, Public-Local Laws of 1935, as amended by Chapter 421, Public-Local Laws of 1935, Chapter 45 of the Session Laws of 1951, Chapter 1154 of the 1977 Session Laws, Chapter 277 of the 1981 Session Laws, Chapter 947 of the Session Laws of 1987, Chapter 602 of the 1989 Session Laws, Chapter 982 of the 1989 Session Laws, S.L. 1998-204, and S.L. 2004-67, reads as rewritten:

"Section 1. That the Board of County Commissioners of Cabarrus County, North Carolina, by a majority vote of said Board, or upon the petition of two hundred voters of said county, shall, after thirty days notice at the courthouse door and publication in one or more newspapers in said county for thirty days, order an election to be held to determine the will of the people of said county whether there shall be issued and sold bonds to an amount not to exceed one hundred thousand dollars ($100,000), to bear interest at not exceeding six per cent per annum, and to be payable, both principal and interest, when and where they may decide, and to levy a tax of not exceeding two cents on the one hundred dollar valuation of property, the proceeds of sale of said bonds to be issued to be used in securing lands and erecting or altering buildings and equipping same to be used as a public hospital for said county, and said tax to be levied to pay the interest on said bonds, and to provide a sinking fund therefor to pay said bonds at maturity. The said Board of County Commissioners shall also levy a tax not to exceed two cents on the one hundred dollar valuation of property for the maintenance and upkeep of said hospital. If the majority of the qualified voters at said election shall vote in favor of the issuing of said bonds and the levying of said tax, then said bonds, or such part thereof as the said Board of County Commissioners may determine, shall be issued and sold by said Board. Said tax, or such part thereof as shall be required, shall be levied. The hospital so erected from the sale of said bonds in addition to other

hospitalization funds from other sources shall be known as the "Cabarrus Memorial Hospital."

"Sec. 2. That at said election, those voters favoring the issuing and sale of bonds and levying of the tax aforesaid shall vote a written or printed ballot, "For Cabarrus Memorial Hospital," and those opposed shall vote a written or printed ballot, "Against Cabarrus Memorial Hospital," and for said election, the County Commissioners shall order a new registration, such registration to be used only for said special election to be governed by the laws of the State, and for said election, the County Commissioners shall appoint registrars and judges of election, and fix a date for making returns of election, at which date, the County Commissioners shall meet and canvass the returns of said election, and declare and record the result of said election. If a majority of the qualified voters shall fail to approve the issuing of said bonds and the levy of said tax at the first election held as above provided, then the County Commissioners may order another election for the same purpose and in the same manner: Provided, said second election shall not be held in the same year as said first election.

"Sec. 3. If a majority of the qualified voters shall vote "For Cabarrus Memorial Hospital," at any election held under this Act, then the County Commissioners shall issue and sell bonds authorized by said election for not less than par, and shall pay over the proceeds arising therefrom to the Treasurer of Cabarrus County, who shall pay out the same under the orders of the executive committee of the hospital hereinafter provided for, said executive committee being authorized to use and expend said fund in the purchase of necessary site, which said site shall be central and convenient, and in the erection and equipment of the necessary building or buildings for said county hospital, and the taxes which may be levied and collected under this Act shall also be paid to the Treasurer of Cabarrus County, and by said Treasurer kept in two separate accounts, one of said accounts being the hospital interest and sinking fund, and the other account the hospital maintenance fund, and from said taxes the said Treasurer shall set apart to the hospital interest and sinking fund such part thereof as shall be required to pay interest on the bonds and to provide the necessary sinking fund for the payment of said bonds, and the said Treasurer is authorized to lend only upon satisfactory security, approved by the Local Government Commission, the accumulations of said sinking fund from time to time for the best interest obtainable, and until said sinking fund is required for the purpose of paying off the said bonds, and said Treasurer, out of said hospital interest and sinking fund, shall pay the interest on said bonds and the bonds at maturity, but the said Treasurer shall not be required to begin with the creation of a sinking fund for the retirement of said bonds before two years from the date of issuing same. The said Treasurer shall pay out the moneys set apart to the hospital maintenance fund upon the order of the executive committee of the hospital, and it shall be the duty of the Board of Commissioners of Cabarrus County to annually levy and collect as other taxes a special tax not exceeding the limit provided by this Act, sufficient to pay the interest on said bonds, and to provide the necessary sinking fund for the payment of same, and also to afford the necessary maintenance fund as herein provided.

"Sec. 4. The bonds issued under the provisions of this Act shall mature in not exceeding thirty years from date, and shall be in such denominations as the County

Commissioners shall determine, and shall draw interest at a rate not exceeding six per cent annually, or semi-annually, and said bonds shall be serial bonds, maturing in such amounts as may be determined by the County Commissioners. The first installment shall fall due not later than five years from date of issue of said bonds, and the last installment falling due not later than thirty years from date of said issue.

"Sec. 5. Should a majority of the qualified voters of Cabarrus County, under any election held under this Act, vote "For Cabarrus Memorial Hospital," then the County Commissioners shall at once appoint a Board of Trustees, one trustee to come from each and every voting precinct in the county. Said Board of Trustees shall be divided into three groups, the members of the first group being appointed for two years, the members of the second group being appointed for three years, the members of the third group being appointed for four years. Upon the first meeting of the Board of Trustees, which shall not be less than ten days from the date of appointment, the said Board shall appoint an executive committee composed of seven members from the trustees, all residents of the county. The Cabarrus County Medical Society and the Medical Staff of the hospital may each nominate for appointment by the Board of Trustees two practicing physicians to serve as honorary and advisory members of said executive committee; such advisory members shall serve without voting power. Said executive committee shall be divided into three groups, the members of the first group being appointed for one year, the members of the second group being appointed for two years, and the members of the third group being appointed for three years. In case of any vacancy for any cause on the executive committee, except for expiration of term of appointment, the executive committee shall of its own motion fill the unexpired term. In case of vacancy on the Board of Trustees for any cause, including the creation of a new voting precinct in the county in which a member does not reside and the expiration of terms of all members, the said Board shall fill the vacancy by electing a new member who resides within the newly created voting precinct or from the same voting precinct as that of the retired member. In the event two or more voting precincts should be consolidated, the appointment of all members residing within the new voting precinct shall thereupon terminate and the Board of Trustees shall appoint a member from the newly created voting precinct. The Board of Trustees shall appoint members of the executive ~~commitee~~ committee upon the expiration of their terms of office.

"Sec. 6. The said executive committee shall within ten days after their appointment or election, qualify by taking the oath of civil officers and organize as an executive committee by the election of one of their number as chairman, one as secretary, and by the election of such other officers as they may deem necessary, but no bond shall be required of them. No member shall receive any compensation for his services performed, but he may receive reimbursement for any cash expenditures actually made for personal expenses incurred as such member, and an itemized statement of such expenses and money paid out shall be made under oath by each of such members and filed with the Secretary and allowed only by the affirmative vote of all the members present at a meeting of the executive committee. The executive committee shall make and adopt such by-laws, rules and regulation for their own guidance and for the government of the hospital as may be deemed ~~expeidient~~ expedient for the economic

and equitable conduct thereof, not inconsistent with this Act, and the ordinances of the city or town wherein such public hospital is located. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund, and the purchase of site or sites, the purchase or construction of any hospital building or buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased, or set apart for that purpose: Provided that all moneys received for the credit of such hospital shall be deposited in a special fund for the hospital and shall be paid out only upon warrants or checks drawn by a proper officer designated by the executive committee upon due authorization of such committee. Said executive committee shall have the power to appoint a chief executive officer and necessary assistants, and to fix their compensation and shall in general carry out the spirit and intent of this act in establishing and maintaining a county general acute care hospital. Such committee shall hold meetings at least once each month, shall keep a complete record of all its proceedings, and four members of such committee shall constitute a quorum for the transaction of business. One of said members shall visit and examine said hospital at least twice each month, and the committee shall during the first week in January of each year file with the Board of Commissioners of said county a report of their proceedings with reference to such hospital, and a statement of all receipts and expenditure during the year, and shall at such time certify to the Board of County Commissioners the amount necessary to maintain and improve such hospital for the ensuing year. No member shall have a personal pecuniary interest, either directly or indirectly, and the purchase of any supplies for said hospital, unless the same are purchased by competitive bidding. Provided, that such hospital may render care and services to members of the Board of Trustees and to companies in which such members may have an interest on those terms and conditions as such care and services are otherwise made available.

"Sec. 7. The hospital established under this Act shall be for the benefit of the inhabitants of Cabarrus County, and of any person falling sick or being injured or maimed within its limits; but every inhabitant or person who is not a pauper shall pay to such executive committee or such officers as it shall designate for such county public hospital a reasonable compensation for occupancy, nursing, care, medicine, and/or attendance, according to the rules and regulations prescribed by said executive committee, such hospital always being subject to such reasonable rules and regulations as said committee may adopt in order to render the use of said hospital of the greatest benefit to the greatest number; and said executive committee may exclude from the use of such hospital any and all inhabitants and persons who shall willfully violate such rules and regulations; and said committee may extend the privileges and use of such hospital to persons residing outside of Cabarrus County upon such terms and conditions as said executive committee may from time to time by its rules and regulations prescribe.

"Sec. 8. When such hospital is established, the physicians, nurses, attendants, the person sick therein, and all persons approaching or coming within the limits of same, and all furniture and other articles used or brought there, shall be subject to such rules and regulations as said executive committee may prescribe.

"Sec. 9. That "Cabarrus Memorial Hospital" is hereby declared to be a body corporate, with power to receive and hold gifts, grants, and devices of real and personal property, to sue and be sued, and to do any and all lawful acts necessary to carry out the objects of its creation, and shall possess all other rights and powers usually incident to corporations. Such rights and powers shall include, without limitation, the authority to sell real and personal property; to establish additional locations to render medical services; to establish trusts or foundations to administer hospital funds; to retain securities donated to such hospital notwithstanding the provisions of Chapter 159 of the General Statutes relating to permissible investments; and to enter into private long term leases or subleases of hospital owned or leased real property for periods not exceeding 10 years without notice or other compliance with Chapter 160A of the General Statutes. ~~Cabarrus Memorial Hospital may use a single prime contractor contract, a construction management contract, or a design-build contract for the erection, construction, alteration, or repair of any building at any of its facilities. The previous sentence shall apply only to contracts entered into on or before July 1, 1992.~~

"Sec. 10. The executive committee of such hospital shall determine the conditions under which the privileges of practice may be available and shall promulgate rules and regulations governing the conduct of such practice at said hospital.

"Sec. 11. Notwithstanding G.S. 116-15, the Executive Committee of Cabarrus Memorial Hospital may establish and maintain in connection with and as a part of the hospital an educational program for nursing and allied health sciences. The Executive Committee may award an Associate, Baccalaureate, and advanced degrees to graduates of the nursing education or allied health sciences programs as appropriate.

"Sec. 12. The executive committee shall have the power to determine rates to be charged for hospital services, to evaluate and approve or reject claims for charity services and to generally establish collection policies and practices for the hospital.

"Sec. 12.1. (a) Notwithstanding anything herein or elsewhere in the laws of this State to the contrary, so long as (i) there are no county bonds issued for the benefit of Cabarrus Memorial Hospital outstanding; (ii) there is no county tax levy for the direct benefit of the hospital; and (iii) the Executive Committee of the hospital operates Cabarrus Memorial Hospital as an acute care general hospital open to the general public free of discrimination based upon race, creed, color, sex or national origin and on a nonprofit basis, the provisions of Chapter 159 of the General Statutes of North Carolina relating to public hospitals, and any other provisions of the General Statutes relating to public hospitals, shall not be applicable to Cabarrus Memorial Hospital and its Executive Committee.

(b) As long as the conditions of subsection (a) of this section continue to be satisfied, the Executive Committee of Cabarrus Memorial Hospital may operate Cabarrus Memorial Hospital in the same manner as private nonprofit corporations operate acute care hospitals in this State without the limitations and restrictions applicable to public hospitals under the laws of this State; and that the Executive Committee may provide for the governance of the hospital in such manner as it deems in the best interest of the hospital."

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

SENATE BILL 544:
Cabarrus Hospital Charter

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 9, 2007
Introduced by:	Sen. Hartsell	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 544 consolidates, restates, and makes technical changes to the charter of the Cabarrus Memorial Hospital. This bill received a favorable report from the Senate Judiciary II Committee on April 24, 2007.

BILL ANALYSIS: In 1935, the General Assembly enacted legislation enabling Cabarrus County to establish a public hospital. In 1991, the hospital was reorganized as a non-profit organization. In 1997, Cabarrus Memorial Hospital began doing business as NorthEast Medical Center. The charter has been amended several times since its enactment. Senate Bill 544 would consolidate the original charter and the various amendments into one local act. It also corrects two typographical errors and eliminates an outdated provision.

EFFECTIVE DATE: This act is effective when it becomes law.

S0544e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 545

Short Title:	Cabarrus Quick Take.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	Finance.	

March 7, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CABARRUS COUNTY AND MUNICIPALITIES IN CABARRUS COUNTY TO USE QUICK TAKE IN CERTAIN CONDEMNATION PROCEEDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property interests (including, without limitation, fee simple title, rights-of-way, and easements) to be used for (i) waterlines and treatment facilities, (ii) sewer lines and treatment facilities, and (iii) opening, widening, extending, or improving public streets, roads, and sidewalks, a county, city, or town may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words "Secretary" or "Secretary of Transportation" appear, they shall be deemed to include the "Town Manager," or the "County Manager" and whenever therein the word "highway" appears, it is deemed to include the purposes authorized by this section, provided further that nothing herein shall be construed to enlarge the power of the town to condemn property already devoted to public use.

SECTION 2. This act applies only to Cabarrus County and to municipalities located wholly or partly in Cabarrus County and may only be used to take property within that county.

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

SENATE BILL 545: Cabarrus Quick Take

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 9, 2007
Introduced by:	Sen. Hartsell	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 357 would allow Cabarrus County and the municipalities located wholly or partly within that county to acquire property for certain purposes using the statutory quick take procedure.

CURRENT LAW:

General Condemnation Procedure: Both counties and municipalities are granted the authority to acquire real property by eminent domain in accordance with Chapter 40A. Under general condemnation procedure, title to the property and the right of possession vests in the county or city seeking condemnation only after one of the following occur: (1) the property owners do not contest the taking but only request a determination of just compensation; (2) the owners do not respond within 120 days of service of the condemnation action; or (3) the deposit made by the locality is disbursed by the court in accordance with G.S. 40A-44.

'Quick Take' Procedure: Under the quick take procedure, unless an action for injunctive relief has been initiated, title to the property and the right to immediate possession vests automatically with the county or city subject to the filing of the condemnation complaint and deposit of the estimated just compensation. The use of the quick take procedure is limited based on the entity seeking condemnation and the purposes for which the property is being condemned. For both counties and cities, the procedure is limited to condemnation for:

- Water supply and distribution systems.
- Wastewater collection and treatment systems.
- Solid waste collection and disposal systems.
- Opening, widening, extending, or improving roads streets, alleys, and sidewalks.
- Establishing, extending, enlarging, or improving storm sewer and drainage systems.
- Establishing drainage programs o prevent obstructions to the natural flow of streams, creeks, and natural water channels.

Cities may additionally use the procedure for: (1) electric power generation, transmission, and distribution systems, (2) gas production, storage, transmission and distribution systems, and (3) cable television systems.

BILL ANALYSIS: Senate Bill 545 allows Cabarrus County and the municipalities located wholly or partly in the county[1] to acquire property using the quick take procedure as an alternative to the general condemnation procedure for the following purposes:

- Waterlines and treatment facilities.
- Sewer lines and treatment facilities
- Opening, widening, extending, or improving public streets, roads, and sidewalks.

[1] The municipalities located wholly or in part in Cabarrus County are: Concord, Harrisburg, Kannapolis (part), Locust (part), and Mount Pleasant.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Other local modifications to the statewide quick take procedure statute include:

- SL 1983-829 authorizing Person County to acquire property for its airport.
- SL 1985-640 authorizing Wake County to acquire property for public safety and other facilities.
- SL 1985-941 authorizing Holly Springs to acquire property for its airport.
- SL 1987-669 authorizing Guilford Counties and the Cities of Greensboro and High Point to acquire property in order to preserve open space and for the protection and conservation of watershed areas and municipal drinking water supplies.
- SL 1989-432 authorizing Franklin County to acquire property for its airport.
- SL 1993-187 authorizing Wrightsville Beach to acquire property for beach erosion and flood and hurricane protection.
- SL 1993-608 authorizing Duplin County to acquire property for its airport.
- SL 2001-73 authorizing Halifax County to acquire property for its airport.
- SL 2001-304 authorizing Charlotte to acquire property for stormwater and public transportation systems.
- SL 2003-328 authorizing the City of Troy and its redevelopment commission to acquire property under a redevelopment plan.

S0545e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 546

Short Title:	Mt. Pleasant Deannexation.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	Finance.	

March 7, 2007

A BILL TO BE ENTITLED

AN ACT TO REPEAL A LEGISLATIVE ANNEXATION TO THE TOWN OF MOUNT PLEASANT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2004-39 is repealed.

SECTION 2. This act shall have no effect upon the validity of any liens of the Town of Mount Pleasant for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Mount Pleasant.

SECTION 3. Upon the effective date of this act, the property removed from the corporate limits of the Town of Mount Pleasant by this act reverts to the classification it had under the Cabarrus County zoning ordinance at the time of the original annexation. That classification shall remain until changed in accordance with the zoning ordinance.

SECTION 4. This act becomes effective June 30, 2007.

SENATE BILL 546:
Mt. Pleasant Deannexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 9, 2007
Introduced by:	Sen. Hartsell	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: ***Senate Bill 546[1] is a local bill that repeals an annexation to the Town of Mount Pleasant authorized in Session Laws 2004, Chapter 39. The act becomes effective June 30, 2007. The removal from the corporate limits will not affect the validity of any municipal liens for ad valorem taxes or special assessments outstanding prior to the effective date of this act.***

CURRENT LAW: While a city or town has statutory authority to annex property, either voluntarily or involuntarily depending upon circumstances, there is no statutory authority to de-annex property. Deannexation requires an act of the General Assembly.

BILL ANALYSIS: Senate Bill 546 repeals Section 4 of S.L. 2004-39, effectively revoking the annexation of 666.7750 acres more or less to the corporate limits of the Town of Mount Pleasant authorized in 2004. The bill provides that removal from the corporate limits will not affect the validity of any municipal liens for ad valorem taxes or special assessments outstanding prior to the effective date of this act. It further provides that the property removed from the corporate limits reverts to the classification it had under the Cabarrus County zoning ordinance at the time of the original annexation. It states that classification shall remain until changed in accordance with the zoning ordinance.

EFFECTIVE DATE: This act becomes effective June 30, 2007.

S0546e1-SMRE

[1] ***Companion Bill, HB 842 received a favorable report from House Finance Committee on May 3, 2007.***

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 580
PROPOSED COMMITTEE SUBSTITUTE S580-CSSV-27 [v.3]

5/9/2007 12:49:51 PM

Short Title: State Treasurer/Local OPEB Investments. (Public)

Sponsors:

Referred to:

March 7, 2007

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LOCAL GOVERNMENT POST-EMPLOYMENT BENEFITS FUND UNDER THE MANAGEMENT OF THE STATE TREASURER, TO AUTHORIZE THE TREASURER TO MAKE EQUITY INVESTMENTS FROM THE FUND TO THE SAME EXTENT ALLOWED FOR CERTAIN INVESTMENTS FROM THE STATE RETIREMENT SYSTEM, AND TO ALLOW LOCAL ENTITIES TO ESTABLISH OTHER IRREVOCABLE TRUSTS TO FUND POST-EMPLOYMENT BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-69.4. Local Government Other Post-Employment Benefits Fund.**

The Local Government Other Post-Employment Benefits Fund is established as a trust fund in the Office of the State Treasurer under the management of the Treasurer. The Fund consists of contributions made by local governments and other entities authorized to make contributions to the Fund and interest and other investment income earned by the Fund. Contributions to the fund are irrevocable. Assets of the Fund may be used only to provide other post-employment benefits to individuals who are former employees, or beneficiaries of former employees, of an entity that contributes to the Fund and are entitled to other post-employment benefits payable by the entity. The assets of the Fund are not subject to the claims of creditors of an entity that contributes to the Fund."

SECTION 2. G.S. 147-69.2(a) reads as rewritten:

"(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...

(17g) The Local Government Other Post-Employment Benefits Fund.

..."

SECTION 3. G.S. 147-69.2 is amended by adding a new subsection to read:

"(b4) In addition to the investments authorized under subdivisions (b)(1) through (b)(6) of this section, the State Treasurer may invest funds deposited in the Local Government Other Post-Employment Benefits Fund in the investments authorized under subdivision (b)(8) of this section. For investments from that Fund made under subdivision (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars ($100,000) and may assess a fee of up to 15 basis points as a condition of making the investment. The fee may be used to defray the costs of administering the Fund."

SECTION 4. G.S. 159-30 is amended by adding a new subsection to read:

"(g) A local government or public authority may make contributions to the Local Government Other Post-Employment Benefits Fund established in G.S. 147-69.4."

SECTION 5. Article 3 of Chapter 159 is amended by adding a new section to read:

"**§ 159-30.1. Trust for other post-employment benefits.**

(a) Trust. – A local government, a public authority, and a local school administrative unit may establish and fund an irrevocable trust for the purpose of paying post-employment benefits for which the entity is liable. The irrevocable trust must be established by resolution or ordinance of the entity's governing board. The resolution or ordinance must state the purposes for which the trust is created and the method of determining and selecting the fund's trustees. The resolution or ordinance establishing the trust may be amended from time to time, but an amendment may not authorize the use of moneies in the trust for a purpose not stated in the resolution or ordinance establishing the trust.

(b) Restrictions. – Monies in an irrevocable trust established under subsection (a) of this section may be appropriated only for the purposes for which the trust was established. Monies in the trust are not subject to the claims of creditors of the entity that established the trust. An entity that establishes a trust may not deposit money in the trust if the total amount held in trust would exceed the entity's actuarial liability, determined in accordance with the standards of the Governmental Accounting Standards Board, for the purposes for which the trust was established.

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 667
PROPOSED COMMITTEE SUBSTITUTE S667-CSSV-25 [v.1]

5/7/2007 8:17:03 PM

Short Title: Tobacco Tax - Affiliated Dealers. (Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO TREAT CERTAIN AFFILIATES OF A MANUFACTURER OF OTHER TOBACCO PRODUCTS AS IF THEY WERE THE MANUFACTURER FOR PURPOSES OF ADMINISTRATION OF THE EXCISE TAX ON OTHER TOBACCO PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.4 reads as rewritten:

"**§ 105-113.4. Definitions.**

The following definitions apply in this Article:

...

(4a) Integrated wholesale dealer. – A wholesale dealer who is an affiliate of a manufacturer of tobacco products other than cigarettes and is the only person to whom the manufacturer sells its products. An 'affiliate' is a person who directly or indirectly controls, is controlled by, or is under common control with another person.

..."

SECTION 2. G.S. 105-113.35(d) reads as rewritten:

"(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

Permission granted under this subsection to a manufacturer to be relieved of paying the tax imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the

Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax."

SECTION 4. This act becomes effective July 1, 2007.

SENATE BILL 667:
Tobacco Tax - Affiliated Dealers

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 9, 2007
Introduced by:	Sen. Garrou	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to First Edition S667-CSSV-25		

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 667 treats certain affiliates of a manufacturer of other tobacco products as if they were the manufacturer for purposes of administration of the excise tax on other tobacco products.***

CURRENT LAW: An excise tax is levied on tobacco products other than cigarettes at the rate of three percent (3%) of the cost price of the products. Tobacco products other than cigarettes include snuff and cigars. This category of products is considered "other tobacco products" or OTP. 'Cost price' means the actual gross purchase price of the OTP before any discounts, rebates, or allowances and before the excise tax is applied. This tax does not apply to the following:

1. A tobacco product sold outside the State.
2. A tobacco product sold to the federal government.
3. A sample tobacco product distributed without charge.

The wholesale dealer or retail dealer who first acquires or otherwise handles other tobacco products subject to the tax is liable for the tax imposed. A wholesale dealer or retail dealer who brings into this State a tobacco product made outside the State is the first person to handle the tobacco product in this State.

A manufacturer who is not a retail dealer and who ships other tobacco products to either a wholesale dealer or a retail dealer may apply to the Secretary to be relieved of paying the tax. Once granted permission, a manufacturer may choose not to pay the tax, which would result in the tax being paid by the wholesale or retail dealer.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 667 provides that an 'integrated wholesale dealer' is treated like a manufacturer for purposes of allowing relief from paying the excise tax on other tobacco products. An 'integrated wholesale dealer' is a newly defined term under the bill and means a wholesale dealer who is an affiliate of a manufacturer of other tobacco products and is the only person to whom the manufacturer sells its products. To qualify as an 'affiliate', the wholesale dealer must directly or indirectly control, be directly or indirectly controlled by, or be under common control with another person.

EFFECTIVE DATE: This act becomes effective July 1, 2007.

BACKGROUND: An example of an integrated wholesale dealer is Conwood Sales, which is an affiliate of Reynolds American, Inc., and one of its subsidiaries, Conwood Company. In May 2006, Reynolds American, Inc., acquired Conwood Company, LLC, a Memphis-based smokeless tobacco manufacturer that sells its product exclusively through Conwood Sales. Conwood Company is in the process of expanding its operations in Winston-Salem, where it manufactures other tobacco products (OTP). Under current law, Conwood Sales would be required to pay the excise tax on the products it receives from Conwood Company because it is a wholesale dealer and the first company in the State to handle the products produced by its affiliate, Conwood Company. Under current law, if Conwood

Company, as the manufacturer, were granted permission by the Secretary of Revenue to be relieved of paying the excise tax on the products it produces, this permission would not apply to Conwood Sales. Some of the products produced by Conwood Company will be sold for resale in North Carolina and some will be sold for resale in other states.

Under the bill, Conwood Company and Conwood Sales would be considered the same entity for purposes of paying the exicise tax on OTP. If Conwood Company receives permission to be relieved of paying the excise tax on other tobacco products, then that permission applies to Conwood Sales as well because Conwood Sales is an integrated wholesale dealer of Conwood Company. The result is that the wholesale and retail dealers who purchase products from Conwood Sales would pay the excise tax.

S0667e1-SMSV-CSSV-25

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 667

Short Title:	Tobacco Tax - Affiliated Dealers.	(Public)
Sponsors:	Senators Garrou; and Brunstetter.	
Referred to:	Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN WHOLESALE DEALERS TO REQUEST RELIEF FROM PAYMENT OF EXCISE TAXES ON OTHER TOBACCO PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.4 reads as rewritten:

"**§ 105-113.4. Definitions.**

The following definitions apply in this Article:

(1) Affiliated wholesale dealer. – A wholesale dealer who shares, directly or indirectly, common ownership with a manufacturer and to whom the manufacturer sells exclusively the manufacturer's tobacco products other than cigarettes for distribution to other wholesale dealers in this State.

(1a) Cigar. – A roll of tobacco wrapped in a substance that contains tobacco, other than a cigarette.

~~(1a)~~(1b) Cigarette. – Any of the following:

a. A roll of tobacco wrapped in paper or in a substance that does not contain tobacco.

b. A roll of tobacco wrapped in a substance that contains tobacco and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette described in subpart a. of this subdivision.

...

(6) Manufacturer. – A person who manufactures or produces tobacco ~~products.~~products or imports tobacco products into the United States for resale.

..."

SECTION 2. G.S. 105-113.35 is amended by adding a new subsection to read:

"(c1) Manufacturer's Relief. – A manufacturer who ships tobacco products other than cigarettes to an affiliated wholesale dealer licensed under this Part is relieved of paying the tax imposed by this section on the tobacco products. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary."

SECTION 3. G.S. 105-113.35(d) reads as rewritten:

"(d) Manufacturer's Option. – A manufacturer or wholesale dealer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. Once granted permission, a manufacturer or wholesale dealer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer or wholesale dealer must comply with the requirements set by the Secretary."

SECTION 4. This act becomes effective July 1, 2007.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, lines 12-13

( ) WHICH CHANGES THE TITLE

by rewriting those lines to read:

"a manufacturer of tobacco products other than cigarettes, is the only person to whom the manufacturer sells its products, and is not a retail dealer. An 'affiliate"

SIGNED Linda Garrou

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 9, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to S667

FISCAL IMPACT

Yes ( ) **No (x)** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					

No significant impact – see assumptions and methodology

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue

EFFECTIVE DATE: July 1, 2007

BILL SUMMARY:
The Proposed Committee Substitute for Senate Bill 667 treats certain affiliates of a manufacturer of other tobacco products as if they were the manufacturer for purposes of administration of the excise tax on other tobacco products.

ASSUMPTIONS AND METHODOLOGY:
An excise tax is levied on tobacco products other than cigarettes at the rate of three percent (3%) of the cost price of the products. Tobacco products other than cigarettes include snuff and cigars. This category of products is considered "other tobacco products" or OTP. 'Cost price' means the actual gross purchase price of the OTP before any discounts, rebates, or allowances and before the excise tax is applied. A manufacturer of OTP products has the option of not paying the excise tax unless it also acts as a retailer. When the manufacturer does not pay the tax, the wholesaler or retailer pays.

The Proposed Committee Substitute for Senate Bill 667 provides that an 'integrated wholesale dealer' is treated like a manufacturer for purposes of allowing relief from paying the excise tax on other tobacco products. An 'integrated wholesale dealer' is a newly defined term under the bill and means a wholesale dealer who is an affiliate of a manufacturer of other tobacco products and is the only person to whom the manufacturer sells its products. To qualify as an 'affiliate', the wholesale dealer must directly or indirectly control, be directly or indirectly controlled by, or be under common control with another person.

Because the affiliate as defined in the bill is directly controlled or in some cases a subsidiary of the manufacturer, there is likely to be little or no difference in the cost price of the product on which the excise tax is paid. That is, the price of the product sold to the wholesaler or retailer is essentially the same whether it is purchased from the manufacturer, or the affiliate. As a result, there is no significant impact on OTP excise tax revenue.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 966
PROPOSED COMMITTEE SUBSTITUTE S966-CSRBx-11 [v.2]

5/9/2007 11:31:23 AM

Short Title: Bonds for Salvage and Research Facilities. (Public)

Sponsors:

Referred to:

March 20, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE NORTH CAROLINA CAPITAL FACILITIES FINANCE AGENCY TO ISSUE BONDS FOR SALVAGE CENTERS AND CERTAIN RESEARCH FACILITIES..

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159C-3(15a) reads as rewritten:

"(15a) Special purpose project. – Any structure, equipment, or other facility for any one or more of the following purposes:

a. Water systems or facilities, including all plants, works, instrumentalities, and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage, other than facilities constituting a water pollution control facility.

c. Public transportation systems, facilities, or equipment, including bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.

d. Public parking lots, areas, garages, and other public vehicular parking structures and facilities.

e. Public auditoriums, gymnasiums, stadiums, and convention centers.

f. Recreational facilities, including museums.

g. Land, equipment, and facilities for the disposal, treatment, or recycling of solid or other waste that are described in G.S. 159I-8.

h. Facilities for the provision of rehabilitation services, education, training, and employment opportunities for persons with disabilities and the disadvantaged. The term does not include a retail facility, however, unless the proposed operator of the facility certifies that at least seventy-five percent (75%) of its employees will be disadvantaged or disabled persons and at least seventy-five percent (75%) of its inventory will be composed of used, donated items and items manufactured by disadvantaged or disabled persons.

i. Orphanages and similar housing facilities for children or disadvantaged or disabled persons.

j. Facilities for the provision of material salvage and recycling services, the proceeds of which are used to provide for low, moderate, or affordable housing.

k. Facilities for the provision of research conducted by a nonprofit corporation organized by two or more accredited universities whose main campuses are located in North Carolina."

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

SENATE BILL 966:
Bonds for Salvage and Research Facilities

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 8, 2007
Introduced by:	Sen. Cowell	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S966-CSRB		Committee Counsel

SUMMARY: The PCS for Senate Bill 966[1] would add two projects to the list of special projects for which the North Carolina Capital Facilities Financing Agency may issue bonds:

- Facilities for the provision of material salvage and recycling services, the proceeds of which are used to provide for low, moderate, or affordable housing.
- Facilities for the provision of research conducted by a nonprofit corporation organized by two or more accredited universities whose main campuses are located in North Carolina.

The bill would become effective when it becomes law.

CURRENT LAW: A private entity can obtain conduit financing from the North Carolina Capital Facilities Finance Agency in order to acquire, construct, and improve a public purpose project. In a conduit financing, a governmental entity issues its bonds to finance facilities for a private party, then receives payments from the private party to service the bonds. The interest on the financing to the investor may be exempt from income tax under federal law if the entity is a 501(c)(3) organization and is exempt from income tax under State law under G.S. 159D-55. The advantage to private entities of tax-exempt financing is that interest rates on tax-exempt financing are significantly lower than on taxable financing. The financing agreement could include revenue bonds or some other forms of debt. The private entity must pay for the entire cost of the financing and of the facility being financed. In no event may the financing pledge the faith or credit of the State, a local government, or any political subdivision.

Conduit financing through the State is administered by the North Carolina Capital Facilities Finance Agency, which is located in the Department of State Treasurer. The Agency has seven members: the State Treasurer, the State Auditor, one member appointed upon the recommendation of the President Pro Tempore of the Senate, one member appointed upon the recommendation of the Speaker of the House of Representatives, and three members appointed by the Governor. The appointive members must be residents of North Carolina and cannot hold other public office. The Agency is audited annually and submits an annual report to the Governor and the General Assembly.

A private entity whose project is defined as a 'special purpose project' may submit a proposal for financing a project to the Agency. A private entity may qualify for financing only if the Agency finds it to be financially responsible and capable of fulfilling its obligations. Before financing is approved, the Agency must find that the entity has provided adequately for the payment of principal and interest on the bonds and for the operation, repair, and maintenance of the facility to be financed. In making this finding, the Agency may consider whether the private entity on behalf of whom the bonds will be issued has arranged for delivery of a letter of credit or for any other credit enhancement to secure the obligations.

[1] As introduced, the bill is identical to HB 1283, introduced by Rep. Ross and Rep. Martin. HB 1283 is in the House Commerce, Small Business and Entrepreneurship

Public notice and a public hearing are required before the bonds may be approved. The governing body of the county, and of any municipality, in which the project will be located must be notified of the hearing.

The Agency may issue bonds only if they are approved by the Local Government Commission. The Local Government Commission sets the interest rates on the bonds and administers their sale. The bonds may be secured by a trust agreement with a corporate trustee, such as a bank. The Agency will require the private entity to pay fees, loan repayments, rents, or other charges sufficient to cover the payment of principal and interest on the bonds and the operation, repair, and maintenance of the facility to be financed, and the bonds will be secured by the pledge of these revenues.

BILL ANALYSIS: G.S. 159C-3(15a) lists the types of projects eligible to be financed under the Private Capital Facilities Finance Act. This bill would add two projects to the list. The current list includes: water systems, sewage disposal systems, public transportation systems, public parking lots, auditoriums, convention centers, recreational facilities, solid waste disposal and recycling facilities, housing facilities for children or disabled persons, and facilities for rehabilitation services for disable persons. This bill would add the following two projects:

- Facilities for the provision of material salvage and recycling services, the proceeds of which are used to provide for low, moderate, or affordable housing. Habitat for Humanity would meet this description. It operates Reuse Centers across the State where it sells new, used, and recycled building materials to the public and uses the proceeds for low, moderate, and affordable housing. There five major reuse centers in the State. The reuse center in Wake County is planning to construct a reuse center, which includes administrative offices. The cost of the center is anticipated to be at least $4 million. If Habitat for Humanity is able to finance the construction of the facility through the North Carolina Capital Facilities Financing Agency, it will save tens of thousands of dollars. A similar organization, The Goodwill Industries, is already included in the list of special projects for which the Agency
- Facilities for the provision of research conducted by a nonprofit corporation organized by two or more accredited universities whose main campuses are located in North Carolina. RTI International would meet this description. This provision is similar to the provision in Senate Bill 1000, introduced by Sen. Rand, which is also in the Senate Finance Committee.

S0966e1-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 966

Short Title:	Amend G.S. 159C-3(15a).	(Public)
Sponsors:	Senators Cowell; Atwater, Hunt, and Stevens.	
Referred to:	Finance.	

March 20, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR THE ISSUANCE OF INDUSTRIAL REVENUE BONDS FOR SALVAGE CENTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159C-3(15a) reads as rewritten:

"(15a) Special purpose project. – Any structure, equipment, or other facility for any one or more of the following purposes:

a. Water systems or facilities, including all plants, works, instrumentalities, and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage, other than facilities constituting a water pollution control facility.

c. Public transportation systems, facilities, or equipment, including bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.

d. Public parking lots, areas, garages, and other public vehicular parking structures and facilities.

e. Public auditoriums, gymnasiums, stadiums, and convention centers.

f. Recreational facilities, including museums.

g. Land, equipment, and facilities for the disposal, treatment, or recycling of solid or other waste that are described in G.S. 159I-8.

h. Facilities for the provision of rehabilitation services, education, training, and employment opportunities for persons with

disabilities and the disadvantaged. The term does not include a retail facility, however, unless the proposed operator of the facility certifies that at least seventy-five percent (75%) of its employees will be disadvantaged or disabled persons and at least seventy-five percent (75%) of its inventory will be composed of used, donated items and items manufactured by disadvantaged or disabled persons.

i. Orphanages and similar housing facilities for children or disadvantaged or disabled persons.

j. Facilities for the provision of material salvage and recycling services that sell new, used, and recycled building materials to the public; provide new, used, and recycled building materials for the construction, renovation, or repair of low, moderate, or affordable housing; and, utilize the proceeds thereof to provide low, moderate, or affordable housing."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 509
PROPOSED COMMITTEE SUBSTITUTE S509-CSSVf-24 [v.5]

5/9/2007 12:40:21 PM

Short Title: Motor Vehicle Inspection Changes. (Public)

Sponsors:

Referred to:

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PERIOD OF TIME ALLOWED FOR REINSPECTION AFTER FAILING A MOTOR VEHICLE INSPECTION, TO WAIVE THE CIVIL PENALTY FOR FAILURE TO MEET THE EMISSIONS INSPECTION REQUIREMENT WHILE SERVING ON ACTIVE MILITARY DUTY OUTSIDE THE STATE, AND TO CHANGE THE PENALTY FOR A FIRST OFFENSE OF CLEAN-SCANNING BY AN INSPECTION STATION EMPLOYEE WITHOUT THE INSPECTION STATION OWNER'S KNOWLEDGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.3(c) reads as rewritten:

"(c) Reinspection After Failure. – The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within ~~30~~60 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

SECTION 2. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only	$ 8.25	$0.85
Emissions and Safety	23.50	6.50.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within ~~30~~60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased."

SECTION 3. G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions ~~violations.~~violations; exemption.**

(a) Civil Penalties. – The Division shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is ~~one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and~~ two hundred fifty dollars ($250.00) if the vehicle is a ~~1981~~1996 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this section has been paid.

(b) Exemption. – The civil penalty assessed under subdivision (a)(1) of this section does not apply to a person who demonstrates to the Division proof of all of the following:

(1) The person is active duty military personnel.

(2) The person was deployed outside of the United States or stationed at a duty station outside of this State on or after the date the vehicle was required to be inspected and until the expiration of the four-month grace period.

(3) No person operated the vehicle after the date it was required to be inspected.

(4) That the vehicle has passed inspection prior to the request for an exemption under this subsection.

SECTION 4. G.S. 20-183.8B reads as rewritten:

"**§ 20-183.8B. Civil penalties against license holders and suspension or revocation of license for emissions violations.**

(a) Kinds of Violations. – The civil penalty schedule established in this section applies to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics. The schedule categorizes emissions violations into serious (Type I), minor (Type II), and technical (Type III) violations.

A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the emission reduction benefits of the emissions inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting an emissions inspection or complying with the emissions inspection requirements but does not directly affect the emission reduction benefits of the emissions inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. – The Division must take the following action for a violation:

(1) Type I. – For a first or second Type I violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of ~~two hundred fifty dollars ($250.00)~~ five hundred dollars ($500.00) and suspend the license of the business for six months. For a third or subsequent Type I violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars ($1,000) and revoke the license of the business for two years.

For a first ~~or second~~ Type I violation by an emissions inspection mechanic, assess a civil penalty of ~~one hundred dollars ($100.00)~~ two hundred fifty dollars ($250.00) and suspend the mechanic's license for six months. For a second Type I violation within two years by an emissions inspection mechanic, assess a civil penalty of five hundred dollars ($500.00) and suspend the mechanic's license for six months. For a third or subsequent Type I violation within ~~seven~~ four years by an emissions inspection mechanic, assess a civil penalty of ~~two hundred fifty dollars ($250.00)~~ one thousand dollars ($1,000) and revoke the mechanic's license for two years.

(2) Type II. – For a first or second Type II violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one hundred dollars ($100.00). For a third or subsequent Type II violation within three years by an emissions self-inspector or an

emissions inspection station, assess a civil penalty of two hundred fifty dollars ($250.00) and suspend the license of the business for 90 days.

For a first or second Type II violation by an emissions inspection mechanic, assess a civil penalty of fifty dollars ($50.00). For a third or subsequent Type II violation within seven years by an emissions inspection mechanic, assess a civil penalty of one hundred dollars ($100.00) and suspend the mechanic's license for 90 days.

(3) Type III. – For a first or second Type III violation by an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic, send a warning letter. For a third or subsequent Type III violation within three years by the same emissions license holder, assess a civil penalty of twenty-five dollars ($25.00).

(c) Station or Self-Inspector Responsibility. – It is the responsibility of an emissions inspection station and an emissions self-inspector to supervise the emissions mechanics it employs. A violation by an emissions inspector mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed.

(d) Missing Stickers. – The Division must assess a civil penalty against an emissions inspection station, a windshield replacement station, or an emissions self-inspector that cannot account for an emissions inspection sticker issued to it. A station or a self-inspector cannot account for a sticker when the sticker is missing and the station or self-inspector cannot establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another accident.

(d1) Penalty for Missing Stickers. – The amount of the penalty is twenty-five dollars ($25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as the result of missing stickers, the monetary penalty that applies is the higher of the penalties required under this subsection and subsection (b); the Division may not assess a monetary penalty as a result of missing stickers under both this subsection and subsection (b) of this section. Imposition of a monetary penalty under this subsection does not affect suspension or revocation of a license required under subsection (b) of this section.

(e) Penalty for Clean Scanning. – For a first or second clean scan violation by an emissions self-inspector or an emissions' inspection station, assess a civil penalty of five hundred dollars ($500.00). For a third or subsequent clean scan violation, occurring within one year after the second clean scan violation was identified to the emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars ($1,000) and revoke the license of the business for one year. The Commissioner may waive the penalty for a first violation.

(f) Mechanic Training. – An emissions inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4A and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully."

SECTION 5. Sections 1 and 2 of this act become effective January 1, 2009. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 509

Short Title:	Motor Vehicle Inspection Failure/Reinspection.	(Public)
Sponsors:	Senators Brown; Allran, Apodaca, Atwater, Berger of Rockingham, Brunstetter, Goodall, Hartsell, Jacumin, Jenkins, Pittenger, Preston, Smith, Snow, and Weinstein.	
Referred to:	Finance.	

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PERIOD OF TIME ALLOWED FOR REINSPECTION OF A MOTOR VEHICLE AFTER A FAILURE TO MEET LAWFUL STANDARDS IN AN INITIAL MOTOR VEHICLE INSPECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.7(a) reads as rewritten:

"**§ 20-183.7. Fees for performing an inspection and putting an inspection sticker on a vehicle; use of civil penalties.**

(a) **(Effective until July 1, 2007)** Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only	$ 8.25	$0.85
Emissions and Safety	23.50	6.50.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within ~~30~~60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased.

(a) **(Effective July 1, 2007)** Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only	$ 8.25	$0.85
Emissions and Safety	23.75	6.25.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for an inspection sticker does not apply to a replacement inspection sticker for use on a windshield replaced by a business registered with the Division pursuant to G.S. 20-183.6. The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within ~~30~~60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased.

..."

SECTION 2. This act becomes effective July 1, 2007.

SENATE BILL 509:
Motor Vehicle Inspection Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 9, 2007
Introduced by:	Sen. Brown	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S509-CSSVf-24		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 509 does three things:

- ***It extends from 30 to 60 days the period for reinspection after failing a motor vehicle inspection.***
- ***It exempts from the civil penalty for failure to meet the motor vehicle inspection requirement active military personnel who are deployed outside the US or stationed outside NC at the time the vehicle was due to be inspected.***
- ***It would impose a $500 civil penalty on an emissions self-inspector or an inspection station that has an employee who commits a first or second offense of 'clean scanning' a vehicle to provide a passing inspection without the owner's knowledge. The Commissioner may waive the penalty for a first violation. It would impose a $1,000 penalty and require a one-year license revocation for a third or subsequent clean scan violation occurring within one year after the second clean scan violation was identified to the inspector.***

CURRENT LAW & BILL ANALYSIS:

Sections 1 and 2: Extend Reinspection Period

As a general rule, motor vehicles are required to undergo an annual safety inspection to determine whether it has the required equipment and that the equipment is in a safe operating condition. Certain motor vehicles are also subject to an emissions inspection.[1] To pass an emissions inspection, a vehicle must pass both of the following:

1) A visual inspection of the vehicle's emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle.
2) An analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission.

A vehicle that fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

[1] Emissions inspections must be performed on vehicles registered in the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes and Wilson.

Sections 1 and 2 of this bill would extend the period for reinspection to 60 days. This change would require inspection stations to install a software update for each of their analyzers.

Section 3: Exempt Active Military Personnel from Civil Penalty

DMV is required to assess a civil penalty against a person who does any of the following:

(1) **Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.**
(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.
(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The penalty is $100 for a pre-1981 vehicle and $250 for a vehicle that is a 1981 or newer model. The registration of a vehicle may not be renewed until a penalty has been paid.

Section 3 of the bill would exempt from the civil penalty for failure to inspect certain active duty military personnel who are deployed outside the United States or stationed outside North Carolina on or after the date the vehicle was required to be inspected and until the expiration of the four-month grace period. The person would also have to demonstrate that no person operated the vehicle after the date it was required to be inspected. Finally, the vehicle would have to pass inspection upon the person's return to North Carolina before the civil penalty could be waived.

Section 4: Penalty for 'Clean Scan' First Offenses Committed Without Owner's Knowledge

'Clean scanning' refers to an illegal practice in which a known clean vehicle is subjected to an electronic on-board diagnostic (OBD) scan in place of the vehicle that is supposed to actually be tested in order to achieve a passing result. Under current law, this practice is a Type I emissions violation. An inspection station that commits a first or second Type I violation is subject to a $250 civil penalty and a six-month suspension of the business license. A mechanic who commits a first or second Type I violation is subject to a $100 penalty and a six month license suspension. A third or subsequent Type I violation results in a $1,000 penalty for an inspection station and a $250 penalty for the mechanic and a two-year license revocation for each.

Section 4 of the bill would increase the penalties for Type I emission violations and it would provide a different penalty for a clean scan emissions violation. The new penalty for a clean scan violation would be as follows:

- A $500 civil penalty for a first or second offense of 'clean scanning'. The Commissioner may waive the penalty for a first violation.
- A $1,000 penalty and a one-year license revocation for a third or subsequent clean scan violation occurring within one year after the second clean scan violation was identified to the inspector

EFFECTIVE DATE: The change increasing the time period to reinspect a vehicle after a failed inspection becomes effective January 1, 2008. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 8, 2007

TO: Senator Clodfelter
Senator Kerr
Senator Hoyle

FROM: Lisa Hollowell
Fiscal Research Division

RE: Motor Vehicle Inspection Failure/Re-inspection
Proposed Committee Substitute
Draft May 8, 2007

FISCAL IMPACT

	Yes ( )	No ()	No Estimate Available (x)		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	-	-	-	-	-
EXPENDITURES:	-	-	-	-	-
POSITIONS (cumulative):	-	-	-	-	-

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation, Division of Motor Vehicles

EFFECTIVE DATE: When act becomes law.

BILL SUMMARY: Amends G.S. 20-183.3 © to extend the time frame from 30 to 60 days that an individual has to have a vehicle re-inspected after the vehicle has failed the initial inspection. This act amends G.S. 20-183.8A to exempt active duty military personnel from civil penalties assessed from emissions violations who meet certain requirements. This act requires DMV to develop, acquire, or implement a "clean scan" software program to guard against erroneous reporting by inspection stations.

ASSUMPTIONS AND METHODOLOGY:
There will be no technology changes needed for the change of 30-60 days re-inspection period.
There will be no significant change of business practice for exempting the military personnel from civil penalties that would result in increased costs to the Division of Motor Vehicles.
There is no estimate available for the cost for implementing the "clean scan" software required for inspection stations.

SOURCES OF DATA:
Department of Transportation, Division of Motor Vehicles

TECHNICAL CONSIDERATIONS: None

SENATE FINANCE COMMITTEE
Wednesday, May 16, 2007
2:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 2:00 p.m. on Wednesday, May 16, 2007, in room 544 of the Legislative Office Building. Thirty members of the committee were present. Senator David Hoyle presided. Cherrelle McKnight of Lillington, Caitlin McLamb of Raleigh, Beth Shawley of Waxhaw, Sarah Holmes of Mocksville and Mary Trease of Waxhaw served as pages.

S.B. 531 – Regulate Golf Carts/Morrisville.

Senator Cowell was recognized to explain the bill. Senator Stevens motioned for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1041 – Earl Annexations.

Trina Griffin, a staff attorney with the Research Division, was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 768 – Public Health Authority Changes.

Senator Hartsell moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Hartsell was recognized to explain the bill. Curtis Dixon, Hertford County Health Director, was recognized to speak in favor of the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, and the summary is attached.

S.B. 716 – Poultry Products Inspection Act - AB.

Senator Albertson was recognized to explain the bill. Senator Albertson moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 242 – Review of Disputed Tax Matters.

The bill was only taken up for discussion. Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Clodfelter and Trina Griffin were recognized to explain the proposed committee substitute. A copy of the bill, the proposed committee substitute, and the summary is attached.

The meeting adjourned at 2:32 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 16, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 531	Regulation of Golf Carts in Morrisville.	Senator Cowell
HB 1041	Earl Annexations.	Representative Moore
SB 242	Uniform Tax Refund Procedure.	Senator Clodfelter
SB 716	Poultry Products Inspection Act Penalties.-AB	Senator Albertson
SB 768	Public Health Authority Changes.	Senator Hartsell

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Senate Finance Committee
Wednesday, May 16, 2007, 2:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 1041	Earl Annexations.	Representative Moore
SB 242	Uniform Tax Refund Procedure.	Senator Clodfelter
SB 531	Regulation of Golf Carts in Morrisville.	Senator Cowell
SB 716	Poultry Products Inspection Act Penalties.-AB	Senator Albertson
SB 768	Public Health Authority Changes.	Senator Hartsell

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 16, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Betty Turner	BAC
John McAlister	NC Chamber
Frank Gray	NCRLA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 16, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Lu-Ann Cheryman	DLC
Elmer Todd	Carl Industries
Angie Harris	Williams Mullen
Joey Octeveu	Chapel Hill
[signature]	[signature]
John Mclaughlin	Government
David Barnes	Poyner + Spruill
Daniel Baum	Kennedy Covington
Murphy Sullivan	Charlotte Chamber
Andy Munn	REBIC
Pam Sdoull	NCBA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 16, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alex Terry	Intern
Elizabeth Dalton	N-PMA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 16, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
David Baker	NCDOR
Tim Holmes	NC DOR
Lennie Collins	NC DOR
Anna Mitchell	NC DOR
SEAN COFFEY	NCBTC
Meg Gray	NC BTC
Emily Atkinson	Capstrat
Donald Knight	TNC
Judy McConnell	NCG
Butch Gunnells	NCBA M.
Beth Hoskins	Advantage West

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 242
PROPOSED COMMITTEE SUBSTITUTE S242-CSSVf-30 [v.5]

5/16/2007 11:12:19 AM

Short Title: Revise Process for Disputed Tax Matters. (Public)

Sponsors:

Referred to:

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO REVISE THE PROCESS FOR ADMINISTRATIVE AND JUDICIAL REVIEW OF DISPUTED TAX MATTERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 105 is amended by adding the following new sections to read:

"**§ 105-241.6. Statute of limitations for refunds.**

(a) General. – The general statute of limitations for obtaining a refund of an overpayment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for obtaining a refund of an overpayment is the later of the following:

(1) Three years after the due date of the return.

(2) Two years after payment of the tax.

(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

(1) Federal Determination. – When a taxpayer files with the Secretary a return that reflects a federal determination and the return is filed within the required time, the limitations period for obtaining a refund is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later.

(2) Waiver for Assessment. – A taxpayer's waiver of the statute of limitations for making a proposed assessment extends the period in which the taxpayer can obtain a refund to the end of the period extended by the waiver.

(3) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4

of this Chapter to the extent the overpayment is attributable to either of the following:

a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.

b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.

(4) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.

"**§ 105-241.7. Procedure for obtaining a refund.**

(a) Initiated by Department. – The Department must refund an overpayment made by a taxpayer when the Department processes a return and finds all of the following:

(1) The statute of limitations for obtaining a refund has not expired.

(2) The amount shown due on the return is not calculated correctly based on the information entered on the return.

(3) When the calculation errors are corrected, the taxpayer has overpaid the tax.

(b) Initiated by Taxpayer. – A taxpayer may request a refund of an overpayment made by the taxpayer by taking one of the following actions within the statute of limitations for obtaining a refund:

(1) Filing an amended return reflecting a balance due the taxpayer.

(2) Filing a claim for refund. The claim must identify the taxpayer, the type and amount of tax overpaid, and the filing period to which the overpayment applies.

(c) Action on Request. – When a taxpayer files an amended return or a claim for refund, the Department must take one of the actions listed in this subsection within six months after the date the amended return or claim for refund is filed. If the Department does not take one of these actions within this time limit, the inaction is considered a proposed denial of the requested refund.

(1) Send the taxpayer a refund of the amount shown due on the return or claim for refund.

(2) Adjust the amount of the requested refund by increasing or decreasing the amount shown due on the return or claim for refund and send the taxpayer a refund of the adjusted amount and a notice of proposed denial for the amount that was requested but not included in the adjusted refund.

(3) Deny the refund and send the taxpayer a notice of proposed denial.

(4) Send the taxpayer a letter requesting additional information concerning the requested refund. When the Department receives the requested information from the taxpayer, the Department must take one of the actions listed in this subsection within 30 days after receiving the information.

(d) Notice. – A notice of a proposed denial of a request for refund must contain the following information:

(1) The basis for the proposed denial.

(2) The circumstances under which the proposed denial will become final.

(e) Restrictions. – The Department may not refund any of the following:

(1) An amount paid before the taxpayer files the final return for the tax period.

(2) An overpayment set off under Chapter 105A, the Setoff Debt Collection Act, or under another setoff debt collection program authorized by law.

(3) An income tax overpayment the taxpayer has elected to apply to another purpose as provided in this Article.

(4) An individual income tax overpayment of less than one dollar ($1.00) or another tax overpayment of less than three dollars ($3.00), unless the taxpayer files a written claim for the refund.

(f) Effect of Refund. – A refund does not absolve a taxpayer of a tax liability that may in fact exist. The Secretary may propose an assessment for any deficiency as provided in this Article.

"**§ 105-241.8. Statute of limitations for assessments.**

(a) General. – The general statute of limitations for proposing an assessment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for proposing an assessment is the later of the following:

(1) Three years after the due date of the return.

(2) Three years after the taxpayer filed the return.

(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the period for proposing an assessment of any tax due is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the period for proposing an assessment of any tax due is three years after the date the Secretary received the final report of the federal determination.

(2) Failure to File or Filing False Return. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if any of the following applies:

a. The taxpayer did not file a return.

b. The taxpayer filed a false or fraudulent return.
c. The taxpayer attempted in any manner to fraudulently evade or defeat the tax.

(3) Tax Forfeiture. – If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the period for proposing an assessment of any tax due as a result of the forfeiture is three years after the date of the forfeiture.

(4) Nonrecognition of Gain. – If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the period for proposing an assessment of any tax due as a result of the conversion or election is the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the period for proposing an assessment of any tax due as a result of the sale is the period provided under section 1034(j) of the Code.

"**§ 105-241.9. Procedure for proposing an assessment.**

(a) Authority. – The Secretary may assess a taxpayer for tax due from the taxpayer. The Secretary must base a proposed assessment on the best information available. A proposed assessment of the Secretary is presumed to be correct.

(b) Time Limit. – The Secretary must propose an assessment within the statute of limitations for proposed assessments unless the taxpayer waives the limitations period in writing. A taxpayer may waive the limitations period for either a definite or an indefinite time. If the taxpayer waives the limitations period, the Secretary may propose an assessment any time within the time extended by the waiver. If the Secretary proposes an assessment of tax within the statute of limitations or within the time extended by a waiver, the final assessment of the tax is timely.

(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(3) The circumstances under which the proposed assessment will become final.

"**§ 105-241.10. Review of proposed denial of refund or proposed assessment.**

(a) Request for Review. – A taxpayer who objects to a proposed denial of a refund or a proposed assessment of tax may request a Departmental review of the proposed action by filing a request for review. The request must be filed with the Department within 45 days after the following:

(1) The date the notice of the proposed denial of the refund or proposed assessment was mailed to the taxpayer, if the notice was delivered by mail.

(2) The date the notice of the proposed denial of the refund or proposed assessment was delivered to the taxpayer, if the notice was delivered in person.

(3) The date that inaction by the Department on a request for refund was considered a proposed denial of the refund.

(b) Action on Request. – A review of a proposed denial of a refund or a proposed assessment must be conducted by a Departmental employee who did not make the decision on the proposed denial or proposed assessment. The Department must take one of the following actions after the date a request for review is filed:

(1) Grant the refund or remove the assessment.

(2) Schedule a conference with the taxpayer.

(3) Request additional information from the taxpayer concerning the requested refund or proposed assessment.

(c) Conference. – When the Department reviews a proposed denial of a refund or a proposed assessment and does not grant the refund or remove the assessment, the Department must schedule a conference with the taxpayer. The Department must set the time and place for the conference and must notify the taxpayer of the designated time and place at least 10 days before the date of the conference.

The conference is an informal proceeding at which the taxpayer and the Department must stipulate the facts and issues upon which they agree and attempt to settle the case. Testimony under oath is not taken, but matters alleged as facts may be required to be submitted in the form of affidavits. The rules of evidence do not apply at the conference. A taxpayer may designate a representative to act on the taxpayer's behalf. The taxpayer may present any objections to the proposed denial of refund or proposed assessment at the conference.

(d) After Conference. – One of the following must occur after the Department conducts a conference on a proposed denial of a refund or a proposed assessment:

(1) The Department and the taxpayer agree on a settlement.

(2) The Department and the taxpayer agree that additional time is needed to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment.

(3) The Department and the taxpayer cannot resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment.

"**§ 105-241.11. Final determination by Department.**

(a) Refund. – If a taxpayer does not make a timely request for a Departmental review of a proposed denial of a refund, the proposed denial is final and the notice of the proposed denial is considered the notice of final determination concerning the refund. If a taxpayer makes a timely request for a Departmental review of a proposed denial of a refund, and the Department and the taxpayer cannot resolve the taxpayer's objection to the proposed denial, the Department must send the taxpayer a notice of final determination concerning the refund. The notice of final determination must state the basis for the determination and inform the taxpayer of the procedure for contesting the determination. A taxpayer whose denial becomes final may not file another amended return or claim for refund to obtain the denied refund.

(b) Assessment. – If a taxpayer does not make a timely request for a Departmental review of a proposed assessment, the Department must send the taxpayer a notice of final determination concerning the assessment. If a taxpayer makes a timely request for a Departmental review of a proposed assessment, and the Department and the taxpayer cannot resolve the taxpayer's objection to the proposed assessment, the Department must send the taxpayer a notice of final determination concerning the assessment. A notice of final determination concerning an assessment must contain the following information:

(1) The basis for the determination.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) The procedure the taxpayer must follow to contest the final determination.

(4) A statement that the amount payable stated on the notice is due and collectible by the Department unless the taxpayer contests the final determination.

(5) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

(c) Time Limit. – The process set out in G.S. 105-241.10 for reviewing and attempting to resolve a proposed denial of a refund or a proposed assessment must conclude within nine months after the date the taxpayer files a request for review. A final determination required under this section must be issued within this time limit.

"**§ 105-241.12. Contested case hearing on final determination.**

A taxpayer who disagrees with a notice of final determination issued by the Department may contest the determination by filing a petition for a contested case hearing at the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes. A taxpayer may file a petition for a contested case hearing only if the taxpayer has exhausted the prehearing remedy set out in G.S. 105-241.10. A taxpayer's prehearing remedy is exhausted when the Department issues a final determination.

"**§ 105-241.13. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review may be filed only in the Business and Tax Court. A taxpayer who files a petition for judicial review must either pay the amount of tax, penalties, and interest the final decision states is due or file a bond for that amount conditioned on payment of any liability due after the judicial review. A taxpayer may appeal a decision of the Business and Tax Court to the appellate division in accordance with G.S. 150B-52.

"**§ 105-241.14. Civil action challenging statute as unconstitutional.**

A taxpayer who claims that a tax statute is unconstitutional may bring a civil action in Business and Tax Court to determine the taxpayer's liability under that statute if all of the following conditions are met:

(1) The taxpayer exhausted the prehearing remedy in G.S. 105-241.10 and received a final determination from the Department.
(2) The taxpayer commenced a contested case at the Office of Administrative Hearings.
(3) The Office of Administrative Hearings dismissed the case for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.
(4) The civil action is filed within two years after the Office of Administrative Hearings dismisses the case.
(5) The taxpayer pays the amount of tax, penalties, and interest the final determination states is due or files a bond for that amount conditioned on payment of any liability due upon final judgment.

"**§ 105-241.15. Class actions.**

(a) Authority. – An action brought under G.S. 105-241.14 may be maintained against the State in Business and Tax Court by a taxpayer for and on behalf of the taxpayer or other taxpayers similarly situated only in accordance with this section.

(b) Opt-In Requirement. – A taxpayer must file with the Business and Tax Court written consent to become a party to any class action brought under this section.

(c) Refund Claim Required. – No class action based on a request for refund may be maintained in Business and Tax Court unless each taxpayer in the class has filed a request for refund in accordance with G.S. 105-241.7.

(d) Tolling. – The period set in G.S. 105-241.6 for filing a request for refund is tolled by the filing of a class action under this section for any taxpayer who, at the time the class action was commenced, could timely file a request for refund with the Secretary.

(e) Notice. – The Secretary must notify the court of all taxpayers who file timely refund claims for the tax type that is the basis of a class action brought under this section.

"**§ 105-241.16. Declaratory judgments, injunctions, and other actions prohibited.**

The remedies in G.S. 105-241.10 through G.S. 105-241.15 set out the exclusive remedies for disputing the liability for a tax or the constitutionality of a tax statute. Any other action is barred. Neither an action for declaratory judgment, an action for an injunction to prevent the collection of a tax, nor any other action is allowed.

"**§ 105-241.17. Delivery of notice.**

(a) Scope. – This section applies to the following notices:
(1) A proposed denial of a refund.
(2) A proposed assessment.
(3) A final determination.

(b) Method. – The Secretary must deliver a notice listed in subsection (a) of this section to a taxpayer either in person or by United States mail sent to the taxpayer's last known address. A notice mailed to a taxpayer is presumed to have been received by the taxpayer unless the taxpayer makes an affidavit to the contrary within 90 days after the notice was mailed. If the taxpayer makes this affidavit, the notice is considered to have

been delivered on the date the taxpayer makes the affidavit and any time limit affected by the notice is extended to the date the taxpayer makes the affidavit.

"**§ 105-241.18. Interest on taxes.**

(a) Rate. – The interest rate set by the Secretary applies to interest that accrues on overpayments and underpayments of tax. On or before June 1 and December 1 of each year, the Secretary must establish the interest rate to be in effect during the six-month period beginning on the next succeeding July 1 and January 1, respectively. In determining the interest rate, the Secretary must give due consideration to current market conditions and to the rate that will be in effect on that date pursuant to the Code. If no new rate is established, the rate in effect during the preceding six-month period continues in effect. The rate established by the Secretary may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year.

(b) Accrual on Assessment.– Interest accrues on an assessment of tax from the time the tax was due until it is paid. Interest accrues only on the principal of the tax and does not accrue on any penalty.

(c) Accrual on Refund.– Interest accrues on an overpayment of tax from the time set in the following subdivisions until the refund is paid.

(1) Income and Gross Premiums. – Interest on an overpayment of a tax levied under Article 4 or Article 8B of this Chapter accrues from a date 45 days after the latest of the following dates:

a. The date the final return was filed.

b. The date the final return was due to be filed.

c. The date of the overpayment. The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter is determined in accordance with section 6611(d), (f), (g), and (h) of the Code.

(2) All Other Taxes. – Interest on an overpayment of a tax that is not included in subdivision (1) of this subsection accrues from a date that is 90 days after the date the tax was paid.

(d) When Refund Is Paid. – A refund sent to a taxpayer is considered paid on a date determined by the Secretary that is no sooner than five days after a refund check is mailed. A refund set off against a debt pursuant to Chapter 105A of the General Statutes is considered paid five days after the Department mails the taxpayer a notice of the setoff, unless G.S. 105A-5 or G.S. 105A-8 requires the agency that requested the setoff to return the refund to the taxpayer. In this circumstance, the refund that was set off is not considered paid until five days after the agency that requested the refund mails the taxpayer a check for the refund.

"**§ 105-241.19. Collection of assessment.**

A tax assessed by the Department is due and collectible in the following circumstances:

(1) When the taxpayer and the Department agree on a settlement concerning the amount due.

(2) When the Department sends a notice of final determination concerning the assessment and the taxpayer does not file a timely petition for a contested case hearing on the assessment.

(3) When a final decision is issued on the assessment after a contested case hearing.

"**§ 105-241.20. Jeopardy assessment and collection.**

(a) Action. –The Secretary may at any time within the statute of limitations immediately assess and collect any tax the Secretary finds is due from a taxpayer if the Secretary determines that collection of the tax is in jeopardy and immediate assessment and collection are necessary in order to protect the interest of the State. For a jeopardy collection, the Secretary must give the taxpayer the notice of proposed assessment required by G.S. 105-241.9 within 30 days after initiating the jeopardy collection.

(b) Review by Department. – Within five days after initiating a jeopardy collection that is not the result of a criminal investigation or of a liability for a tax imposed under Article 2D of this Chapter, the Secretary must provide the taxpayer with a written statement of the information upon which the Secretary relied in initiating the jeopardy collection. Within 30 days after receipt of this written statement or, if no statement is received, within 30 days after the statement was due, the taxpayer may request the Secretary to review the action taken. After receipt of this request, the Secretary must determine whether initiating the jeopardy collection was reasonable under all the circumstances and whether the amount assessed and collected was reasonable under all the circumstances. The Secretary must give the taxpayer written notice of this determination within 30 days after the request.

(c) Judicial Review. – Within 90 days after the earlier of the date a taxpayer received or should have received a determination of the Secretary concerning a jeopardy collection under subsection (b) of this section, the taxpayer may bring a civil action seeking review of the jeopardy collection. The taxpayer may bring the action in the Superior Court of Wake County or of the county in North Carolina in which the taxpayer resides. Within 20 days after the action is filed, the court must determine whether the initiation of the jeopardy collection was reasonable under the circumstances. If the court determines that an action of the Secretary was unreasonable or inappropriate, the court may order the Secretary to take any action the court finds appropriate. If the taxpayer shows reasonable grounds why the 20-day limit on the court should be extended, the court may grant an extension of not more than 40 additional days."

SECTION 2. The following statutes are repealed:

G.S. 20-91.1
G.S. 20-91.2
G.S. 20-98
G.S. 20-99
G.S. 105-122(c)
G.S. 105-130.4(t)
G.S. 105-164.43
G.S. 105-241.1

G.S. 105-241.2
G.S. 105-241.3
G.S. 105-241.4
G.S. 105-241.5
G.S. 105-266
G.S. 105-266.1
G.S. 105-267
G.S. 105-269.2
G.S. 143A-38
G.S. 150B-1(e)(6)
G.S. 150B-21.17(a)(5).

SECTION 3. G.S. 1-52(15) reads as rewritten:

"**§ 1-52. Three years.**

Within three years an action -

...

(15) For the recovery of taxes paid as provided in ~~G.S. 105-267 and~~ G.S. 105-381.

..."

SECTION 4. G.S. 7A-45.3 reads as rewritten:

"**§ 7A-45.3. Superior court judges designated for complex business cases and tax cases.**

The Chief Justice may exercise the authority under rules of practice prescribed pursuant to G.S. 7A-34 to designate one or more of the special superior court judges authorized by G.S. 7A-45.1 to hear and decide complex business cases and tax cases as prescribed by the rules of practice. Any judge so designated shall be known as a Business and Tax Court Judge and shall preside in the Business and Tax Court. If there is more than one business and tax court judge, the Chief Justice may designate one of them as the Senior Business and Tax Court Judge. If there is no designation by the Chief Justice, the judge with the longest term of service on the court shall serve as Senior Business and Tax Court Judge until the Chief Justice makes an appointment to the position."

SECTION 5. G.S. 7A-45.4 reads as rewritten:

"**§ 7A-45.4. Designation of mandatory complex business cases.**

(a) A mandatory complex business case is an action that involves a material issue related to:

(1) The law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, limited liability companies, and limited liability partnerships, including issues concerning governance, involuntary dissolution of a corporation, mergers and acquisitions, breach of duty of directors, election or removal of directors, enforcement or interpretation of shareholder agreements, and derivative actions.

(2) Securities law, including proxy disputes and tender offer disputes.

(3) Antitrust law, except claims based solely on unfair competition under G.S. 75-1.1.
(4) State trademark or unfair competition law, except claims based solely on unfair competition under G.S. 75-1.1.
(5) Intellectual property law, including software licensing disputes.
(6) The Internet, electronic commerce, and biotechnology.

(b) Any party may designate a civil action as a mandatory complex business case by filing a Notice of Designation in the Superior Court in which the action has been filed and simultaneously serving the notice on each opposing party or counsel and on the ~~Special Superior Court Judge for Complex Business Cases who is then the~~ senior Business and Tax Court Judge. A copy of the notice shall also be sent contemporaneously by e-mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of the designation of the action as a mandatory complex business case and assignment to a specific Business and Tax Court Judge.

(c) The Notice of Designation shall, in good faith and based on information reasonably available, succinctly state the basis of the designation and include a certificate by or on behalf of the designating party that the civil action meets the criteria for designation as a mandatory complex business case pursuant to subsection (a) of this section.

(d) The Notice of Designation shall be filed:
(1) By the plaintiff or third-party plaintiff contemporaneously with the filing of the complaint or third-party complaint in the action.
(2) By any intervenor when the intervenor files a motion for permission to intervene in the action.
(3) By any defendant or any other party within 30 days of receipt of service of the pleading seeking relief from the defendant or party.

(e) Within 30 days after service of the Notice of Designation, any other party may, in good faith, file and serve an opposition to the designation of the action as a mandatory business case. Based on the opposition or ex mero motu, the Business and Tax Court Judge may determine that the action should not be designated as a mandatory complex business case. If a party disagrees with the decision, the party may appeal to the Chief Justice of the Supreme Court.

(f) Once a designation is filed under subsection (d) of this section, and after preliminary approval by the Chief Justice, a case shall be designated and administered a complex business case. All proceedings in the action shall be before the Business and Tax Court Judge to whom it has been assigned unless and until an order has been entered under subsection (e) of this section ordering that the case not be designated a mandatory complex business case or the Chief Justice revokes approval. If complex business case status is revoked or denied, the action shall be treated as any other civil action, unless it is designated as an exceptional civil case or a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts."

SECTION 6. Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-45.5. Designation of tax cases.

The Business and Tax Court has exclusive jurisdiction to review a tax case, other than an action under G.S. 105-241.20 seeking a review of a jeopardy collection. A tax case is any of the following:

(1) An action by the Secretary of Revenue to determine the liability of a taxpayer for a tax.

(2) An action by a taxpayer against the Secretary of Revenue to obtain a refund of a tax paid by the taxpayer.

(3) An action challenging a tax statute as unconstitutional."

SECTION 7. G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of seventy-nine dollars ($79.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. ~~7A-45.3,~~ 7A-45.3 or a tax case under G.S. 7A-45.5, an additional two hundred dollars ($200.00) shall be paid upon its assignment, and the sum of sixty-four dollars ($64.00) in the district court except that if the case is assigned to a magistrate the sum shall be fifty-three dollars ($53.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents ($1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 8. G.S. 20-64(f) reads as rewritten:

"(f) The owner or transferor of a registered vehicle who surrenders the registration plate to the division may secure a refund for the unexpired portion of such plate prorated on a monthly basis, beginning the first day of the month following surrender of the plate to the division, provided the annual fee of such surrendered plate is sixty dollars ($60.00) or more. This refund may not exceed one half of the annual license fee. No refund shall be made unless the owner or transferor furnishes proof of financial responsibility on the registered vehicle effective until the date of the surrender of the plate. Proof of financial responsibility shall be furnished in a manner prescribed by the Commissioner. ~~Any unauthorized refund may be recovered in the manner set forth in G.S. 20-99.~~"

SECTION 9. G.S. 105-113.111 reads as rewritten:

"**§ 105-113.111. Assessments.**

Notwithstanding any other provision of law, an assessment against a dealer who possesses an unauthorized substance to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Secretary shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Secretary. The Secretary shall notify the dealer in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice and demand shall be either mailed to the dealer at the dealer's last known address or served

on the dealer in person. If the dealer does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Secretary shall collect the tax, penalty, and interest pursuant to the ~~procedure set forth~~ jeopardy collection procedures in G.S. ~~105-241.1(g)~~ 105-241.20 ~~for jeopardy assessments or the procedure set forth in G.S. 105-242, including causing execution to be issued immediately against the personal property of the dealer,~~ or the general collection procedures in G.S. 105-242, unless the dealer files with the Secretary a bond in the amount of the asserted liability for the tax, penalty, and interest. The Secretary shall use all means available to collect the tax, penalty, and interest from any property in which the dealer has a legal, equitable, or beneficial interest. The dealer may seek review of the assessment as provided in Article 9 of this Chapter."

SECTION 10. G.S. 105-113.113 reads as rewritten:

"**§ 105-113.113. Use of tax proceeds.**

(a) Special Account. – The Unauthorized Substances Tax Account is established as a special nonreverting account. The Secretary shall credit the proceeds of the tax levied by this Article to ~~a special nonreverting account, to be called the State Unauthorized Substances Tax Account, until the tax proceeds are unencumbered.~~ the Account. ~~The Secretary shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis. Tax proceeds are unencumbered when either of the following occurs:~~

~~(1) The tax has been fully paid and the taxpayer has no current right under G.S. 105-267 to seek a refund.~~

~~(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.~~

(b) Distribution. – The Secretary shall distribute revenue in the Unauthorized Substances Tax Account on a quarterly or more frequent basis. The Secretary shall ~~remit~~ distribute seventy-five percent (75%) of the ~~part of the unencumbered~~ tax proceeds in the Account that ~~was~~ were collected by assessment to the State or local law enforcement agency that conducted the investigation of a dealer that led to the assessment. If more than one State or local law enforcement agency conducted the investigation, the Secretary shall determine the equitable share for each agency based on the contribution each agency made to the investigation. The Secretary shall credit the remaining ~~unencumbered~~ tax proceeds in the Account to the General Fund.

(c) Refunds. – The refund of a tax that has already been distributed shall be drawn initially from the ~~State~~ Unauthorized Substances Tax Account. The amount of refunded taxes that ~~had been~~ were distributed to a law enforcement agency under this section and any interest shall be subtracted from succeeding distributions from the Account to that law enforcement agency. The amount of refunded taxes that ~~had been~~ were credited to the General Fund under this section and any interest shall be subtracted from succeeding credits to the General Fund from the Account."

SECTION 11. G.S. 105-122 is amended by adding a new subsection to read:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to

this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

(1) Statutory. – A corporation that is subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it applies in apportioning its income under that Article. A corporation that is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it would be required to apply in apportioning its income if it were subject to that Article. The apportionment method set out in this subdivision is considered the statutory method of apportionment and is presumed to be the best method of determining the amount of a corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

(2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State and that the the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. The Secretary may not authorize a corporation to use an alternative method for more than three tax years. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method."

SECTION 12. G.S. 105-130.4 is amended by adding a new subsection to read:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. The Secretary may not authorize a corporation to use an alternative method for more than three tax years. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. "

SECTION 13. G.S. 105-130.6A(e) reads as rewritten:

"(e) Cap for Bank Holding Companies. – After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.

The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.

If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. ~~105-241.1(e).~~ 105-241.8. The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under ~~105-241.1(i),~~ G.S. 105-241.18 computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 14. G.S. 105-163.9 reads as rewritten:

"**§ 105-163.9. Refund of overpayment to withholding agent.**

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing ~~an application~~ a claim for ~~a~~ refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the wages or compensation of the agent's employees or contractors. A withholding agent must file ~~an application~~ a claim for ~~a~~ refund within the time period set in G.S. ~~105-266.~~ G.S. 105-241.6. Interest accrues on a refund as provided in ~~G.S. 105-266.~~G.S. 105-241.18."

SECTION 15. G.S. 105-164.29(d) reads as rewritten:

"(d) Revocation. ~~Whenever~~ The failure of a wholesale merchant or retailer ~~fails~~ to comply with this Article or ~~violates G.S. 14-401.18, the Secretary, upon hearing, after giving 10 days' notice in writing, specifying the time and place of hearing and requiring the wholesale merchant or retailer to show cause why the certificate of registration should not be revoked, may revoke or suspend the certificate of registration. The notice may be served personally or by registered mail directed to the last known address of the wholesale merchant or retailer. All provisions with respect to review and appeals of the Secretary's decisions as provided by G.S. 105-241.2, 105-241.3, and 105-241.4 apply to this section.~~ G.S. 14-401.18 is grounds for revocation of the wholesale merchant's or retailer's certificate of registration. Before the Secretary revokes a wholesale merchant's or retailer's certificate of registration, the Secretary must notify the wholesale merchant or retailer that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the wholesale merchant or retailer objects to the proposed revocation and files a request for a Departmental review within the time set in G.S. 105-241.10 for requesting a Departmental review of a proposed assessment. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of a proposed revocation. "

SECTION 16. G.S. 105-164.38(c) reads as rewritten:

"(c) Assessment. – The period of limitations for assessing liability against the buyer of a business or the stock of goods of a business and for enforcing the lien against the property expires one year after the end of the period of limitations for assessment against the person who sold the business or the stock of goods. Except as otherwise provided in this section, the assessment procedures in Article 9 of this Chapter apply to a person who buys a business or the stock of goods of a business ~~and that person's liability for unpaid taxes are subject to the provisions of G.S. 105-241.1, 105-241.2, 105-241.3, and 105-241.4 and to other remedies for the collection of taxes~~ to the same extent as if the person had incurred the original tax liability."

SECTION 17. G.S. 105-187.10(b) reads as rewritten:

"(b) Unpaid Taxes. – The remedies for collection of taxes in ~~G.S. 20-99~~ Article 9 of this Chapter apply to the taxes levied by this Article and collected by the Commissioner. In applying these remedies, the Commissioner has the same authority as the Secretary."

SECTION 18. G.S. 105-228.5(f) reads as rewritten:

"(f) **(Effective for taxable years beginning on or after January 1, 2008)** Installment Payments Required. – Taxpayers that are subject to the tax imposed by this section and have a premium tax liability of ten thousand dollars ($10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

The Secretary of Revenue may permit an insurance company to pay less than the required estimated payment when the insurer reasonably believes that the total estimated payments made for the current year will exceed the total anticipated tax liability for the year.

An underpayment or on overpayment of an installment payment required by this subsection ~~shall bear interest at the rate established under G.S. 105-241.1(i). Any overpayment shall bear interest as provided in G.S. 105-266(b) and, together with the interest,~~ accrues interest in accordance with G.S. 105-241.18. An overpayment of tax shall be credited to the company and applied against the taxes imposed upon the company under this Article."

SECTION 19. G.S. 105-228.37 reads as rewritten:

"**§ 105-228.37. Refund of overpayment of tax.**

(a) Refund Request. – A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(b) Hearing by County. – A board of county commissioners must ~~review~~ conduct a hearing on a request for refund ~~and must follow the time limitations set in G.S. 105-266.1 for holding a hearing and making a decision.~~ in accordance with the procedures that apply to a hearing held by a board of equalization and review on an appeal concerning the listing or appraisal of property. If the board decides that a refund is due, it must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. If the board finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may ~~ask the Secretary to review the decision. The board must send the Secretary a copy of a decision on a request for refund.~~appeal the decision to the Property Tax Commission.

(c) Review by ~~Secretary.~~ Commission. ~~A taxpayer whose request for a refund is denied by a board of county commissioners may obtain a review of the board's decision by the Secretary. The request must be made in writing and must be filed within 30 days after the taxpayer receives the board's decision denying the refund. The Secretary must send the board of county commissioners a copy of the Secretary's decision made on the request. If the Secretary~~ The procedure in G.S. 105-290 for the appeal to the Property Tax Commission of a decision of a board of equalization and review concerning the listing or appraisal of property applies to the appeal of a denial by a board of county commissioners of a request for a refund of tax paid under this Article. If the Commission determines that a refund is due, the board of county commissioners must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. A decision of the Commission is binding on the Secretary ~~is binding~~ and on a board of county commissioners.

(d) Judicial Review. – A ~~taxpayer who disagrees with a~~ decision of the ~~Secretary~~ Property Tax Commission ~~may bring an action against the county and the State to recover the disputed overpayment. The action may be brought in the Superior Court of Wake County or in the superior court of the county where the tax was paid.~~is subject to judicial review in accordance with G.S. 7A-29.

(e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. – An overpayment of tax bears interest at the rate established in G.S. ~~105-241.1(i)~~ 105-241.18 from the date that interest begins to accrue. Interest

begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners."

SECTION 20. G.S. 105-239.1 reads as rewritten:

"**§ 105-239.1. Transferee liability.**

(a) Lien and Liability. – Property transferred for an inadequate consideration to a donee, heir, legatee, devisee, distributee, stockholder of a liquidated corporation, or any other person at a time when the transferor is insolvent or is rendered insolvent by reason of the transfer ~~shall be~~ is subject to a lien for any taxes owing by the transferor to the State of North Carolina at the time of the transfer whether or not the amount of the taxes has been ascertained or assessed at the time of the transfer. G.S. 105-241 applies to this tax lien. In the event the transferee has disposed of the property so that it cannot be subjected to the State's tax lien, the transferee ~~shall be~~ is personally liable for the difference between the fair market value of the property at the time of the transfer and the actual consideration, if any, paid to the transferor by the transferee.

~~Upon a foreclosure of the State's tax lien upon property in the hands of a transferee, the value of any consideration that the transferee proves has been given to the transferor shall be paid to the transferee out of the proceeds of the foreclosure sale before applying the proceeds toward the satisfaction of the State's tax lien.~~

~~In order to proceed against the transferee or property in the transferee's hands, the Secretary shall cause to be docketed in the office of the clerk of the superior court of the county wherein the transferee resides or the property is located, as the case may be, a certificate of tax liability as provided in G.S. 105-242 or a lien certificate which shall set forth the amount of the lien as determined by the Secretary or as finally determined upon appeal and a description of the property subject to the lien. Thereafter, execution may be issued against the transferee as in the case of other money judgments except that no homestead or personal exemption shall be allowable or, upon a lien certificate, an execution may be issued directing the sheriff to seize the property subject to the lien and sell same in the same manner as property is sold under execution. Such procedure and collection shall be subject to the provisions of subsection (c) of this section.~~

(b) Procedure. – Before the Secretary enforces a lien that arises under this section against property transferred by the taxpayer to another person or holds that person for the tax due, the Secretary must notify the person that the Secretary proposes to enforce the lien or hold the person liable and that the Secretary will proceed to do so unless the person objects to the action and files a request for review within the time set in G.S. 105-241.10 for requesting a Departmental review of a proposed assessment. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of the proposed action. The Secretary has the burden of establishing that a person to whom property was transferred is liable. The period of limitations for assessment of any liability against a transferee or enforcing the lien against the transferred property ~~shall expire~~ expires one year after the expiration of the period of limitations for assessment against the transferor.

(c) Enforcement. – The Secretary may use the collection remedies in G.S. 104-242 to enforce a lien or a liability that arises under this section. When property transferred by a taxpayer to another person is sold to satisfy the lien, the proceeds of the

sale must be used to pay the person the amount the person paid for the property before they are applied to satisfy the lien. ~~The provisions of G.S. 105-241.1, 105-241.2, 105-241.3, 105-241.4, 105-266.1 and 105-267 with respect to assessment procedure, demand for refund, review, and appeal shall apply to the liability of any transferee assessed under this section or of any property subject to the liability imposed by this section and to the assertion of a lien upon property in the hands of the transferee.~~

~~(d) In any proceeding before the Tax Review Board or in any court of the State the burden of proof shall be upon the Secretary of Revenue to show that a person is liable as a transferee of property of a taxpayer under this section.~~"

SECTION 21. G.S. 105-242(a) reads as rewritten:

"(a) ~~Warrants for Collection of Taxes.~~ Levy and Sale. – ~~If any tax levied by the State and payable to the Secretary has not been paid within 30 days after the taxpayer was given a notice of final assessment of the tax under G.S. 105-241.1(d1),~~ a taxpayer does not pay an assessment of a tax within 30 days after the Department sends the taxpayer a notice of final determination concerning the assessment, the Secretary may take either of the following actions to collect the tax:

(1) ~~The Secretary may issue~~ Issue a warrant ~~or an order under the Secretary's hand and official seal, directed to~~ directing the sheriff of any county of the ~~State, commanding him~~ State to levy upon and sell the real and personal property of the taxpayer found within the county for the payment of the ~~tax, including penalties and interest,~~ tax and the cost of executing the warrant and to return to the Secretary the money collected, within a time to be specified in the ~~warrant,~~ warrant but not less than 60 days from the date of the ~~warrant; the sheriff upon receipt of the warrant shall proceed in all respects with like effect and in the same manner prescribed by law in respect to~~ warrant. The procedure for executions issued against property upon judgments of a ~~court of record, and shall be entitled to the same fees for services in executing the warrant, to be collected in the same manner.~~court apply to executions under a warrant.

(2) ~~The Secretary may issue~~ Issue a warrant ~~or order under the Secretary's hand and seal~~ to any revenue officer or other employee of the Department ~~of Revenue~~ charged with the duty to collect taxes, commanding the officer or employee to levy upon and sell the taxpayer's personal property, including that described in G.S. 105-366(d), found within the State for the payment of the ~~tax, including penalties and interest.~~ tax. Except as otherwise provided in this subdivision, the levy upon the sale of personal property shall be governed by the laws regulating levy and sale under execution. The person to whom the warrant is directed shall proceed to levy upon and sell the personal property subject to levy in the same manner and with the same powers and authority normally exercised by sheriffs in levying upon and selling personal property under execution, except that the property may be sold in any county, in the discretion of the

Secretary. In addition to the notice of sale required by the laws governing the sale of property levied upon under execution, the Secretary may advertise the sale in any reasonable manner and for any reasonable period of time to produce an adequate bid for the property. Levy and sale fees, plus actual advertising costs, shall be added to and collected in the same manner as taxes. The Secretary is not required to file a report of sale with the clerk of superior court, as required by the laws governing sale of property levied upon under execution, if the sale is otherwise publicly reported."

SECTION 22. G.S. 105-242(b) reads as rewritten:

"(b) Garnishment and Attachment. – ~~Bank deposits, rents, salaries, wages, and all other choses in action or property incapable of manual levy or delivery, including property held in the Escheat Fund, hereinafter called the intangible, belonging, owing, or to become due to any taxpayer subject to any of the provisions of this Subchapter, or which has been transferred by such taxpayer under circumstances which would permit it to be levied upon if it were tangible, shall be subject to attachment or garnishment as herein provided, and the person owing said intangible, matured or unmatured, or having same in his possession or control, hereinafter called the garnishee, shall become liable for all sums due by the taxpayer under this Subchapter to the extent of the amount of the intangible belonging, owing, or to become due to the taxpayer subject to the setoff of any matured or unmatured indebtedness of the taxpayer to the garnishee; provided, however, the garnishee shall not become liable for any sums represented by or held pursuant to any negotiable instrument issued and delivered by the garnishee to the taxpayer and negotiated by the taxpayer to a bona fide holder in due course, and whenever any sums due by the taxpayer and subject to garnishment are so held or represented, the garnishee shall hold such sums for payment to the Secretary of Revenue upon the garnishee's receipt of such negotiable instrument, unless such instrument is presented to the garnishee for payment by a bona fide holder in due course in which event such sums may be paid in accordance with such instrument to such holder in due course. To effect such attachment or garnishment the Secretary of Revenue shall serve or cause to be served upon the taxpayer and the garnishee a notice as hereinafter provided, which notice may be served by any deputy or employee of the Secretary of Revenue or by any officer having authority to serve summonses or may be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall:~~

~~(1) Show the name of the taxpayer, and if known his Social Security number or federal tax identification number and his address;~~

~~(2) Show the nature and amount of the tax, and the interest and penalties thereon, and the year or years for which the same were levied or assessed, and~~

~~(3) Be accompanied by a copy of this subsection, and thereupon the procedure shall be as follows:~~

~~If the garnishee has no defense to offer or no setoff against the taxpayer, he shall within 10 days after service of said notice, answer the same by sending to the Secretary~~

~~of Revenue by registered or certified mail a statement to that effect, and if the amount due or belonging to the taxpayer is then due or subject to his demand, it shall be remitted to the Secretary with said statement, but if said amount is to mature in the future, the statement shall set forth that fact and the same shall be paid to the Secretary upon maturity, and any payment by the garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under oath, and, within 10 days after service of said notice, shall send two copies of said statement to the Secretary by registered or certified mail; if the Secretary admits such defense or setoff, he shall so advise the garnishee in writing within 10 days after receipt of such statement and the attachment or garnishment shall thereupon be discharged to the amount required by such defense or setoff, and any amount attached or garnished hereunder which is not affected by such defense or setoff shall be remitted to the Secretary as above provided in cases where the garnishee has no defense or setoff, and with like effect. If the Secretary shall not admit the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such further time as may be agreed on by the garnishee, and at the same time he shall file a copy of said notice, a copy of the garnishee's statement, and a copy of his objections thereto in the superior court of the county where the garnishee resides or does business where the issues made shall be tried as in civil actions.~~

~~If judgment is entered in favor of the Secretary of Revenue by default or after hearing, the garnishee shall become liable for the taxes, interest and penalties due by the taxpayer to the extent of the amount over and above any defense or setoff of the garnishee belonging, owing, or to become due to the taxpayer, but payments shall not be required from amounts which are to become due to the taxpayer until the maturity thereof, nor shall more than ten percent (10%) of any taxpayer's salary or wages be required to be paid hereunder in any one month as provided in subdivision (e)(4) of this section. The garnishee may satisfy said judgment upon paying said amount, and if he fails to do so, execution may issue as provided by law. From any judgment or order entered upon such hearing either the Secretary of Revenue or the garnishee may appeal as provided by law. If, before or after judgment, adequate security is filed for the payment of said taxes, interest, penalties, and costs, the attachment or garnishment may be released or execution stayed pending appeal, but the final judgment shall be paid or enforced as above provided. The taxpayer's sole remedies to question his liability for said taxes, interest, and penalties shall be those provided in this Subchapter, as now or hereafter amended or supplemented. If any third person claims any intangible attached or garnished hereunder and his lawful right thereto, or to any part thereof, is shown to the Secretary, he shall discharge the attachment or garnishment to the extent necessary to protect such right, and if such right is asserted after the filing of said copies as aforesaid, it may be established by interpleader as now or hereafter provided by law in cases of attachment and garnishment. In case such third party has no notice of proceedings hereunder, he shall have the right to file his petition under oath with the Secretary at any time within 12 months after said intangible is paid to him and if the~~

~~Secretary finds that such party is lawfully entitled thereto or to any part thereof, he shall pay the same to such party as provided for refunds by G.S. 105-266.1, and if such payment is denied, said party may appeal from the determination of the Secretary under the provisions of G.S. 105-241.4; provided, that in taking an appeal to the superior court, said party may appeal either to the Superior Court of Wake County or to the superior court of the county wherein he resides or does business. The intangibles of a taxpayer shall be paid or collected hereunder only to the extent necessary to satisfy said taxes, interest, penalties, and costs. Except as hereinafter set forth, the remedy provided in this section shall not be resorted to unless a warrant for collection or execution against the taxpayer has been returned unsatisfied: Provided, however, if the Secretary is of opinion that the only effective remedy is that herein provided, it shall not be necessary that a warrant for collection or execution shall be first returned unsatisfied, and in no case shall it be a defense to the remedy herein provided that a warrant for collection or execution has not been first returned unsatisfied.~~

~~This subsection shall be applicable with respect to the wages, salary or other compensation of officials and employees of this State and its agencies and instrumentalities, officials and employees of political subdivisions of this State and their agencies and instrumentalities, and also officials and employees of the United States and its agencies and instrumentalities insofar as the same is permitted by the Constitution and laws of the United States. In the case of State or federal employees, the notice shall be served upon such employee and upon the head or chief fiscal officer of the department, agency, instrumentality or institution by which the taxpayer is employed. In case the taxpayer is an employee of a political subdivision of the State, the notice shall be served upon such employee and upon the chief fiscal officer, or any officer or person charged with making up the payrolls, or disbursing funds, of the political subdivision by which the taxpayer is employed. Such head or chief officer or fiscal officer or other person as specified above shall thereafter, subject to the limitations herein provided, make deductions from the salary or wages due or to become due the taxpayer and remit same to the Secretary until the tax, penalty, interest and costs allowed by law are fully paid. Such deductions and remittances shall, pro tanto, constitute a satisfaction of the salary or wages due the taxpayer.~~ Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax due from the taxpayer if the Department has issued the taxpayer a notice of final determination concerning the tax and the taxpayer has not paid the tax. Intangible personal property includes bank deposits, rent, salaries, wages, and property held in the Escheat Fund. A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.

No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States,

the State, or a political subdivision of the State are subject to attachment and garnishment."

SECTION 23. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-242.1. Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of proposed garnishment. The notice may be sent in accordance with the methods authorized in G.S. 105-241.17 or by registered or certified mail. The notice must contain all of the following information:

(1) The taxpayer's name, address, and social security number or federal identification number.

(2) The type of tax the taxpayer owes and the tax periods for which the tax is owed.

(3) The amount of tax, interest, and penalties the taxpayer owes.

(4) The circumstances under which the proposed notice of garnishment will become final.

(5) A statement explaining the garnishee's liability for the tax.

(b) Action. – Within 30 days after receiving a notice of proposed garnishment, a garnishee must comply with the garnishment or file a written response to the proposed notice. A written response must explain why the garnishee is not subject to garnishment and attachment. Upon receipt of the written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of proposed garnishment."

SECTION 24. G.S. 105-242(c) reads as rewritten:

"(c) Certificate ~~or Judgment for Taxes.~~ of Tax Liability. ~~In addition to the remedy herein provided, the Secretary of Revenue is authorized and empowered to make a certificate setting forth the essential particulars relating to the said tax, including the amount thereof, the date when the same was due and payable, the person, firm, or corporation chargeable therewith, and the nature of the tax, and under his hand and seal transmit the same to the clerk of the superior court of any county in which the delinquent taxpayer resides or has property; whereupon, it shall be the duty of the clerk of the superior court of the county to docket the said certificate and index the same on the cross index of judgments, and execution may issue thereon with the same force and effect as an execution upon any other judgment of the superior court (said tax shall become a lien on realty only from the date of the docketing of such certificate in the~~

~~office of the clerk of the superior court and on personalty only from the date of the levy on such personalty and upon the execution thereon no homestead or personal property exemption shall be allowed except as provided in subdivision (e)(1) of this section).~~ After the Department issues a final determination for an assessment, the Department may proceed to collect the tax due by filing a certificate of tax liability with the clerk of the superior court of any county in which the delinquent taxpayer resides or has property. The certificate must state the taxpayer's name and the type and amount of tax owed. The clerk must record the certificate as if it were a judgment. A recorded certificate is considered the equivalent of a judgment and is enforceable as if it were a judgment. The tax stated on a certificate is a lien on real property from the date the certificate is recorded and is a lien on personal property from the date of levy on the personal property.

~~Except as provided in G.S. 105-241.2(e) for jeopardy levies, no sale of real or personal property shall be made under any execution issued on a certificate docketed pursuant to the provisions of this subsection before the administrative action of the Secretary of Revenue or the Tax Review Board is completed when a hearing has been requested of the Secretary or a petition for review has been filed with the Tax Review Board, nor shall such sale be made before the assessment on which the certificate is based becomes final when there is no request for a hearing before the Secretary or petition for review by the Tax Review Board. Neither the title to real estate nor to personal property sold under execution issued upon a certificate docketed under this subsection shall be drawn in question upon the ground that the administrative action contemplated by this paragraph was not completed prior to the sale of such property under execution. Nothing in this paragraph shall prevent the sheriff to whom an execution is issued from levying upon either real or personal property pending an administrative determination of tax liability and, in the case of personal property, the sheriff may hold such property in his custody or may restore the execution defendant to the possession thereof upon the giving of a sufficient forthcoming bond. Upon a final administrative determination of the tax liability being had, if the assessment or any part thereof is sustained, the sheriff shall, upon request of the Secretary of Revenue, proceed to advertise and sell the property under the original execution notwithstanding the original return date of the execution may have expired.~~

~~The owner of tangible property seized under this section may request the Secretary to authorize the sale of the property under execution within 60 or more days after the request is made. The Secretary shall authorize the sale unless the Secretary finds that selling the property would not be in the best interests of the State. When property is sold at the request of the owner, the Department shall receive from the sale of the property the administrative expenses it incurred in having the property sold.~~

~~A certificate or judgment in favor of the State or the Secretary of Revenue for taxes payable to the Department of Revenue, whether docketed before or after the effective date of this paragraph, shall be valid and enforceable for a period of 10 years from the date of docketing. When any such certificate or judgment, whether docketed before or after the effective date of this paragraph, remains unsatisfied for 10 years from the date of its docketing, the same shall be unenforceable and the tax represented thereby shall~~

~~abate. Upon the expiration of said 10-year period, the Secretary of Revenue or his duly authorized deputy shall cancel of record said certificate or judgment. Any such certificate or judgment now on record which has been docketed for more than 10 years shall, upon the request of any interested party, be canceled of record by the Secretary of Revenue or his duly authorized deputy; provided, in the event of the death of the judgment debtor or his absence from the State before the expiration of the 10-year period herein provided, the running of said 10-year period shall be stopped for the period of his absence from the State or during the pendency of the settlement of the estate and for one year thereafter, and the time elapsed during the pendency of any action or actions to set aside the judgment debtor's conveyance or conveyances as fraudulent, or the time during the pendency of any insolvency proceeding, or the time during the existence of any statutory or judicial bar to the enforcement of the judgment shall not be counted in computing the running of said 10-year period. And, provided further, that any execution sale which has been instituted upon any such judgment before the expiration of the 10-year period may be completed after the expiration of the 10-year period, notwithstanding the fact that resales may be required because of the posting of increased bids. Provided further, that, notwithstanding the expiration of the 10-year period provided and notwithstanding the fact that no proceedings to collect the judgment by execution or otherwise has been commenced within the 10-year period, the Secretary of Revenue may accept any payments tendered upon said judgments after the expiration of said 10-year period.~~A certificate of tax liability is enforceable for a period of 10 years from the date it is recorded. If the certificate is not satisfied within this period, the remaining liability of the taxpayer is abated and the Department must cancel the certificate. An execution sale initiated before the end of the 10-year period may be completed after the end of this period, regardless of whether resales are required because of the posting of increased bids. The Secretary may accept tax payments made after a certificate has expired, regardless of whether any collection actions were taken before the certificate expired.

The 10-year period in which a certificate of tax liability is enforceable is tolled during the following periods:

(1) When the taxpayer is absent from the State. The period is tolled during the taxpayer's absence plus one year after the taxpayer returns.

(2) Upon the death of the taxpayer. The period is tolled while the taxpayer's estate is administered plus one year after the estate is closed.

(3) While an action is pending to set aside a conveyance made by the taxpayer as a fraudulent conveyance.

(4) While an insolvency proceeding against the taxpayer is pending.

(5) During the period of any statutory or judicial bar to the enforcement of the certificate."

SECTION 25. G.S. 105-258.1(a) reads as rewritten:

"(a) Scope. – This section applies to in-person interviews between a taxpayer and an officer or employee of the Department relating to the determination or collection of a tax, other than an in-person interview concerning any of the following:

(1) A criminal investigation.

(2) The determination or collection of a tax imposed by Article 2D of this Chapter.

~~(3) The assessment under G.S. 105-241.1(g) of a tax whose collection is in jeopardy.~~

(4) ~~The levy or execution under G.S. 105-241.2(e) of an assessment whose collection is in jeopardy.~~A jeopardy assessment and collection."

SECTION 26. G.S. 105-262(a) reads as rewritten:

"(a) The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. ~~The Tax Review Board shall review a new rule or a change to a rule before it is filed in the North Carolina Administrative Code~~. G.S. 150B-1 and Article 2A of Chapter 150B of the General Statutes set out the procedure for the adoption of rules by the Secretary."

SECTION 27. G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly report for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the report. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the ~~Secretary must refund the excess to the motor carrier in accordance with G.S. 105-266(a)(3).~~excess is refundable in accordance with G.S. 105-241.7."

SECTION 28. G.S. 105-449.119 reads as rewritten:

"**§ 105-449.119. ~~Hearing on~~ Review of civil penalty assessment.**

A person who denies liability for a penalty imposed under this Part must pay the penalty ~~under protest~~ and ~~make a written demand to the Department of Revenue for a refund. The written demand must be made within 30 days after the penalty is imposed and must explain why the person is not liable for the penalty. Upon receiving a demand for a refund, the Secretary must schedule a hearing on the matter before an employee or an agent of the Department. The hearing must be held within 30 days after receiving the written demand for a refund. If, after the hearing, the Department determines that the person was not liable for the penalty, the amount collected must be refunded. If, after the hearing, the Department determines that the person was liable for the penalty, the person paying the penalty may appeal the imposition of the penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4.~~ file a request for a Departmental review of the penalty. The request must be filed within the time set in G.S. 105-241.10 for requesting a Departmental review of a proposed assessment. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of the penalty. The date the penalty was imposed is considered the date the notice of proposed assessment was delivered to the taxpayer."

SECTION 29. In the General Statutes, references to the following statutes repealed by this act are deleted and substituted as provided in this section. The Revisor

of General Statutes is authorized to change the references in accordance with this section.

(1) References to the following statutory provisions repealed by this act are substituted with a reference to G.S. 105-241.18:
   a. G.S. 105-241.1(i).
   b. G.S. 105-241.1 in G.S. 105-160.4, G.S. 105-187.10, and G.S. 150B-2.
   c. G.S. 105-266 in G.S. 105-266.2, G.S. 105A-5, and G.S. 105A-8.

(2) References to former G.S. 105-241.1(g) and G.S. 105-241.2(e) are substituted with a reference to G.S. 105-241.20.

SECTION 30. This act becomes effective January 1, 2008. The procedures for review of disputed tax matters enacted by this act apply to assessments of tax that are not final as of the effective date of this act and to claims for refund pending on or filed on or after the effective date of this act. This act does not affect matters for which a petition for review was filed with the Tax Review Board under G.S. 105-241.2 before the effective date of this act. The repeal of G.S. 105-122(c) and G.S. 105-130.4(t) and Sections 11 and 12 apply to requests for alternative apportionment formulas filed on or after the effective date of this act. A petition filed with the Tax Review Board for an apportionment formula before the effective date of this act is considered a request under G.S. 105-122(c1) or G.S. 105-130.4(t1), as appropriate.

SENATE BILL 242:
Review of Disputed Tax Matters

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 16, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S242-CSSVf-30		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 242 substantially revises the process for the review of disputed tax matters to provide taxpayers with the opportunity for an independent hearing outside the Department prior to paying the tax. These revisions include administrative review by the Office of Administrative Hearings, elimination of the Tax Review Board, and expansion of the Business Court to include tax cases. The bill would also authorize opt-in class actions for taxpayers seeking a refund of tax based on the constitutionality of a tax statute.

This bill addresses two distinct yet related issues. First, the bill substantially revises the overall procedure for disputing tax matters. Second, the bill provides statutory guidance with regard to class actions involving a constitutional challenge to a tax statute. The second issue is a subset of the first, but it specifically relates to recent judicial interpretations of the 'payment under protest' rule. These two issues are explained separately in this bill analysis.

I. REVISION OF PROCESS FOR DISPUTED TAX MATTERS

The current tax appeals system is divided among assessments, refund claims for overpayments, and refund claims for the payment of an unconstitutional tax. Each type of claim involves a different procedure.

CURRENT LAW:

Assessments. – Upon receipt of a proposed notice of assessment, a taxpayer may request a hearing before the Secretary of Revenue. Prior to scheduling a hearing, the Department will seek to resolve the matter informally through phone conversations, letters, and conferences. If those negotiations are unsuccessful, the case proceeds to a hearing at the Department. In practice, the Secretary does not hold the hearing. Instead, the Secretary exercises the authority given in G.S. 105-260.1 and delegates the responsibility of conducting the hearing and making a decision to an Assistant Secretary of the Department, who serves as the Department's hearings officer. As an Assistant Secretary of the Department, this hearings officer is located within and employed by the Department. At the hearing, a taxpayer may be represented by an attorney, an accountant, or any person who has power of attorney for the taxpayer. The rules of evidence do not apply. The hearings officer does not have authority to decide constitutional issues. The hearings officer must issue a written decision within 90 days of the hearing. This decision is considered the Secretary's decision.

A taxpayer who is dissatisfied with the Secretary's decision may obtain an administrative review of the decision at the Tax Review Board, which is a three-member board consisting of the State Treasurer, the Chair of the North Carolina Utilities Commission, and an appointee of the Governor. The Board holds a hearing, but bases its review on the record established at the Department. The Board must issue a decision within 90 days after the hearing, and the decision may be appealed to superior court. Following this route, the superior court reviews the Tax Review Board's decision based on the record created at the Department. A taxpayer does not have to pay the proposed assessment while the case is under review.

In lieu of seeking review by the Tax Review Board, a taxpayer may pay the tax and bring an action in superior court within 30 days after notification of the Secretary's hearing decision. Following this route, the action in superior court is *de novo*.[1]

Decisions of superior court may be appealed to the North Carolina Court of Appeals and then to the North Carolina Supreme Court. The procedures for appeal from the superior court are the same, regardless of whether the action in superior court is based on the record established at the Department or is a *de novo* action.

Refunds. – The procedure for obtaining a refund of tax paid by a taxpayer depends on the nature of the claim. If the taxpayer is challenging the constitutionality of a tax, then the taxpayer must follow the procedure set out in G.S. 105-267, known as the "payment under protest rule." If the taxpayer claims that the tax paid was incorrect or excessive, then G.S. 105-266.1 governs the refund procedure. Under both statutes, the taxpayer is required to apply to the Secretary in writing for a refund. Under G.S. 105-267, the refund request must be made within three years after payment.[2] Under G.S. 105-266.1, the refund request must be made within three years after the date for filing of the return or within 6 months after payment of the tax, whichever is later.[3] At this stage, the procedure varies as follows:

a. ***Payment under protest (G.S. 105-267).*** – Once the refund request has been made, the Secretary has 90 days to issue a decision and refund the tax in accordance with the decision. If the tax is not refunded within 90 days, the taxpayer may file a civil action at any time within three years after the expiration of the 90-day period allowed for making the refund. Thus, a taxpayer potentially has a maximum of 6 years and 90 days to bring a civil action. If upon trial it is determined that all or part of the tax was levied for an "illegal or unauthorized purpose," judgment shall be rendered for the taxpayer, and the amount of the judgment must be refunded by the State.

b. ***Refunds for overpayment (G.S. 105-266.1).*** – The appeals route for overpayment claims is similar to the route for assessments. Once the refund request has been made, the Secretary reviews the request and notifies the taxpayer of the decision. If the refund is reduced or disallowed, the taxpayer may request a hearing. The Department will schedule a hearing within 90 days, unless the taxpayer and the Secretary agree to a later date. Within 90 days of the hearing, the Secretary must make a decision, notify the taxpayer, and adjust the tax in accordance with the decision. A taxpayer aggrieved by the Secretary's decision may, within 90 days after notification of the decision, either:

- Petition for administrative review before the Tax Review Board under G.S. 105-241.2[4] followed by appeal to the superior court on the record; or
- Bring a *de novo* civil action against the Secretary for recovery of the alleged overpayment.[5]

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[1] A *de novo* action is one that is tried as if no decision had been previously rendered.

[2] The protest period for taxes paid on alcoholic beverages, tobacco products, and controlled substances is 30 days after payment.

[3] The statute of limitations period varies for overpayments associated with worthless debts or securities, capital losses and net operating losses, and returns reflecting a federal determination.

[4] Either party may appeal a decision of the Tax Review Board to superior court, then to the North Carolina Court of Appeals, and then to the North Carolina Supreme Court.

[5] Either party may appeal to the appellate division from the judgment of the superior court.

BILL ANALYSIS:

The Proposed Committee Substitute for Senate Bill 242 repeals the current statutes governing the process for administrative and judicial review of disputed tax matters and replaces them with a new procedure. Under this bill, the procedure for the review of a proposed assessment and a request for a refund would be substantially the same.

Departmental review. – A taxpayer who objects to a proposed denial of a refund or a proposed assessment may file a request for review by the Department. The Departmental review would potentially be a two-step process consisting of an initial review followed by an informal conference. The review would be performed by a Departmental employee who did not make the decision on the proposed denial or proposed assessment. If the review results in the Department granting the refund or removing the assessment, the matter ends there. If the review does not resolve the dispute, the Department may request additional information from the taxpayer and must schedule a conference with the taxpayer. The conference is intended to be an informal process in which the Department and the taxpayer stipulate the facts and issues upon which they agree and attempt to settle the dispute. If the Department and the taxpayer are unable to resolve the matter at conference, the Department must issue a final determination. The final determination must be issued within nine months after the date the taxpayer filed a request for review.

Final determination. – A final determination represents the Department's decision regarding a proposed denial of a refund or a proposed assessment. Once issued at the conclusion of the Departmental review process, it triggers the taxpayer's ability to seek further review regarding a disputed tax matter. The final determination must state the basis for the determination and inform the taxpayer of the procedure for contesting it. A final determination regarding a proposed assessment must additionally inform the taxpayer of the tax, interest, and penalties payable by the taxpayer, a statement that the tax liability is due and collectible unless the taxpayer contests the final determination, and an explanation of the collection options available to the Department.

Exhaustion of prehearing remedy. – Under this bill, the process of Departmental review, which may include a conference and concludes with the issuance of a final determination, is considered a taxpayer's 'prehearing remedy'. It must conclude within nine months after the taxpayer filed a request for Departmental review. A taxpayer must exhaust this prehearing remedy before seeking review of an adverse determination by the Department.

Contested case hearing at Office of Administrative Hearings. – The bill establishes the Office of Administrative Hearings (OAH) as the independent forum for the review of contested tax matters. Under current law, the Department of Revenue is exempt from the Administrative Procedure Act and administrative review of a disputed tax matter takes is conducted by a hearings officer within the Department followed by an appeal to the Tax Review Board. Under the bill, a taxpayer must first exhaust the prehearing remedy and then file a contested case with OAH. The case would follow the procedures set in Article 3 of Chapter 150B, which is the same procedure for virtually all other agency-citizen disputes. This would include a fact-finding trial before an administrative law judge who would issue a recommended decision. The recommended decision would be returned to the agency for a final decision.

Judicial review of final decision. – Under current law, Article 4 of Chapter 150B authorizes a person who is aggrieved by a final decision in a contested case to seek judicial review in superior court in Wake County or in the county in which the person resides by filing a petition within 30 days after being served with the decision. This bill would allow a taxpayer to seek judicial review of a final decision by the Department of Revenue in accordance with that Article. However, the Business Court would have

exclusive jurisdiction to review the case. A taxpayer may further appeal a decision of the Business Court to the North Carolina Court of Appeals.

Expansion of Business Court jurisdiction. – Currently, the North Carolina Business Court only handles cases involving complex and significant issues of corporate and commercial law, which are assigned by the Chief Justice of the North Carolina Supreme Court and designated "Complex Business Cases." This bill would add virtually all tax cases to the jurisdiction of the Business Court, which would be renamed the "Business and Tax Court." This change is designed to provide both taxpayers and the State alike with a specialized forum for tax cases where it is anticipated that the court will develop expertise in this often complex area of the law.

Civil action. – With some limitations, current law allows a taxpayer to pay a disputed tax and bring a civil action in superior court in lieu of administrative review. Under the bill, a taxpayer would not be able to pay the tax at any point during the process and bring a civil action. Instead, a taxpayer would be required to exhaust his administrative remedy first by seeking Departmental review and commencing a contested case hearing at OAH. Moreover, a taxpayer would only be able to initiate a civil action when the matter involves a challenge to the constitutionality of a statute on its face. All other matters would be resolved through judicial review of the record created at OAH.

Constitutional claims. – Generally speaking, the constitutionality of a statute may be subject to a 'facial' or an 'as applied' challenge. With an 'as applied' challenge, the plaintiff contends that the application of a statute to the person's particular facts and circumstances is unconstitutional. The practical effect of holding a statute unconstitutional, as applied, is to prevent its future application in a similar context, but it does not render the statute utterly inoperative. With a facial challenge, the plaintiff contends that no set of circumstances exists in which the statute can be constitutionally applied.

If the only basis for disputing a tax is that the statute imposing the tax is unconstitutional on its face, the matter may only be resolved by the judicial branch. Neither executive agencies nor the Office of Administrative Hearings, which is a quasi-judicial body, have authority to determine the facial validity of a statute. However, this bill does not allow a taxpayer to bypass the Departmental review process or OAH altogether and proceed directly to court when the matter involves a constitutional claim. Under this bill, a taxpayer is required to exhaust the administrative remedy before going to court.

Therefore, constitutional claims may follow one of two paths under this bill:

1. Application of statute. – If the claim involves a constitutional challenge to the application of a tax statute, then the taxpayer would proceed with a contested case at OAH. OAH would serve as the fact-finding body and establish the record in the case. The administrative law judge would make a recommended decision regarding the application of the statute based on the facts elicited at trial. If the final decision is adverse to the taxpayer, the taxpayer would have 30 days to file a petition with the Business and Tax Court seeking judicial review of the decision.

2. Facial challenge. – If the claim involves a challenge to the facial validity of the statute, the Office of Administrative Hearings would dismiss the case for lack of jurisdiction. The taxpayer may, within 30 days, seek judicial review of the dismissal. The taxpayer would also have two years to file a new civil action. Either of these actions would take place in the Business and Tax Court.

Elimination of Tax Review Board. – The bill would eliminate the Tax Review Board as well as the Augmented Tax Review Board. Under the revised review and appeals process, the role of the Tax

Review Board would no longer be needed because OAH would be the independent arbiter of disputed tax matters and the jurisdiction of the Business and Tax Court would include the review of tax cases.

II. CLASS ACTIONS AND CONSTITUTIONAL CHALLENGES

CURRENT LAW: G.S. 105-267 is known as the 'payment under protest' rule and sets out the procedure for a taxpayer seeking to challenge the constitutionality of a tax. The protest rule has proven problematic for both the Department and tax practitioners. The statute's vagueness has raised issues with regard to what constitutes a valid protest, whether all similarly situated taxpayers must file a protest, and when a protest should be filed to best serve the taxpayer. The North Carolina Supreme Court further muddied the waters in 1998 when it held in *Bailey II*[6] that all taxpayers who had their benefit contracts wrongfully impaired by the State, not just those who complied with G.S. 105-267, were entitled to refunds. The Court found that G.S. 105-267 was simply a procedural requirement designed to give the State notice of potential liabilities and allow it to budget accordingly. In addition to finding that the State did have sufficient notice of its potential liability for all taxpayers involved, the Court also seemed to be influenced by the fact that North Carolina does not provide taxpayers with any predeprivation procedures for determining the legality of a tax. Thus, after *Bailey II*, it appears as if a taxpayer pays under protest and initiates litigation, then all other similarly situated taxpayers stand to benefit from the protest if the litigation is successful.

In October 2006, the North Carolina Court of Appeals issued a decision in the Dunn case that further undercuts, and virtually obliterates, the protest rule and greatly expands the scope of *Bailey II* in unprecedented ways. First, the court certified a class consisting of members who have not paid the tax in question under the particular statute being challenged. Second, the court included as members of the class all persons or entities who have paid the tax on interest from out-of-state obligations from October 29, 2000 through the date of final judgment, regardless of whether they filed a protest.

In *Bailey II*, the Court said that the requirement of filing a written demand prior to filing suit was only required to the extent the State has notice of its potential fiscal liability. The *Dunn* Court went even further stating that as long as the State had notice that a tax was being challenged, the requirement was met and the burden was on the State to figure out its potential liability. Under *Dunn*, the protest requirement, which was originally intended to provide the State with notice, has become meaningless because it is only after a court determines who should make up the class that the State can begin to determine its potential liability, and class certification may occur years after the payment of the tax. North Carolina Supreme Court has granted the Department of Revenue's petition for review on the issue of class certification in the *Dunn* case.

Notably, class actions are prohibited in United States Tax Court and class action refund suits in other federal courts require that every member of the class file a written demand.

BILL ANALYSIS: The bill specifically authorizes class actions for taxpayers seeking a refund of tax based on the constitutionality of a tax statute. A taxpayer would be required to request a refund from the Department and affirmatively opt-in to the class action by providing the court with written consent. The period for filing a refund claim would be tolled by the filing of a class action for all taxpayers who could have filed a refund claim on the date the class action was commenced.

EFFECTIVE DATE: This bill would become effective January 1, 2008. The new review procedures would apply to assessments of tax that are not final as of the effective date and to claims for refund pending on or filed on or after the effective date. The bill would not affect matters for which a petition

[6] In Bailey v. State of North Carolina, 348 N.C. 130, 500 S.E.2d 54 (1998), the Court found unconstitutional legislation that placed a cap on a tax exemption for state and local government employees' retirement benefits.

for review was filed with the Tax Review Board under G.S. 105-241.2 prior to the effective date. The repeal of G.S. 105-122(c) and G.S. 105-130.4(t) and Sections 11 and 12 apply to requests for alternative apportionment formulas filed on or after the effective date. A petition filed with the Tax Review Board for an apportionment formula before the effective date is considered a request under G.S. 105-122(c1) or G.S. 105-130.4(t1), as appropriate.

BACKGROUND: The issue of disputed tax matters has been studied by the Revenue Laws Study Committee on several occasions within the last five years. Most recently, S.L. 2006-196 directed the Revenue Laws Study Committee to study the administrative process for the review of disputed tax matters. The Committee did, in fact, study this issue extensively during the interim. While the Committee lacked sufficient time to develop a consensus proposal prior to the start of the 2007 General Assembly, the Committee made significant strides in identifying issues and anticipated that those issues would be further developed during the legislative session. Senate Bill 242 does represent, in large part, the proposal presented to the Committee and included in its report.

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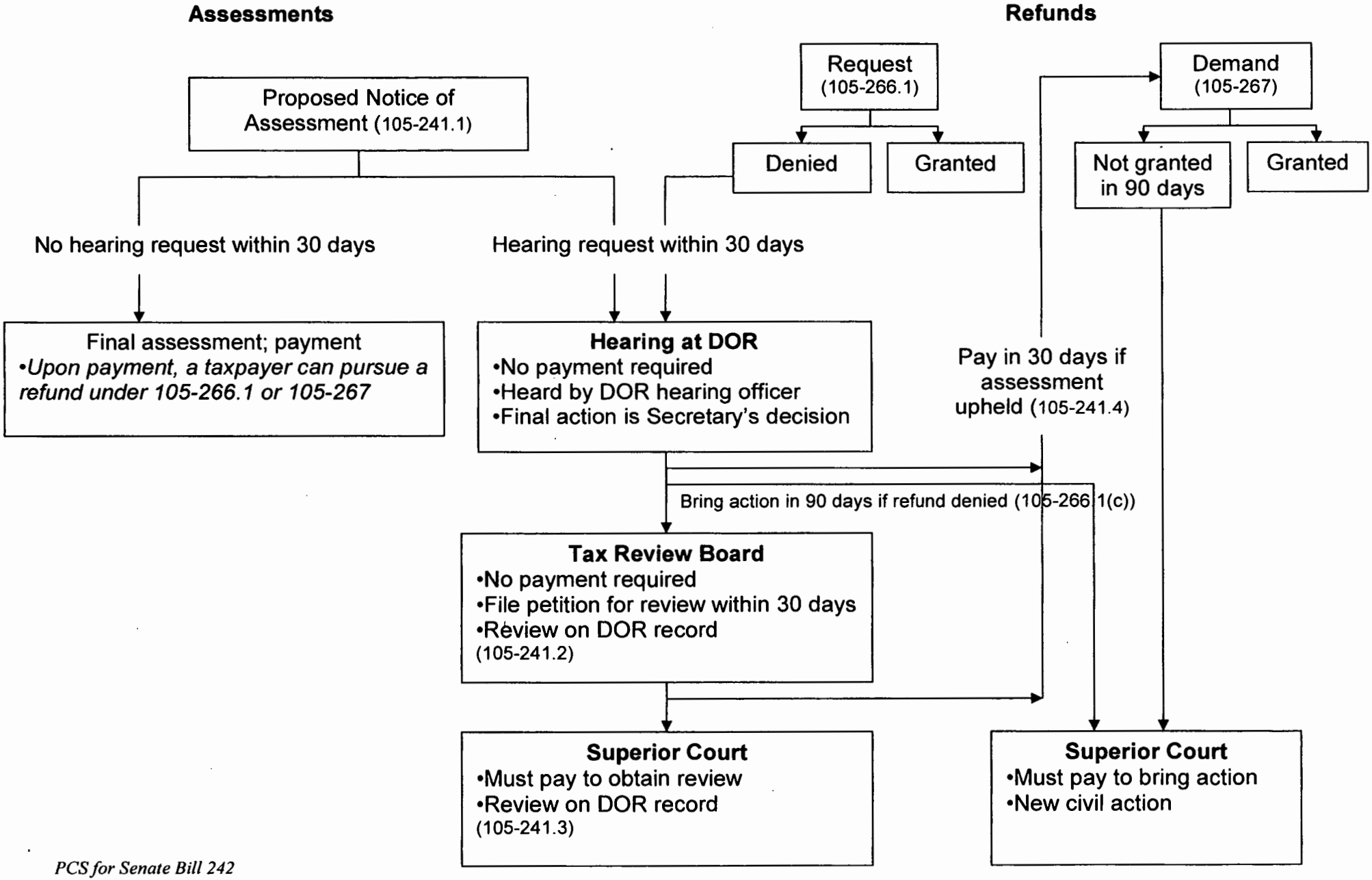
Current Process
Review of Disputed Tax Matters



Proposed Process
Review of Disputed Tax Matters

Assessments

Proposed Notice of Assessment

Refunds

Request for Refund

No request for review within 45 days

Request for review within 45 days

Granted

Department sends notice of final determination.
Upon payment, a taxpayer can pursue a refund.

Departmental Review

- 2-step process:
  1. Review
  2. Conference
- If Department and taxpayer cannot resolve dispute, Department must issue final determination.
- Departmental review must conclude and final determination must be issued within 9 months after taxpayer filed request for review.

60 days

Contested Case Hearing at OAH

- Independent tribunal; no payment required.
- Record created here.
- Constitutional claims:
  1. Challenge to application of statute – factual record established at OAH.
  2. Challenge to statute itself – OAH must dismiss for lack of jurisdiction.

30 days

Business and Tax Court

- Taxpayer must pay tax.
- Judicial review of final agency decision; review on OAH record.
- A taxpayer may file civil action if case dismissed by OAH because of constitutional claim. Action must be filed within 2 years of dismissal and review is *de novo*.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 242

Short Title:	Uniform Tax Refund Procedure.	(Public)
Sponsors:	Senators Clodfelter, Dalton, Hartsell, Hoyle, Kerr; Goodall, and Snow.	
Referred to:	Finance.	

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A UNIFORM PROCEDURE FOR TAX REFUND CLAIMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-266 and G.S. 105-266.1 are repealed.

SECTION 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-265.1. Refunds of overpayment of taxes.**

(a) Without Demand. – If the Secretary discovers that a taxpayer has overpaid the correct amount of a tax, the overpayment must be refunded to the taxpayer as soon as possible together with any applicable interest. The Secretary may issue a refund of an overpayment only after the taxpayer has filed the final return for the tax period.

(b) Upon Demand. – A taxpayer who claims to have overpaid a tax may file a demand for a refund with the Secretary. The taxpayer must file the demand within the statute of limitations set out in G.S. 105-265.2. A demand for refund must be in a form prescribed by the Secretary and must identify the taxpayer, the type and amount of tax overpaid, the period included, and the reasons for the refund, including law or other authority upon which the taxpayer relies. The Secretary must either grant or deny the demand for a refund within six months from the date the demand is filed, unless this period is extended by written agreement of the taxpayer and the Secretary. The Secretary must notify the taxpayer of the decision to grant or deny the refund demand and must issue or adjust the refund, if applicable, in accordance with the decision. If the Secretary fails to grant a refund within the six-month period, the demand for refund is deemed denied.

(c) Hearing. – A taxpayer who receives a written decision from the Secretary denying a refund demand may file a written request for a hearing before the Secretary at any time within 30 days after the date the decision was mailed. A taxpayer whose demand for refund is deemed denied may file a written request for a hearing at any time within 60 days after the expiration of the six-month period set out in subsection (b) of

this section. The Secretary must grant a hearing on each timely demand for a hearing. Within 60 days after a timely demand for a hearing has been filed and at least 10 days before the date set for the hearing, the Secretary shall notify the taxpayer in writing of the time and place at which the hearing will be conducted. The date set for the hearing shall be within 90 days after the timely request for a hearing was filed or at a later date mutually agreed upon by the taxpayer and the Secretary. The date set for the hearing may be postponed once, at the request of the taxpayer or the Secretary, for a period of up to 90 days or for a longer period mutually agreed upon by the taxpayer and the Secretary. The rules of evidence do not apply in a hearing before the Secretary under this section.

Within 90 days after conducting a hearing under this subsection, the Secretary must make a decision on the refund demand, notify the taxpayer of the decision, and adjust the computation of the tax in accordance with the decision. The Secretary must refund to the taxpayer in accordance with this Article the amount of any overpayment of tax.

(d) Civil Action. – Instead of requesting a hearing in accordance with subsection (c) of this section, a taxpayer may within 90 days of the denial of a refund demand bring a civil action against the Secretary for recovery of the alleged overpayment. No suit shall be maintained in any court for the recovery of any overpayment of tax unless the taxpayer seeking a refund has filed a written demand for a refund in accordance with subsection (b) of this section and the Secretary has denied the demand for refund.

If upon the trial it is determined that all or part of the tax constituted an overpayment, judgment shall be rendered therefor, with interest, and the judgment shall be collected as in other cases. The amount of taxes for which judgment is rendered shall be refunded by the State. The court may not order in its judgment the issuance of a refund to any taxpayer who has not filed a written request for a refund in accordance with this section.

(e) Venue. – If the alleged overpayment is more than two hundred dollars ($200.00), the taxpayer may bring the action either in the Superior Court of Wake County or in the superior court of the county in which the taxpayer resides; if the alleged overpayment is two hundred dollars ($200.00) or less, the taxpayer may bring the action in any State court of competent jurisdiction in Wake County.

(f) Limitation on Class Actions. – No class action for a refund of overpayment of tax may be maintained in any court unless each taxpayer in the class has filed a written demand for a refund in accordance with subsection (b) of this section.

(g) Appeal. – Either party may appeal to the appellate division from the judgment of the superior court under the rules and regulations prescribed by law for appeals, except that if the Secretary appeals, the Secretary is not required to give any undertaking or make any deposit to secure the cost of the appeal.

(h) Refunds Prohibited. – The Secretary may not refund any of the following:

(1) An overpayment set off under Chapter 105A of the General Statutes, the Setoff Debt Collection Act, or under another setoff debt collection program authorized by law.

(2) An income tax overpayment the taxpayer has elected to apply to another purpose as provided in this Article.

(3) An individual income tax overpayment of less than one dollar ($1.00) or another tax overpayment of less than three dollars ($3.00), unless the taxpayer makes a written demand for the refund."

SECTION 3. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-265.2. Statute of limitations for refunds.**

The period in which a refund must be demanded or discovered under this Article is determined as follows:

(1) General rule. – No overpayment shall be refunded, whether upon discovery or receipt of written demand, if the discovery is not made or the demand is not received within three years after the date set by the statute for the filing of the return or within six months after the payment of the tax alleged to be an overpayment, whichever is later. An agreement by a taxpayer to extend the time in which the Department can assess the taxpayer for an underpayment automatically extends the time in which the taxpayer can demand a refund.

(2) Worthless debts or securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to either of the following:

a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.

b. The effect of the deductibility of a debt or loss described in sub-subdivision a. of this subdivision on the application of a carryover to the taxpayer.

(3) Capital loss and net operating loss carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.

(4) Federal determination. – When a taxpayer files with the Secretary a return that reflects a federal determination and the return is filed within the required time, the period in which a refund must be demanded or discovered is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later."

SECTION 4. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-265.3. Interest on refunds.**

An overpayment of tax bears interest at the rate established in G.S. 105-241.1(i) from the date that interest begins to accrue until a refund is paid. A refund sent to a taxpayer is considered paid on a date determined by the Secretary that is no sooner than five days after a refund check is mailed.

A refund set off against a debt pursuant to Chapter 105A of the General Statutes is considered paid five days after the Department mails the taxpayer a notice of the setoff, unless G.S. 105A-5 or G.S. 105A-8 requires the agency that requested the setoff to return the refund to the taxpayer. In this circumstance, the refund that was set off is not considered paid until five days after the agency that requested the refund mails the taxpayer a check for the refund.

Interest on an overpayment of a tax, other than a tax levied under Article 4 or Article 8B of this Chapter, accrues from a date 90 days after the date the tax was originally paid by the taxpayer until the refund is paid. Interest on an overpayment of a tax levied under Article 4 or Article 8B of this Chapter accrues from a date 45 days after the latest of the following dates until the refund is paid:

(1) The date the final return was filed.

(2) The date the final return was due to be filed.

(3) The date of the overpayment.

The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter is determined in accordance with section 6611(d), (f), (g), and (h) of the Code.

SECTION 5. G.S. 105-267 reads as rewritten:

"**§ 105-267. ~~Taxes to be paid;~~ Limitation on suits for recovery of taxes.**

No court of this State shall entertain a suit of any kind brought for the purpose of preventing the collection of any tax imposed in this Subchapter. Whenever a person has a valid defense to the enforcement of the collection of a tax, the person shall pay the tax to the proper ~~officer,~~ officer and demand a refund in accordance with G.S. 105-265.1. ~~and that payment~~ The payment of the tax shall be without prejudice to any defense of rights the person may have regarding the tax. ~~At any time within the applicable protest period, the taxpayer may demand a refund of the tax paid in writing from the Secretary and if the tax is not refunded within 90 days thereafter, may sue the Secretary in the courts of the State for the amount demanded. The protest period for a tax levied in Article 2A, 2C, or 2D of this Chapter is 30 days after payment. The protest period for all other taxes is three years after payment.~~

~~The suit may be brought in the Superior Court of Wake County, or in the county in which the taxpayer resides at any time within three years after the expiration of the 90-day period allowed for making the refund. If upon the trial it is determined that all or part of the tax was levied or assessed for an illegal or unauthorized purpose, or was for any reason invalid or excessive, judgment shall be rendered therefor, with interest, and the judgment shall be collected as in other cases. The amount of taxes for which judgment is rendered in such an action shall be refunded by the State. G.S. 105-241.2 provides an alternate procedure for a taxpayer to contest a tax and is not in conflict with or superseded by this section.~~"

SECTION 6. G.S. 105-113.113(a) reads as rewritten:

"(a) Special Account. – The Secretary shall credit the proceeds of the tax levied by this Article to a special nonreverting account, to be called the State Unauthorized Substances Tax Account, until the tax proceeds are unencumbered. The Secretary shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis. Tax proceeds are unencumbered when either of the following occurs:

(1) The tax has been fully paid and the taxpayer has no current right under ~~G.S. 105-267~~Article 9 of this Chapter to seek a refund.

(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under ~~G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.~~Article 9 of this Chapter."

SECTION 7. G.S. 105-239.1(c) reads as rewritten:

"(c) The provisions of G.S. 105-241.1, 105-241.2, 105-241.3, 105-241.4, ~~105-266.1 and 105-267~~and 105-265.1 with respect to assessment procedure, demand for refund, review, and appeal ~~shall~~ apply to the liability of any transferee assessed under this section or of any property subject to the liability imposed by this section and to the assertion of a lien upon property in the hands of the transferee."

SECTION 8. G.S. 1-52(15) reads as rewritten:

"(15) For the recovery of taxes paid as provided in ~~G.S. 105-267 and~~ G.S. 105-381."

SECTION 9. G.S. 20-99(b)(3) reads as rewritten:

"(3) Shall be accompanied by a copy of this subsection, and thereupon the procedure shall be as follows:

If the garnishee has no defense to offer or no setoff against the taxpayer, he shall, within 10 days after service of said notice, answer the same by sending to the Commissioner of Motor Vehicles by registered mail a statement to that effect, and if the amount due or belonging to the taxpayer is then due or subject to his demand, it shall be remitted to the Commissioner with said statement, but if said amount is to mature in the future, the statement shall set forth that fact and the same shall be paid to the Commissioner upon maturity, and any payment by the garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under oath, and, within 10 days after service of said notice, shall send two copies of said statement to the Commissioner by registered mail; if the Commissioner admits such defense or setoff, he shall so advise the garnishee in writing within 10 days after receipt of such statement and the attachment or garnishment shall thereupon be discharged to the amount required by such defense or setoff, and any amount attached or garnished hereunder which is not affected by such defense or setoff shall be remitted to the Commissioner as above provided in cases where the garnishee has no defense or setoff, and with like effect. If the Commissioner shall not admit the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such further time as may be agreed on by the garnishee, and at the same time he shall file a copy of said notice, a copy of the garnishee's statement, and a copy of his

objections thereto in the superior court of the county where the garnishee resides or does business where the issues made shall be tried as in civil actions.

If judgment is entered in favor of the Commissioner of Motor Vehicles by default or after hearing, the garnishee shall become liable for the taxes, interest and penalties due by the taxpayer to the extent of the amount over and above any defense or setoff of the garnishee belonging, owing, or to become due to the taxpayer, but payments shall not be required from amounts which are to become due to the taxpayer until the maturity thereof, nor shall more than ten percent (10%) of any taxpayer's salary or wages be required to be paid hereunder in any one month. The garnishee may satisfy said judgment upon paying said amount, and if he fails to do so, execution may issue as provided by law. From any judgment or order entered upon such hearing either the Commissioner of Motor Vehicles or the garnishee may appeal as provided by law. If, before or after judgment, adequate security is filed for the payment of said taxes, interest, penalties, and costs, the attachment or garnishment may be released or execution stayed pending appeal, but the final judgment shall be paid or enforced as above provided. The taxpayer's sole remedies to question his liability for said taxes, interest, and penalties shall be those provided in ~~G.S. 105-267, as now or hereafter amended or supplemented.~~ Article 9 of Chapter 105 of the General Statutes. If any third person claims any intangible attached or garnished hereunder and his lawful right thereto, or to any part thereof, is shown to the Commissioner, he shall discharge the attachment or garnishment to the extent necessary to protect such right, and if such right is asserted after the filing of said copies as aforesaid, it may be established by interpleader as now or hereafter provided by the General Statutes in cases of attachment and garnishment. In case such third party has no notice of proceedings hereunder, he shall have the right to file his petition under oath with the Commissioner at any time within 12 months after said intangible is paid to him and if the Commissioner finds that such party is lawfully entitled thereto or to any part thereof, he shall pay the same to such party as provided for refunds by G.S. 105-407 and if such payment is denied, said party may appeal from the determination of the Commissioner to the Superior Court of Wake County or to the superior court of the county wherein he resides or does business. The intangibles of a taxpayer shall be paid or collected hereunder only to the extent necessary to satisfy said taxes, interest, penalties, and costs. Except as hereinafter set forth, the remedy provided in this section shall not be resorted to unless a warrant for collection or execution against the taxpayer has been returned unsatisfied: Provided, however, if the Commissioner is of opinion that the only effective remedy is that

herein provided, it shall not be necessary that a warrant for collection or execution shall be first returned unsatisfied, and in no case shall it be a defense to the remedy herein provided that a warrant for collection or execution has not been first returned unsatisfied: Provided, however, that no salary or wage at the rate of less than two hundred dollars ($200.00) per month, whether paid weekly or monthly, shall be attached or garnished under the provisions of this section."

SECTION 10. This act becomes effective January 1, 2008, and applies to taxes paid on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 531

Short Title:	Regulation of Golf Carts in Morrisville.	(Local)
Sponsors:	Senator Cowell.	
Referred to:	State & Local Government.	

March 7, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MORRISVILLE TO REGULATE GOLF CARTS ON PUBLIC STREETS OR HIGHWAYS WITHIN THE CITY OR ON PROPERTY OWNED OR LEASED BY THE CITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2006-27 reads as rewritten:

"**SECTION 1.** This act applies to the City of Saluda and the ~~Town~~ Towns of Faison and Morrisville only."

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

SENATE BILL 531:
Regulation of Golf Carts in Morrisville

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 16, 2007
Introduced by:	Sen. Cowell	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 531 authorizes the Town of Morrisville to regulate the operation of golf carts on public streets or highways within the Town, as well as on any property owned or leased by the Town, and it allows the Town to charge a fee for registration. The bill becomes effective when it becomes law. SB 531 received a favorable report from Senate State & Local Government Committee on April 25, 2007.

CURRENT LAW:

Under current law, vehicles intended to be operated on the streets and highways of the State must be registered (G.S. 20-50). Golf carts may not be registered (G.S. 20-54), and therefore may not operate on the streets and highways.

G.S. 20-4.01.(12a) defines a golf cart as a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

BILL ANALYSIS:

Senate Bill 531 amends S.L. 2006-27 to allow the Town of Morrisville to enact an ordinance to regulate the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the town. With regard to golf carts, by ordinance, the town may:

- require registration,
- charge a fee for the registration,
- specify the persons authorized to operate,
- specify required equipment,
- specify load limits, and
- specify hours and methods of operation.

BACKGROUND:

- The General Assembly has enacted legislation for golf carts in the following locations: Lake Waccamaw (S.L. 2001-356), Cary (S.L. 2001-485), Whispering Pines (S.L. 2002-82), Seven Lakes (S.L. 2002-82).
- The General Assembly has enacted legislation for golf carts and utility vehicles in: Beech Mountain (S.L. 2003-124) and Seven Devils (S.L. 2004-58).
- The General Assembly has enacted golf cart legislation allowing fees to be charged in: the Town of Lake Waccamaw (S.L. 2001-356); the Village of Bald Head Island (S.L. 2002-129); and the Towns of Elizabethtown, Rose Hill, and Bladenboro (S.L. 2005-11); Benson, Chadbourn and Tabor City (S.L. 2006-149); and Clarkton (S.L. 2006-152).
- The General Assembly has enacted legislation to allow the Town of Caswell Beach to regulate golf carts on any street or road within the confines of the municipal limits (S.L. 2006-149).

The General Assembly has enacted legislation to allow the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the town in: the City of Saluda and the Town of Faison (S.L. 2006-27).

S0531e1-SMRE – Theresa Matula, Staff to Senate State & Local Government Committee substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

SESSION LAW 2006-27
SENATE BILL 1328

AN ACT TO AUTHORIZE THE CITY OF SALUDA AND THE TOWN OF FAISON TO REGULATE GOLF CARTS ON PUBLIC STREETS OR HIGHWAYS WITHIN THE CITY OR ON PROPERTY OWNED OR LEASED BY THE CITY.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the City of Saluda and the Town of Faison only.

SECTION 2. Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a town may, by ordinance, regulate the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the city.

By ordinance, a city may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

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

In the General Assembly read three times and ratified this the 28th day of June, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 716*

Short Title:	Poultry Products Inspection Act Penalties.-AB	(Public)
Sponsors:	Senators Albertson; Bingham, Hoyle, Kerr, Purcell, and Snow.	
Referred to:	Judiciary I (Civil).	

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CIVIL PENALTIES FOR VIOLATIONS OF THE POULTRY PRODUCTS INSPECTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-549.35(c) reads as rewritten:

"(c) The Commissioner may assess a civil penalty of not more than five thousand dollars ($5,000) against any person who violates a provision of this ~~Article or~~Article, Article 49B, Article 49D, or any rule ~~promulgated thereunder.~~adopted under any of these Articles. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act becomes effective October 1, 2007, and applies to penalties assessed on or after that date.

SENATE BILL 716:
Poultry Products Inspection Act Penalties.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 16, 2007
Introduced by:	Sen. Albertson	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: Senate Bill 716 provides for a civil penalty for violations of the Poultry Products Inspections Act.

SB 716 received a favorable report from Senate Judiciary I (Civil) Committee on April 3, 2007.

[As introduced, this bill was identical to H589, as introduced by Rep. Hill, which is currently in Senate Ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Finance.]

CURRENT LAW: The North Carolina Department of Agriculture and Consumer Services is authorized to assess a $5,000 civil penalty for violations of Article 49B, Meat Inspections Requirements, and Article 49C, Federal/State Cooperation as to Meat Inspections.

Article 49D of Chapter 106 sets forth the Poultry Products Inspections Act, which has criminal penalties for violations of certain provisions. Other provisions, such as the labeling standards, carry no criminal penalty.

BILL ANALYSIS:

Senate Bill 716 amends G.S. 106-549.35(c) to add Article 49D, Poultry Products Inspections, to the section providing that a civil penalty of up to $5,000 may be imposed for violations of that Article.

The proceeds of any civil penalty are to be remitted to the Civil Penalty and Forfeiture Fund for the schools.

EFFECTIVE DATE:

The act becomes effective October 1, 2007, and applies to penalties assessed on or after that date.

S0716e1-SMRE

Barbara Riley and Erika Churchill, Counsel to House Agriculture Committee, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 768
PROPOSED COMMITTEE SUBSTITUTE S768-CSRBx-16 [v.3]

5/16/2007 11:19:39 AM

Short Title: Public Health Authority Changes. (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE PAYMENT OF A STIPEND TO PUBLIC HEALTH AUTHORITY BOARDS AND TO AUTHORIZE PUBLIC HEALTH AUTHORITY BOARDS TO ENTER INTO INSTALLMENT CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-45.1(k) reads as rewritten:

"(k) ~~Board members shall receive no compensation for their services, but they shall be entitled to reimbursement for subsistence and travel expenses incurred in the discharge of their duties.~~ Board members may receive per diem in an amount established by the county commissioner members of the Public Health Authority Board. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county commissioner members of the Public Health Authority Board."

SECTION 2. G.S. 130A-45.3(a) is amended by adding a new subdivision to read:

"(a) A public health authority shall have all the powers necessary or convenient to carry out the purposes of this Part, including the following powers to:

...

(18) To purchase or finance real or personal property in the manner provided for cities and counties under G.S. 160A-20."

SECTION 3. G.S. 160A-20(h) reads as rewritten:

"(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

...

(13) A public health authority created under Part 1B. of Article 2 of Chapter 130A of the General Statutes."

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

SENATE BILL 768:
Public Health Authority Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 15, 2007
Introduced by:	Sen. Hartsell	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S768-CSRB		Committee Counsel

SUMMARY: The proposed committee substitute for Senate Bill 768 would do two things:

- ***It would allow the members on a public hospital authority board to receive a stipend.***
- ***It would allow a public health authority to finance real and personal property by installment contracts and other means of indebtedness authorized by G.S. 160A-20.***

The bill is effective when it becomes law.

CURRENT LAW: A county must provide public health services. It can do so through a variety of ways, one of which is the creation of a public health authority. The Public Health Authorities Act, enacted in 1997, allows one or more counties to create an autonomous public body that has the power and duty to provide the public health services for the county or counties that are required by law. A public health authority may be created upon joint resolution of one or more county board of commissioners and their respective local boards of health. A public health authority board is the policy-making, rule-making, and adjudicatory body for a public health authority. A board may have no fewer than seven members and no more than 11 members.[1] Board members may receive reimbursement for expenses, but they may not receive compensation for their services. A public authority board may construct, operate, and maintain public health facilities, it may own or lease property, and it may acquire real and personal property. However, it does not have the power to borrow money to finance the acquisition of property.

There are two counties that provide their public health services through a public health authority: Cabarrus and Hertford Counties. Cabarrus County formed its public health authority hospital authority act. Under that authority, it may borrow money to finance the purchase of property. Hertford County formed its public health authority under the Public Health Authorities Act. The Hertford County Public Health Authority has been in existence for almost three years.

BILL ANALYSIS: Senate Bill 768 would authorize the payment of a stipend to public health authority boards; it would authorize boards to borrow money to finance real and personal property purchases; and it would allow boards to establish lines of credit to cover cash flow for public health expenditures.

The proposed committee substitute would do the following:

- It would authorize the payment of a stipend to public health authority boards. Members of a county board of health and a district board of health may receive per diem as well as reimbursement for expenses. A county board of health may receive per diem in an amount established by its board of county commissioners. A district board of health, which is created by two or more counties, may receive per diem in an amount established by the county commissioner members of the board. This bill would provide that a public health authority

[1] Boards that intend to pursue federally qualified health center status may have no fewer than nine and no more than 25 members. The Hertford Public Authority Board has nine members and it meets monthly.

board could receive per diem in an amount established by the county commissioner members of the board. The Hertford Public Health Authority, which is comprised by a single county, has one county commissioner member. (no change from original bill)

- It would allow public health authority boards to finance the purchase of property and improvements to property in the same manner as counties and cities under G.S. 160-20. In addition to counties and cities, this statute also applies to several other public entities, including airport authorities, local school administrative units, area mental health, developmental disabilities, and substance abuse authorities, and regional public transportation authorities. A public health authority provides certain services for fees. It may also receive appropriations from the county or counties that formed it; State and federal funds; insurance reimbursements; fees from contracts with other health departments; and grant monies. (PCS provides oversight through the Local Government Commission)

The proposed committee substitute would not change the law to allow a public health authority to establish a line of credit to cover cash flow for public health expenditures. Currently, there is no statute under which a local government or public authority can establish such a line of credit. (PCS eliminated this provision from the original bill)

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: G.S. 160-20 authorizes installment purchase financing. Installment purchase financing is a type of local government debt in which the local unit enters into an installment contract secured by a security interest in the building constructed or renovated. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the local unit's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

The Local Government Commission must approve installment purchase contracts and certificates of participation. The taxing power of a unit of local government may not be pledged to secure any moneys due under a contract entered into under this section. Before entering into a financing contract under this statute, the public health authority would have to hold a public hearing on the contract.

S0768e1-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 768

Short Title:	Public Health Authority Changes.	(Public)
Sponsors:	Senators Hartsell; and Jones.	
Referred to:	Finance.	

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE PAYMENT OF A STIPEND TO PUBLIC HEALTH AUTHORITY BOARDS, AND TO AUTHORIZE PUBLIC HEALTH AUTHORITY BOARDS TO BORROW MONEY FOR CERTAIN PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-45.1(k) reads as rewritten:

"(k) ~~Board members shall receive no compensation for their services, but they shall be entitled to reimbursement for subsistence and travel expenses incurred in the discharge of their duties.~~Board members may receive per diem in an amount established by the county commissioner members of the Public Health Authority Board. Reimbursement for subsistence and travel shall be in accordance with a policy set by the count commissioner members of the Public Health Authority board."

SECTION 2. G.S. 130A-45.3 is amended by adding the following new subsection to read:

"(i) A public health authority shall have the power to borrow money for the purpose of purchase, construction, or renovation of real or personal property for public health buildings to be owned by the public health authority, or to establish lines of credit at a banking institution to cover cash flow for public health expenditures."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1041

Committee Substitute Favorable 4/12/07

Short Title: Earl Annexations. (Local)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO ANNEX DIVIDED PARCELS TO THE TOWN OF EARL.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 4A of Chapter 160A of the General Statutes, the remainder of any parcel partially lying in the Town of Earl as the corporate limits were established by Chapter 787 of the 1971 Session Laws is annexed into the corporate limits of the Town of Earl.

SECTION 2. Prior to the annexation becoming effective, the Town of Earl shall do all of the following:

(1) Adopt an ordinance particularly identifying the property added to the corporate limits by Section 1 of this act.

(2) File a map indicating the annexed property with the Secretary of State, the Register of Deeds of Cleveland County, and the Board of Elections of Cleveland County.

(3) Obtain any necessary preclearance under the Voting Rights Act of 1965.

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

HOUSE BILL 1041: Earl Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 16, 2007
Introduced by:	Rep. Moore	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 1041 would annex into the corporate limits of the Town of Earl the remainder of any parcel partially lying within the Town of Earl resulting from establishment of the corporate limits by Chapter 787 of the 1971 Session Laws, and sets out conditions the Town must meet before the annexation becomes effective.

CURRENT LAW: The General Statutes permit municipalities to grow and expand their municipal boundaries through the process of annexation. The statutory process requires that the area to be annexed meet certain criteria. G.S. 160A-36, which states the criteria for annexing towns with a population of less than 5,000, requires that:

1. The total area to be annexed must meet the following standards:
   - It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
   - At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary.
   - No part of the area shall be included within the boundary of another incorporated municipality.
2. The area to be annexed must be developed for urban purposes at the time of approval of the report provided for in G.S. 160A-35. An area developed for urban purposes is defined as one of the following:
   - At least 60% of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least 60% of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts three acres or less in size.
   - All tracts in the area to be annexed are used for commercial, industrial, governmental, or institutional purposes.
   - The entire area of any county water and sewer district created under G.S. 162A-86(b1), but this subsection only applies to annexation by a municipality if that:
     - Municipality has provided in a contract with that district that the area is developed for urban purposes; and
     - Contract provides for the municipality to operate the sewer system of that county water and sewer district;
     - Provided that the special categorization provided by this subsection only applies if the municipality is annexing in one proceeding the entire territory of the district not already within the corporate limits of a municipality.

BILL ANALYSIS: The bill would annex the remainder of any parcel partially lying in the Town of Earl resulting from establishment of the corporate limits by Chapter 787 of the 1971 Session Laws. Not

all parcels split by the corporate limits meet the requirement that the area to be annexed be developed for "urban purposes" and therefore, are not eligible for annexation under the current law.

The annexation is not effective until the Town of Earl has met all of the following conditions:

- Adopted an ordinance particularly identifying the property added to the Town.
- Filed a map identifying the area annexed with the Secretary of State, the Cleveland County Register of Deeds, and the Cleveland County Board of Elections.
- Obtained any necessary pre-clearance from the U.S. Department of Justice under the Voting Rights Act of 1965.

BACKGROUND: Chapter 787 of the 1971 Session Laws set the corporate limits of the Town as one-half mile in every direction from the center of Lot No. 58 of the Town. Setting the corporate limits one-half mile from a central point made the defined corporate limits of the town a perfect circle resulting in the splicing of several parcels, with portions of each parcel falling within the corporate limits and portions of each parcel falling outside the corporate limits. The splicing of parcels has created problems for the Town of Earl in the delivery of services and for Cleveland County in determining property tax.

EFFECTIVE DATE: This act is effective when it becomes law.

H1041e2-SMRE
Erika Churchill, counsel to House Local Government I Committee, substantially contributed to this summary.

SENATE FINANCE COMMITTEE
Wednesday, May 23, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, May 23, 2007, in room 544 of the Legislative Office Building. Twenty-seven members of the committee were present. Senator Dan Clodfelter presided.

S.B. 509 – Motor Vehicle Inspection Changes.

Senator Brown moved to adopt the proposed committee substitute and was recognized to explain the bill. The motion carried. Senator Apodaca motioned for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill and the summary is attached.

S.B. 1472 – Revised Distribution of Scrap Tire Disposal Tax.

Senator Albertson was recognized to explain the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 1180 – No Monetary Exaction for Development.

Senator Dalton was recognized to explain the bill which was taken up for discussion only. Boyd Cauble, Senior Executive Assistant – Charlotte City Manager, was recognized to speak in opposition of the bill. Andy Romanet, NC League of Municipalities General Counsel, was recognized to speak in opposition to the bill. Jim Blackburn, NC Association of County Commissioners General Counsel, was recognized to speak in opposition to the bill. Rick Zechini, Director of Government Affairs – NC Realtors Association, was recognized to speak in favor of the bill. Paul Wilms, Director of Government Affairs, NC Homebuilders Association, was recognized to speak in favor of the bill. A copy of the bill and the summary is attached.

S.B. 772 – School Finance Officer Fidelity Bonds.

Senator Cowell moved to adopt the proposed committee substitute for discussion. Senator Cowell was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, the summary, and the fiscal note is attached.

The meeting adjourned at 1:32 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Senate Finance Committee
Wednesday, May 23, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 509	Motor Vehicle Inspection Failure/Reinspection.	Senator Brown
SB 772	School Finance Officer Fidelity Bonds.	Senator Cowell
SB 1180	No Monetary Exaction for Development.	Senator Dalton
SB 1472	Revised Dist. of Scrap Tire Disposal Tax.	Senator Albertson

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, May 23, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1472** Revised Dist. of Scrap Tire Disposal Tax.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **772** School Finance Officer Fidelity Bonds.
Draft Number: 75418
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **509** Motor Vehicle Inspection Failure/Reinspection.
Draft Number: 55506
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 3

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — May ~~22~~ 23, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
PAUL RISSMAN	DENR
Ken Melton	N.C. DOR.
Joe Popell	NC Family Policy Council
Teresa O'Keeffe	Lake Norman Home Builders Assoc. 836 D Williamson Rd Mooresville NC 28117
ELLIS HANKINS	NC Ltr
Amy McConkey	SA
Elizabeth Self	DENR
David Ferrell	Vanderbilt Block
Sharon Edmundson	Dept State Treasurer
Boyd Cauble	City of Charlotte
David	Buncombe County

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 22, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
DAVID THOMPSON	NCACC
Jim Blackburn	NC Association of County Commissioners
Andy Romanet	NCLM
Anita Wolf	NCLM
Jeremy Kressgore	National Right to Work
Erin Kenney	NC Conservation Network
Cam Cook	BPMHL
Chris Collins	[illegible]
Rebecca Troxler	NCACC
Edgar Miller	CTNC
Guy Mitchell	NCAHO

Name	Firm or Agency
J Bentley	CBA
Louis Huddleston	[illegible]
Kwk Devigne	DSTA
Scott Perry	DSTA NC
[signature]	[signature]
Robin Smith	DENR

VISITOR REGISTRATION SHEET

Senate Finance Committee — May ~~22~~ 23, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Rick Zechini	NC Assn. of Realtors
Willo Kelly	Outer Banks Home Builders Assn
Mark Martin	Sandmark Construction + R.E.
John Robinson	NC-DMV
Johanna Reese	DOT
Debbie Brewer	NC-DMV
Steve Wall	DENR
Cathy Haney	DENR
Anita McNeil	DENR
Leanne Winner	NCSBA
Shayla Huggins	NC DST
John Herrera	CCSH.

VISITOR REGISTRATION SHEET

Senate Finance Committee — May ~~22~~ 23, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHBA
Tad Dunn	REBIC.
Andy Mann	REBIC
Alastair Macaulay	NCHBA
Tim Kent	NC Realtors
Amy Schilder	HANC
[illegible]	[illegible]
Pete Jarvis	Lobbs Office
Paul Gordon	NCDENR DAQ
Rita [illegible]	SBE
Judy McConnell	IOG
The Hunter	IDS

VISITOR REGISTRATION SHEET

Senate Finance Committee — May ~~22~~ 23 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Susanne Shebs	NCELA
Katherine Jager	NCASA
Corby Honeycutt	the First Tee
Bill Sherman	1ST Tee

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 509

Finance Committee Substitute Adopted 5/10/07

PROPOSED COMMITTEE SUBSTITUTE S509-CSSV-31 [v.5]

5/23/2007 10:39:04 AM

Short Title: Motor Vehicle Inspection Changes. (Public)

Sponsors:

Referred to:

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PERIOD OF TIME ALLOWED FOR REINSPECTION AFTER FAILING A MOTOR VEHICLE INSPECTION, TO WAIVE THE CIVIL PENALTY FOR FAILURE TO MEET THE EMISSIONS INSPECTION REQUIREMENT WHILE ON ACTIVE MILITARY DUTY OUTSIDE THE STATE, AND TO CHANGE THE PENALTIES ASSESSED ON MOTORISTS FOR CERTAIN EMISSIONS VIOLATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.3(c) reads as rewritten:

"(c) Reinspection After Failure. – The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within ~~30~~60 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

SECTION 2. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only	$ 8.25	$0.85
Emissions and Safety	23.50	6.50.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within ~~30~~60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased."

SECTION 3. G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions ~~violations.~~violations; waiver.**

(a) Civil Penalties. – The Division ~~shall~~ must assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who ~~does any of the following:~~engages in any of the emissions violations set out in this subsection. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this subsection has been paid. The civil penalties and violations are as follows:

(1) ~~Fails~~ Twenty-five dollars ($25.00) for failure to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) ~~Instructs or allows~~ One hundred dollars ($100.00) for instructing or allowing a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) ~~Incorrectly states~~ Two hundred dollars ($200.00) for incorrectly stating the vehicle's county of registration ~~of the vehicle~~ to avoid having an emissions inspection of the vehicle.

~~The amount of penalty is one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and two hundred fifty dollars ($250.00) if the vehicle is a 1981 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this section has been paid.~~

(b) Waiver. – The Division must waive the civil penalty assessed under subdivision (a)(1) of this section against a person who establishes the following:

(1) The person was continuously out of the State on active military duty from the date the inspection sticker expired to the date the four-month grace period expired.

(2) No person operated the vehicle from the date the inspection sticker expired to the date the four-month grace period expired.

(3) The person obtained a current inspection sticker within 30 days after returning to the State."

SECTION 4. Sections 1 and 2 of this act become effective January 1, 2009. The remainder of this act is effective when it becomes law, and applies to civil penalties assessed for violations committed on or after that date.

SENATE BILL 509:
Motor Vehicle Inspection Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 23, 2007
Introduced by:	Sen. Brown	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to Second Edition S509-CSSV-31		

SUMMARY: On May 9, 2007, the Senate Finance Committee reported favorably on the following two provisions in this bill:

- ***The extension from 30 to 60 days of the period for reinspection after failing a motor vehicle inspection.***
- ***A requirement that DMV waive a civil penalty assessed against a person for failing to meet the motor vehicle inspection requirement if the reason for the failure is that the person was out of State serving active military duty from the time the vehicle was required to be inspected until the expiration of the four-month grace period.***

This revised Proposed Committee Substitute adds the following changes:

- ***It would reduce from $250 to $25 the civil penalty for failure to have a vehicle inspected within four months after it is required to be inspected.***[1]
- ***It would reduce from $250 to $100 the civil penalty for instructing or allowing a person to tamper with an emission control device of a vehicle so as to make the device inoperative or fail to work properly.***
- ***It would reduce from $250 to $200 the civil penalty for incorrectly stating a vehicle's county of registration to avoid having an emissions inspection of the vehicle.***

CURRENT LAW & BILL ANALYSIS:

Sections 1 and 2: Extend Reinspection Period

As a general rule, motor vehicles are required to undergo an annual safety inspection to determine whether it has the required equipment and that the equipment is in a safe operating condition. Certain motor vehicles are also subject to an emissions inspection.[2] To pass an emissions inspection, a vehicle must pass both of the following:

1) A visual inspection of the vehicle's emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle.
2) An analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle

[1] For all three emissions violations, the civil penalty is $100 for pre-1981 model vehicles.

[2] Emissions inspections must be performed on vehicles registered in the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes and Wilson.

that violates standards for the model year of the vehicle set by the Environmental Management Commission.

A vehicle that fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

Sections 1 and 2 of this bill would extend the period for reinspection to 60 days. This change would require inspection stations to install a software update for each of their analyzers. This change would become effective January 1, 2009.

Section 3:

1. Reduce Civil Penalties for Emissions Violations

DMV is required to assess a civil penalty against a person who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.
(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.
(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The penalty is $100 for a pre-1981 vehicle and $250 for a vehicle that is a 1981 or newer model. The registration of a vehicle may not be renewed until a penalty has been paid.

Section 3 of the bill would eliminate the distinction in the civil penalty amount based on the age of the vehicle and substitute varying penalty amounts based on the type of violation as follows:

(1) $25 for failure to inspect a covered vehicle within four months of the required date.

(2) $100 for instructing or allowing tampering with an emissions control device so that the device is inoperative or fails to work properly.

(3) $200 for incorrectly stating the county where the vehicle is registered to avoid an emissions inspection.

The Environmental Protection Agency, under 40 C.F.R. § 51.361, requires states to design enforcement programs to comply with I/M (Inspection & Maintenance) programs. The program must include a penalty system structured to deter non-compliance with the registration requirement through the use of mandatory minimum fines (civil monetary penalties) constituting a meaningful deterrent and through a requirement that compliance be demonstrated before a case can be closed. North Carolina uses a registration denial enforcement program which has been approved by EPA. The Division of Air Quality of the Department of Environment and Natural Resources has received an opinion from the EPA indicating that the proposed changes in this bill to the civil penalty amounts would continue to meet the federal requirements.

2. Waive Civil Penalty for Active Military Personnel

Section 3 of the bill would also require DMV to waive a civil penalty assessed against a person for failing to meet the motor vehicle inspection requirement if the reason for the failure is that the person was out of State serving active military duty from the time the vehicle was required to be inspected until the expiration of the four-month grace period. This waiver could apply if the person is either out of the country or stationed outside the State of North Carolina serving active military duty. In order to qualify for the waiver, the person must also demonstrate that no other person operated the vehicle during the

period the owner was out of state and that the owner had the vehicle inspected within 30 days upon return to the State.

EFFECTIVE DATE: The change increasing the time period to reinspect a vehicle after a failed inspection becomes effective January 1, 2009. The remainder of this act is effective when it becomes law, and applies to civil penalties assessed for violations committed on or after that date.

BACKGROUND: When this bill was originally discussed in Senate Finance on May 9, 2007, it had two additional provisions in it. There was a provision to increase the civil penalties imposed against inspection stations and mechanics for serious emissions violations and a modification to the penalty for clean scan violations. On May 14, 2007, this bill was withdrawn from the floor calendar and re-referred to Senate Finance. These two provisions have been removed from the bill.

S0509e2-SMSV-CSSV-31

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 509
Finance Committee Substitute Adopted 5/10/07

Short Title: Motor Vehicle Inspection Changes. (Public)

Sponsors:

Referred to:

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PERIOD OF TIME ALLOWED FOR REINSPECTION AFTER FAILING A MOTOR VEHICLE INSPECTION, TO WAIVE THE CIVIL PENALTY FOR FAILURE TO MEET THE EMISSIONS INSPECTION REQUIREMENT WHILE SERVING ON ACTIVE MILITARY DUTY OUTSIDE THE STATE, AND TO CHANGE THE PENALTY FOR CLEAN SCANNING AND OTHER TYPE I EMISSIONS VIOLATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.3(c) reads as rewritten:

"(c) Reinspection After Failure. – The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within ~~30~~60 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

SECTION 2. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only	$ 8.25	$0.85
Emissions and Safety	23.50	6.50.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an

inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within ~~30~~60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased."

SECTION 3. G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions ~~violations.~~violations; exemption.**

(a) Civil Penalties. – The Division shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is ~~one hundred dollars ($100.00) f the vehicle is a pre-1981 vehicle and~~ two hundred fifty dollars ($250.00) if the vehicle is a ~~1981~~1996 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this section has been paid.

(b) Exemption. – The civil penalty assessed under subdivision (a)(1) of this section does not apply to a person who demonstrates to the Division proof of all of the following:

(1) The person is active duty military personnel.

(2) The person was deployed outside of the United States or stationed at a duty station outside of this State on or after the date the vehicle was required to be inspected and until the expiration of the four-month grace period.

(3) No person operated the vehicle after the date it was required to be inspected.

(4) That the vehicle has passed inspection prior to the request for an exemption under this subsection."

SECTION 4. G.S. 20-183.8B reads as rewritten:

"**§ 20-183.8B. Civil penalties against license holders and suspension or revocation of license for emissions violations.**

(a) Kinds of Violations. – The civil penalty schedule established in this section applies to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics. The schedule categorizes emissions violations into serious (Type I), minor (Type II), and technical (Type III) violations.

A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the emission reduction benefits of the emissions inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting an emissions inspection or complying with the emissions inspection requirements but does not directly affect the emission reduction benefits of the emissions inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. – The Division must take the following action for a violation:

(1) Type I. – For a first or second Type I violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of ~~two hundred fifty dollars ($250.00)~~ five hundred dollars ($500.00) and suspend the license of the business for six months. For a third or subsequent Type I violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars ($1,000) and revoke the license of the business for two years.

For a first ~~or second~~ Type I violation by an emissions inspection mechanic, assess a civil penalty of ~~one hundred dollars ($100.00)~~ two hundred fifty dollars ($250.00) and suspend the mechanic's license for six months. For a second Type I violation within two years by an emissions inspection mechanic, assess a civil penalty of five hundred dollars ($500.00) and suspend the mechanic's license for six months. For a third or subsequent Type I violation within ~~seven~~ four years by an emissions inspection mechanic, assess a civil penalty of ~~two hundred fifty dollars ($250.00)~~ one thousand dollars ($1,000) and revoke the mechanic's license for two years.

(2) Type II. – For a first or second Type II violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one hundred dollars ($100.00). For a third or subsequent Type II violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars ($250.00) and suspend the license of the business for 90 days.

For a first or second Type II violation by an emissions inspection mechanic, assess a civil penalty of fifty dollars ($50.00). For a third or subsequent Type II violation within seven years by an emissions inspection mechanic, assess a civil penalty of one hundred dollars ($100.00) and suspend the mechanic's license for 90 days.

(3) Type III. – For a first or second Type III violation by an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic, send a warning letter. For a third or subsequent Type III violation within three years by the same emissions license holder, assess a civil penalty of twenty-five dollars ($25.00).

(c) Station or Self-Inspector Responsibility. – It is the responsibility of an emissions inspection station and an emissions self-inspector to supervise the emissions mechanics it employs. A violation by an emissions inspector mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed.

(d) Missing Stickers. – The Division must assess a civil penalty against an emissions inspection station, a windshield replacement station, or an emissions self-inspector that cannot account for an emissions inspection sticker issued to it. A station or a self-inspector cannot account for a sticker when the sticker is missing and the station or self-inspector cannot establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another accident.

(d1) Penalty for Missing Stickers. – The amount of the penalty is twenty-five dollars ($25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as the result of missing stickers, the monetary penalty that applies is the higher of the penalties required under this subsection and subsection (b); the Division may not assess a monetary penalty as a result of missing stickers under both this subsection and subsection (b) of this section. Imposition of a monetary penalty under this subsection does not affect suspension or revocation of a license required under subsection (b) of this section.

(e) Penalty for Clean Scanning. – For a first or second clean scan violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of five hundred dollars ($500.00). For a third or subsequent clean scan violation, occurring within one year after the second clean scan violation was identified to the emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars ($1,000) and revoke the license of the business for one year. The Commissioner may waive the penalty for a first violation.

(f) Mechanic Training. – An emissions inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4A and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully."

SECTION 5. Sections 1 and 2 of this act become effective January 1, 2009. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 772
PROPOSED COMMITTEE SUBSTITUTE S772-CSSV-32 [v.1]

5/21/2007 9:49:01 PM

Short Title: School Finance Officer Fidelity Bonds. (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE AMOUNT OF THE FIDELITY BOND REQUIRED OF SCHOOL FINANCE OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-442(a) reads as rewritten:

"(a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the board of education, not less than ~~ten thousand dollars ($10,000) nor more than two hundred fifty thousand dollars ($250,000).~~ fifty thousand dollars ($50,000). This bond shall cover the faithful performance of all duties placed on the finance officer by or pursuant to law and the faithful accounting for all funds in his custody except State funds placed to the credit of the local school administrative unit by the State Treasurer. The premium on the bond shall be paid by the local school administrative unit."

SECTION 2. This act becomes effective July 1, 2008.

SENATE BILL 772:
School Finance Officer Fidelity Bonds

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 23, 2007
Introduced by:	Sen. Cowell	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S772-CSSV-32		Committee Counsel

SUMMARY: Senate Bill 772 would set the minimum surety bond amount for a school finance officer at $50,000. The Proposed Committee Substitute changes the effective date from July 1, 2007 to July 1, 2008.

CURRENT LAW: The superintendent of each local school administrative unit appoints, with approval by the board of education, a school finance officer for that unit. The school finance officer is responsible for the following:

1. Keeping the accounts of the local school administrative unit in accordance with generally accepted principles of governmental accounting, the rules and regulations of the State Board of Education, and the rules and regulations of the Local Government Commission.
2. Giving the preaudit certificate required by G.S. 115C-441.
3. Signing and issuing all checks, drafts, and State warrants by the local school administrative unit, investing idle cash, and receiving and depositing all moneys accruing to the local school administrative unit.
4. Preparing and filing a statement of the financial condition of the local school administrative unit as often as requested by the superintendent, and when requested in writing, with copy to the superintendent, by the board of education or the board of county commissioners.
5. Performing other duties as may be assigned to him or her by law, by the superintendent, or by rules and regulations of the State Board of Education and the Local Government Commission.

A school finance officer is required to be covered by a surety bond in an amount to be set by the local board of education. However, the amount may not be less than $10,000 and not more than $250,000. The local school administrative unit pays for the premium on the bond.

There are at least 12 school systems that currently have less than a $50,000 bond.[1]

BILL ANALYSIS: Senate Bill 772 would set the surety bond amount for a school finance officer at $50,000. This is the same requirement imposed upon finance officer for other units of local government.

EFFECTIVE DATE: This bill would become effective July 1, 2008.

BACKGROUND: This bill was requested by the Office of State Treasurer.

S0772e1-SMSV-CSSV-32

[1] Caldwell, Davie, Edenton-Chowan, Elizabeth City-Pasquotank, Elkin, Franklin, Lenoir, Mitchell, Montgomery, Perquimans, Stokes, and Washington.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 772

Short Title:	School Finance Officer Fidelity Bonds.	(Public)
Sponsors:	Senator Cowell.	
Referred to:	Finance.	

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE AMOUNT OF THE FIDELITY BOND REQUIRED OF SCHOOL FINANCE OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-442(a) reads as rewritten:

"(a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the board of education, not less than ~~ten thousand dollars ($10,000) nor more than two hundred fifty thousand dollars ($250,000).~~ fifty thousand dollars ($50,000). This bond shall cover the faithful performance of all duties placed on the finance officer by or pursuant to law and the faithful accounting for all funds in his custody except State funds placed to the credit of the local school administrative unit by the State Treasurer. The premium on the bond shall be paid by the local school administrative unit."

SECTION 2. This act becomes effective July 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 23, 2007

TO: Senator Cowell

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to Senate Bill 772 (First Edition)

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
EXPENDITURES:					
General Fund		***No General Fund Impact***			
NC School Systems		***See Assumptions and Methodology***			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC School Systems

EFFECTIVE DATE: July 1, 2008

BILL SUMMARY:
Senate Bill 772 would set the minimum surety bond amount for a school finance officer at $50,000. The Proposed Committee Substitute changes the effective date from July 1, 2007 to July 1, 2008.

ASSUMPTIONS AND METHODOLOGY:
The PCS to SB 772 would change the minimum surety bond requirement for a school system finance officer from $10,000 to $50,000. The NC School Boards Association indicates that a school system that is currently at the $10,000 amount would be required to pay approximately $100 annually in additional premiums for the higher bond amount. A survey of school systems indicated that 12 – 15 school boards were currently below the $50,000 amount. The School Boards Association also indicates that a few additional systems that did not respond to the survey would likely be affected. Based on this information, the statewide impact of the bill is likely to be between $1,500 and $3,000 annually beginning in FY 2008-09.

SOURCES OF DATA: NC School Boards Association

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1180

Short Title:	No Monetary Exaction for Development.	(Public)
Sponsors:	Senators Dalton and Swindell.	
Referred to:	Finance.	

March 22, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A LOCAL GOVERNMENT MAY NOT IMPOSE A TAX, FEE, OR MONETARY CONTRIBUTION FOR DEVELOPMENT THAT IS NOT SPECIFICALLY AUTHORIZED BY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-320 reads as rewritten:

"**§ 153A-320. Territorial ~~jurisdiction.~~jurisdiction; limitation of authority.**

(a) Jurisdiction. – Each of the powers granted to counties by this ~~Article, by Chapter 157A, and~~ Article and by Chapter 160A, Article 19 may be exercised throughout the county except as otherwise provided in G.S. 160A-360.

(b) Limitation of Authority. – A county may not impose or exact a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law. The terms 'development' and 'development permit' have the same meanings as defined in G.S. 153A-349.2."

SECTION 2. G.S. 153A-349.1(b) reads as rewritten:

"(b) Local governments and agencies may enter into development agreements with developers, subject to the procedures and requirements of this Part. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose ~~any tax or fee~~ or exact a tax, fee, or monetary contribution not authorized by otherwise applicable law."

SECTION 3. The catch line of G.S. 160A-360 reads as rewritten:

"**§ 160A-360. Territorial ~~jurisdiction.~~jurisdiction; limitation of authority.**"

SECTION 4. G.S. 160A-360 is amended by adding a new subsection to read:

"(k) A city may not impose or exact a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law. The terms 'development' and 'development permit' have the same meanings as defined in G.S. 160A-400.21."

SECTION 5. G.S. 160A-400.20(b) reads as rewritten:

"(b) Local governments and agencies may enter into development agreements with developers, subject to the procedures and requirements of this Part. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose ~~any tax or fee~~ or exact a tax, fee, or monetary contribution not authorized by otherwise applicable law."

SECTION 6. Sections 2 and 5 of this act are effective when it becomes law and apply to development agreements entered into on or after that date. The remainder of this act is effective when it becomes law.

SENATE BILL 1180:
No Monetary Exaction for Development

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 23, 2007
Introduced by:	Sen. Dalton	**Summary by:**	Cindy Avrette
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1180 clarifies that a local government may not impose or exact a tax, fee, or monetary contribution for development unless that authority is specifically granted by statute.

CURRENT LAW AND BACKGROUND: Local governments have the authority given to them by the State. In 2005, the General Assembly made substantial revisions to city and county planning and land-use management statutes. Part of those revisions included authorization of development agreements between a local government and a developer. In the laws concerning development agreements, the General Assembly made several findings. It recognized that large scale development often creates potential community impacts and that large-scale development requires careful integration between public capital facilities planning, financing, and construction and the phasing of the private development. The statute authorizing development agreements specifically states that a local government may not exercise any authority not authorized by general or local act and may not impose any tax or fee not otherwise authorized by law.

Between 1985 and 1991, the General Assembly gave three counties and several municipalities the authority to implement impact fees. Impact fees are charged by local governments to developers who wish to construct new properties. The revenue from the impact fees are used to pay for the construction of public facilities necessitated by the development. Since 1991, the General Assembly has not given any local government new impact fee authority.

Some local governments claim that special authority is not necessary to enable them to impose impact fees; that its imposition is a logical extension of their power to require developers to provide facilities or improvements as a condition to developing a property. However, the North Carolina Court of Appeals ruled in June 2006 in the case of *Durham Land Owners Association v. County of Durham* that it found no authority in a county's zoning and general police powers to support a county's statutory authority to impose a school impact fee.

In contract to an impact fee, local governments often use their subdivision and zoning authority to require exactions to address impacts of a proposed development.[1] The statutes specifically allow subdivision ordinances to require a developer to provide funds to enable the local government to acquire recreational land or areas to serve the development; to provide funds to be used for the development of roads to serve the development; to construct community service facilities; and to reserve school sites.[2]

Some local governments have adopted 'Adequate Public Facility' requirements based upon the zoning statute that says:

> "Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of

[1] Article 18 of Chapter 153A and Article 19 of Chapter 160A.
[2] G.S. 153A-331 and G.S. 160A-372.

> population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate eh efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements."[3]

Under an Adequate Public Facility ordinance a development may not be approved if the facilities are inadequate to support the development. A few counties have used this authority to deny approval as an indirect way to impose school impact fees. Their ordinances provide that if there is inadequate school capacity a development cannot be approved; however, the developer has the option of voluntarily contributing a set 'fee' to advance the availability of the capacity and if that is done, the development can be approved.

BILL ANALYSIS: Senate Bill 1180 makes changes in the planning and regulation authorization statutes for both counties and cities. The bill amends the first statute in each Article to specifically prohibit a county or city from imposing or exacting a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law. The bill also specifies in the statutes that authorize counties and cities to enter into development agreements that a county or city may not, as part of that agreement, exact a monetary contribution not authorized by law. The law already prohibits the imposition of a tax or fee as part of a development agreement.

The statutes currently authorize the imposition of fees for 'over-the-counter' type services such as permits.[4] Case law has upheld the imposition of fee schedules for specific activities under these statutes; but not fees for providing general government services to the overall public, such as education.[5] Case law has also upheld cities' implicit authority to impose fees to fund capital improvements for water and sewer under the public enterprise statutes.[6] Lastly, as mentioned earlier in the summary, ordinances may require developers to provide roads, water, sewer, and recreational areas within a new subdivision. They may also require developers to construct community service facilities and to reserve school sites.

EFFECTIVE DATE: The bill is effective when it becomes law and the amendments to the statutes governing development agreements are applicable to development agreements entered into on or after that date.

S1180e1-SMRB

[3] G.S. 153A-341 and G.S. 160A-383.
[4] G.S. 153A-102 and G.S. 160A-4.
[5] *Durham Land Owners Association v. County of Durham.* No. COA05-736.
[6] *South Shell Investment v. Wrightsville Beach.* 703 F.Supp. 1192 (E.D.N.C. 1988). Article 16 of Chapter 160A.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1472

Short Title:	Revised Dist. of Scrap Tire Disposal Tax.	(Public)
Sponsors:	Senators Albertson; Allran, Kerr, and Kinnaird.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DISTRIBUTION OF THE PROCEEDS OF THE SCRAP TIRE DISPOSAL TAX TO INCREASE FUNDS ALLOCATED TO COUNTIES FOR THE DISPOSAL OF SCRAP TIRES, TO INCREASE FUNDS ALLOCATED TO THE SOLID WASTE MANAGEMENT TRUST FUND, AND TO DECREASE FUNDS ALLOCATED TO THE SCRAP TIRE DISPOSAL ACCOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-187.19 reads as rewritten:

"**§ 105-187.19. Use of tax proceeds.**

(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department.

(b) Each quarter, the Secretary shall credit ~~five percent (5%)~~ eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit ~~twenty-seven percent (27%)~~twenty-two percent (22%) of the net tax proceeds to the Scrap Tire Disposal Account. The Secretary shall distribute the remaining ~~sixty-eight percent (68%)~~seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.

(c) A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54. A county that receives funds under this section and that has an agreement with another unit of local government under which the other unit of local government provides for the disposal of solid waste for the county shall transfer the amount received under this section to the other unit of local government. A unit of local government to which funds are transferred is subject to the same restrictions on use of the funds as the county."

SECTION 2. This act becomes effective 1 July 2007.

SENATE BILL 1472:
Revised Dist. of Scrap Tire Disposal Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 23, 2007
Introduced by:	Sen. Albertson	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1472[1] changes the distribution formula of the net proceeds from the Scrap Tire Disposal Tax. The bill would increase the percentage of net tax proceeds distributed to the Solid Waste Management Trust Fund from 5% to 8%, decrease the percentage distributed to the Scrap Tire Disposal Account from 27% to 22%, and increase the percentage distributed among the counties on a per capita basis from 68% to 70%.

CURRENT LAW: The Scrap Tire Disposal Tax is as an additional State sales tax levied on the retail sales of new tires for the purpose of providing a source of revenue to assist with their disposal.[2] The rate of tax depends upon on the size of the tire. It is 2% for tires that have a bead diameter of less than 20 inches and 1% for tires that have a bead diameter of 20 inches or more.[3] Sales of bicycle tires, recapped tires, and tires sold for placement on newly manufactured vehicles are exempt from the tax.

The Department of Revenue retains $225,000 annually from the proceeds for its administrative expenses.[4] The remainder of the proceeds is divided and used as follows:

Solid Waste Management Trust Fund (5%)

In addition to proceeds from the scrap tire tax, the Solid Waste Management Trust Fund (SWMTF) is also funded by proceeds from the white goods disposal tax, money appropriated by the General Assembly, and contributions and grants from public and private sources. It funds the following:

1. Activities to promote waste reduction and recycling.
2. Research on the solid waste stream in North Carolina.
3. Activities related to the development of secondary materials markets.

Scrap Tire Disposal Account (27%)

The Scrap Tire Disposal Account was created by the 1993 General Assembly. The proceeds in the fund are used for the following three purposes:

1. *Local government grants.* – Up to 50% may be used for supplemental grants to local governments to assist them with scrap tire disposal.
2. *Private grants.* – Up to 40% may be used for grants to private industry to encourage the use of processed scrap tire materials.

[1] This bill was identical to H1779, as introduced by Reps. Gibson and Allen, which is currently in House Finance.
[2] There is a complementary use tax at the same rate for the storage, use, or consumption of new tires in this State. The tax is also imposed on sales to wholesale merchants or retailers for placement on a vehicle offered for sale, lease, or rental.
[3] The bead is that part of the tire that contacts the wheel. The bead is reinforced with steel wire, and compounded from high strength, low flexibility rubber. The bead seats against the wheel tightly to ensure that the tire holds air without leakage.
[4] Section 24.2 of the House budget (HB 1473) increases the amount to $425,000.

3. *Nuisance site cleanup.* – The remaining revenue may be used to clean up scrap tire collection sites determined by DENR to constitute a nuisance and so long as no other funds are available for that purpose.

Counties on a per capita basis (68%)

In the late 1980s, the General Assembly banned the landfilling of whole scrap tires. Each county is responsible for developing disposal procedures for scrap tires located within its boundaries. Counties may charge a fee for disposal only if the tires are not accompanied by a scrap tire certification form verifying that they were generated in North Carolina, are new tires scrapped by their manufacturer because they do not meet the standards for salable tires, or are scrap tires stockpiled prior to January 1, 1994.

BILL ANALYSIS: The bill adjusts the formula for distributing the net proceeds of the Scrap Tire Disposal Tax to more accurately reflect the needs for the funding. Specifically, less funding is now needed for the cleanup of illegal or nuisance dump sites and more funding is needed by the SWMTF to encourage market development and by counties to improve their ongoing disposal programs. By providing additional funding to the counties directly, the adjustment would also reduce the need for supplemental grants from the Scrap Tire Disposal Account.

The bill would allocate the net proceeds as follows:

Solid Waste Management Fund = 8%

Scrap Tire Disposal Account = 22%

Counties on a per capita basis = 70%

EFFECTIVE DATE: This bill would become effective July 1, 2007.

BACKGROUND: This bill is a recommendation of the Department of Environment and Natural Resources.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

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DATE: May 22, 2007

TO: Senator Albertson

FROM: Rodney Bizzell
Kristin Walker
Fiscal Research Division

RE: Senate Bill 1472 (First Edition)

FISCAL IMPACT ($millions)

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Solid Waste Management Trust Fund	0.31	0.44	0.47	0.49	0.52
Scrap Tire Disposal Acct	-0.53	-0.74	-0.78	-0.82	-0.86
NC Counties	0.22	0.30	0.31	0.33	0.34

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Dept of Environment and Natural Resources, NC Department of Revenue, NC Counties

EFFECTIVE DATE: July 1, 2007

BILL SUMMARY:
Senate Bill 1472 changes the distribution formula of the net proceeds from the Scrap Tire Disposal Tax. The bill would increase the percentage of net tax proceeds distributed to the Solid Waste

Management Trust Fund from 5% to 8%, decrease the percentage distributed to the Scrap Tire Disposal Account from 27% to 22%, and increase the percentage distributed among the counties on a per capita basis from 68% to 70%.

ASSUMPTIONS AND METHODOLOGY:
The Scrap Tire Disposal Tax is an additional State sales tax on the retail sales of new tires. The rate of tax is 2% for tires with a bead diameter of less than 20 inches and 1% for tires with a bead diameter of greater than 20 inches. The Department of Revenue is responsible for collecting the tax and may retain up to $225,000 for collection costs.

The bill adjusts the formula for distributing the net proceeds of the Scrap Tire Disposal Tax to provide additional funding to counties and the Solid Waste Management Trust Fund and decreases funding to the Scrap Tire Disposal Account. The Scrap Tire Disposal Account had a cash balance of $7,220,760 as of May 22, 2007.

The fiscal impact of the bill is determined by subtracting the projected distributions for each account from the proposed distributions under SB 1472. The impact for FY 07-08 is prorated by 25% to account for the fact that one of the quarterly distributions for the first year would reflect the current distribution percentages. The rate of tax and the total net collections are not affected by the bill.

The tables below show the distribution of funds under current law and under SB 1472:

Current Scrap Tire Disposal Tax Distribution						
	Percentage	**FY 07-08**	**FY 08-09**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Department of Revenue		$225,000	$225,000	$225,000	$225,000	$225,000
Solid Waste Management Trust Fund	5%	$710,000	$740,000	$780,000	$820,000	$860,000
Scrap Tire Disposal Account	27%	$3,810,000	$4,010,000	$4,210,000	$4,410,000	$4,650,000
Counties	68%	$9,600,000	$10,100,000	$10,600,000	$11,100,000	$11,700,000
TOTAL	100%	$14,345,000	$15,075,000	$15,815,000	$16,555,000	$17,435,000

Proposed Scrap Tire Tax Distribution under SB 1472						
	Percentage	**FY 07-08**	**FY 08-09**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Department of Revenue		$225,000	$225,000	$225,000	$225,000	$225,000
Solid Waste Management Trust Fund	8%	$1,020,000	$1,180,000	$1,250,000	$1,310,000	$1,380,000
Scrap Tire Disposal Account	22%	$3,280,000	$3,270,000	$3,430,000	$3,590,000	$3,790,000
Counties	70%	$9,820,000	$10,400,000	$10,910,000	$11,430,000	$12,040,000
TOTAL	100%	$14,345,000	$15,075,000	$15,815,000	$16,555,000	$17,435,000

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

SENATE FINANCE COMMITTEE
Tuesday, May 29, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Tuesday, May 29, 2007, in room 544 of the Legislative Office Building. Thirty-one members of the committee were present. Senator David Hoyle presided. Julian Foxx, Canaan Grier, Jason Riley and Matthew Nivens, all from Charlotte, served as pages.

H.B. 1473 – 2007 Appropriations Act.

The bill was taken up for discussion only. Staff of the Fiscal Research Division, explained the fee portions of the bill. Jim Klingler was recognized to explain the budget's special indebtedness plan. His handout is attached. Kristen Walker, Joy Hicks, Carol Shaw, Amna Cameron, and Denise Thomas were recognized to explain the various fees in Section 30. Greg Stahl, Senior Deputy Director of the Administrative Office of the Courts, was recognized to answer questions. A copy of the bill, a brief summary, and the handouts are attached.

The meeting adjourned at 1:35 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 29, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
ANN LORE	DUKE
Jamal Jones	NCHA
Ed Fulghum	BP
Will Pully	Office of Gov.
Rick Zechini	NC Assn of Realtors
David Heinen	NC Center for Nonprofits
Martin Pharr	DJJDP
Mildred Spearman	NCDOC
Katherine Dunn	NC Policy Watch
Rob Schofield	" "
Leslie Kleczek	Nicholas Institute, Duke

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 29, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kaitlin Kulinsky	NC GA
Gary Robertson	AP
Sonia Schmidt	Action for Children NC
Paula A. Wolf	LWVNC / WakeUP Wake Co.

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 29, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
ADAM BRUEGGEMANN	OSBM
JENNIFER WIMMER	OSBM
Jim Lora	OSBM
Chris Harder	OSBM
CASANDRA WHITE	GOV. OFFICE
Elizabeth Self	DENR
Meg Gray	BTC
SEAN COFFEY	BTC
Michael Houser	NCAE
Jordan Schrader	press
HAYLEY WOOD	SENATOR BERGER

VISITOR REGISTRATION SHEET

SENATE APPROPRIATIONS BASE/BUDGET COMMITTEE

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joshi Swaegan Cora	Capstrant
Paula Gupton Page	NCAE
Dana Sipes	SA
Mary Lewis	NCSA
Jennie Deem	NCAHP
[illegible]	NMRS
[illegible]	
Chip Kullman	Nelson Mullins
Rob Nelson	UNC
Sam Sands	WCSR
Martha McConnell	Carolinas Healthcare System

VISITOR REGISTRATION SHEET

SENATE APPROPRIATIONS BASE/BUDGET COMMITTEE

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Schulden	HANC
Daniel Blum	Kennedy Covington
Bill O'Donnell	NCSBA
Jon Hahn	NCALTCF
Pat Arnall	AOC
Kelly Howell	AOC
Rebecca Troutman	NCACC
Doug Byrd	Commerce
Susan Valauri	Nationwide
Rex Whaley	AOC
[illegible]	DHHS

VISITOR REGISTRATION SHEET

SENATE APPROPRIATIONS BASE/BUDGET COMMITTEE

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	DHHS
Mary Bethune	AARP-NC
Ashley Walker	AARP

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1473

Committee Substitute Favorable 5/8/07
Committee Substitute #2 Favorable 5/9/07
Fourth Edition Engrossed 5/11/07
Corrected Copy 5/11/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H1473-PCS30492-LTxf-5

Short Title: 2007 Appropriations Act. (Public)

Sponsors:

Referred to:

April 16, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

SECTION 1.1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2007."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 2009, according to the following schedule:

Current Operations – General Fund	2007-2008	2008-2009
EDUCATION		
Community Colleges System Office	$ 919,581,160	$ 898,393,003
Department of Public Instruction	7,620,122,436	7,666,686,081
University of North Carolina – Board of Governors		
Appalachian State University	121,866,775	123,484,299
East Carolina University		
Academic Affairs	200,929,741	207,798,168
Health Affairs	48,700,539	48,649,036
Elizabeth City State University	31,770,080	32,587,386
Fayetteville State University	53,131,616	54,059,698
North Carolina Agricultural and		
Technical State University	91,017,204	91,671,185
North Carolina Central University	76,599,430	78,129,122
North Carolina School of the Arts	24,650,862	24,042,061
North Carolina State University		
Academic Affairs	349,253,626	358,675,869
Agricultural Extension	42,241,968	42,126,187
Agricultural Research	53,406,637	52,144,009
University of North Carolina at Asheville	33,648,196	34,151,586
University of North Carolina at Chapel Hill		
Academic Affairs	269,229,699	275,856,577
Health Affairs	188,883,060	194,407,363
Area Health Education Centers	47,818,875	47,818,875
University of North Carolina at Charlotte	161,588,211	167,100,852
University of North Carolina at Greensboro	145,859,443	149,948,462
University of North Carolina at Pembroke	53,241,514	54,967,129
University of North Carolina at Wilmington	94,683,871	97,233,616
Western Carolina University	84,117,070	85,393,621
Winston-Salem State University	66,379,070	69,552,386
General Administration	42,489,469	42,647,024
University Institutional Programs	136,338,874	112,449,559
Related Educational Programs	149,629,645	149,933,562
North Carolina School of Science and Mathematics	16,859,174	17,065,422
UNC Hospitals at Chapel Hill	45,673,970	45,673,970
Total University of North Carolina –		
Board of Governors	$ 2,630,008,619	$ 2,657,567,024
HEALTH AND HUMAN SERVICES		
Department of Health and Human Services		
Office of the Secretary	62,593,587	63,866,411
Division of Aging	35,643,589	35,006,179
Division of Blind Services/Deaf/HH	10,552,646	10,521,452
Division of Child Development	306,644,018	312,004,939
Division of Education Services	38,537,264	38,310,972
Division of Facility Services	19,108,545	19,061,591
Division of Medical Assistance	2,793,185,861	3,067,189,551

Division of Mental Health	714,116,560	720,375,784
NC Health Choice	59,391,155	59,391,155
Division of Public Health	191,420,132	183,966,681
Division of Social Services	212,788,902	216,008,788
Division of Vocation Rehabilitation	43,374,525	44,712,409
Total Health and Human Services	$ 4,487,356,784	$ 4,770,415,912
NATURAL AND ECONOMIC RESOURCES		
Department of Agriculture and Consumer Services	51,749,141	51,424,944
Department of Commerce		
Commerce	62,466,647	40,086,833
Commerce State-Aid	22,976,478	0
NC Biotechnology Center	15,583,395	15,583,395
Rural Economic Development Center	43,802,607	24,302,607
Department of Environment and Natural Resources	201,599,459	191,550,404
Clean Water Management Trust Fund	100,000,000	100,000,000
Department of Labor	16,594,758	16,594,951
JUSTICE AND PUBLIC SAFETY		
Department of Correction	$ 1,213,715,078	$ 1,219,540,012
Department of Crime Control and Public Safety	47,830,429	36,404,601
Judicial Department	450,847,007	452,781,617
Judicial Department – Indigent Defense	106,540,251	113,414,917
Department of Justice	94,861,199	91,671,670
Department of Juvenile Justice and Delinquency Prevention	156,864,584	129,694,269
GENERAL GOVERNMENT		
Department of Administration	66,347,940	68,969,534
Office of Administrative Hearings	3,858,741	3,689,018
Department of State Auditor	12,672,540	12,685,993
Office of State Controller	20,710,191	20,727,698
Department of Cultural Resources		
Cultural Resources	73,422,441	72,361,683
Roanoke Island Commission	2,020,023	2,020,023

State Board of Elections	6,188,472	6,046,868
General Assembly	54,538,665	55,740,786
Office of the Governor		
Office of the Governor	6,262,319	6,300,587
Office of State Budget and Management	5,930,060	5,936,765
OSBM – Reserve for Special Appropriations	6,438,446	4,938,446
Housing Finance Agency	17,108,417	9,608,417
Department of Insurance		
Insurance	30,922,133	30,936,704
Insurance – Volunteer Safety Workers' Compensation	4,500,000	4,500,000
Office of Lieutenant Governor	914,122	915,109
Department of Revenue	83,949,579	84,041,959
Department of Secretary of State	11,412,917	10,686,083
Department of State Treasurer		
State Treasurer	9,329,130	9,326,190
State Treasurer – Retirement for Fire and Rescue Squad Workers	9,458,957	9,458,957
TRANSPORTATION		
Department of Transportation	0	0
RESERVES, ADJUSTMENTS AND DEBT SERVICE		
Reserve for Compensation Increases	496,685,523	488,655,673
Salary Adjustment Fund: 2007-09 Biennium	23,688,000	23,688,000
Reserve for Teachers' and State Employees' Retirement Contribution	29,600,000	29,600,000
Reserve for Retirement System Payback	10,000,000	10,000,000
Reserve for State Health Plan	120,118,352	127,270,489
Public Defenders Retirement	573,000	573,000
Judicial Longevity	717,577	717,577
Contingency and Emergency Fund	5,000,000	5,000,000
Information Technology Fund	29,140,000	7,840,000
Reserve for Job Development		

Investment Grants (JDIG)	12,400,000	12,400,000
Reserve for Eliminated Positions	(34,403,179)	(34,403,179)
Internal Auditing	1,000,000	1,000,000
Debt Service		
General Debt Service	619,793,004	678,387,871
Federal Reimbursement	1,616,380	1,616,380
TOTAL CURRENT OPERATIONS – GENERAL FUND	**$ 19,984,413,782**	**$ 20,247,348,871**

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in developing the 2007-2009 biennial budget is shown below:

	FY 2007-2008	FY 2008-2009
Unappropriated Balance Remaining from Previous Year	$ 0	$ 279,711,230
Projected Reversions FY 2006-07	125,000,000	0
Projected Overcollections FY 2006-07	1,135,200,000	0
Less Earmarkings of Year End Fund Balance		
Savings Reserve Account	(150,000,000)	0
Repairs and Renovations Reserve Account	(145,000,000)	0
Beginning Unreserved Fund Balance	**$ 965,200,000**	**$ 279,711,230**
Revenues Based on Existing Tax Structure	**$ 18,532,400,000**	**$ 19,551,000,000**
Nontax Revenues		
Investment Income	201,600,000	211,100,000
Judicial Fees	173,000,000	177,100,000
Disproportionate Share	100,000,000	100,000,000
Insurance	55,500,000	57,900,000
Other Nontax Revenues	140,400,000	154,300,000
Tobacco Trust Fund Transfer	2,000,000	0
Highway Trust Fund/Use Tax Reimbursement Transfer	172,500,000	172,500,000
Highway Fund Transfer	18,190,000	17,610,000
Subtotal Nontax Revenues	**$ 863,190,000**	**$ 890,510,000**
Total General Fund Availability	**$ 20,360,790,000**	**$ 20,721,221,230**
Adjustments to Availability: 2007 Session		
IRC Conformity	(56,900,000)	(49,100,000)
Reserve for Tax Adjustments	(30,000,000)	(30,000,000)
Health & Human Services/Facility Services Fees	1,705,501	1,642,407
Secretary of State Corporate Annual Report Fees	563,016	563,016
Net Increase Judicial Fees	39,075,320	39,075,320
Transfer from Closed Capital Account	3,506,143	0
Adjust Transfer from Treasurer's Office	110,758	98,758

Adjust Transfer from Insurance Regulatory Fund	80,274	56,274
Subtotal Adjustments to Availability: 2007 Session	**$ (41,858,988)**	**$ (37,664,225)**
Revised General Fund Availability	**$ 20,318,931,012**	**$ 20,683,557,005**
Less: General Fund Appropriations	**(20,039,219,782)**	**(20,247,348,871)**
Unappropriated Balance Remaining	**$ 279,711,230**	**$ 436,208,134**

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer one hundred forty-five million dollars ($145,000,000) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2007. This subsection becomes effective June 30, 2007.

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2007-2008 fiscal year to be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(c1) Notwithstanding G.S. 143-15.2, G.S. 143-15.3, and G.S. 143C-4-2, the State Controller shall transfer only one hundred fifty million dollars ($150,000,000) from the unreserved credit balance to the Savings Reserve Account on June 30, 2007. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution. This subsection becomes effective June 30, 2003.

SECTION 2.2.(d) Notwithstanding the provisions of G.S. 105-187.9(b)(1), the sum to be transferred under that subdivision for the 2007-2008 fiscal year is one hundred seventy million dollars ($170,000,000) and for the 2008-2009 fiscal year is one hundred seventy million dollars ($170,000,000).

SECTION 2.2.(e) Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred under that subdivision for the 2007-2008 fiscal year is two million five hundred thousand dollars ($2,500,000) and for the 2008-2009 fiscal year is two million five hundred thousand dollars ($2,500,000).

SECTION 2.2.(f) The appropriation made in this act to the Clean Water Management Trust Fund in the amount of one hundred million dollars ($100,000,000) is made pursuant to G.S. 113A-253.1 and is not in addition to the statutory appropriation made in that section.

SECTION 2.2.(g) Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust Fund from the Master Settlement Agreement pursuant to Section 6.(2) of S.L. 1999-2 during the 2007-2009 fiscal biennium, the sum of two million dollars ($2,000,000) for the 2007-2008 fiscal year shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund) to the State Controller to be deposited in Non-tax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2007-2008 fiscal year.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes

as enumerated are made for the fiscal biennium ending June 30, 2009, according to the following schedule:

Current Operations – Highway Fund	2007-2008	2008-2009
Department of Transportation		
Administration	$ 84,037,661	$ 83,204,187
Division of Highways		
Administration	32,651,442	32,703,136
Construction	161,233,869	150,173,949
Maintenance	908,123,260	909,934,281
Planning and Research	4,700,000	4,700,000
OSHA Program	425,000	425,000
Ferry Operations	31,313,921	31,313,921
State Aid		
Municipalities	93,046,035	93,073,949
Public Transportation	73,466,447	73,466,447
Airports	21,860,122	19,730,033
Railroads	21,951,153	20,951,153
Governor's Highway Safety	334,314	335,449
Division of Motor Vehicles	103,676,924	119,130,944
Transfers, Other State Agencies, And Reserves	293,619,852	292,437,551
TOTAL	**$1,830,440,000**	**$1,831,580,000**

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2007-2009 biennial budget is shown below:

Highway Fund Availability Statement	2007-2008	2008-2009
Unappropriated Balance From Previous Year	$ 0	$ 0
Beginning Credit Balance	30,000,000	-
Estimated Revenue	1,800,440,000	1,831,580,000
Total Highway Fund Availability	**$ 1,830,440,000**	**$ 1,831,580,000**
Unappropriated Balance	**$ 0**	**$ 0**

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the biennium ending June 30, 2009, according to the following schedule:

Current Operations – Highway Trust Fund	2007-2008	2008-2009
Intrastate System	$ 540,326,825	$ 550,107,613
Urban Loops	218,485,665	222,440,608
Aid to Municipalities	56,692,887	57,719,120
Secondary Roads	94,808,677	96,786,225
Program Administration	42,722,640	43,386,880
Transfer to General Fund	172,543,306	172,619,554
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	**$ 1,125,580,000**	**$ 1,143,060,000**

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. The Highway Trust Fund availability used in developing the 2007-2009 biennial budget is shown below:

Total Highway Trust Fund Availability	**$ 1,125,580,000**	**$ 1,143,060,000**

PART V. OTHER AVAILABILITY AND APPROPRIATIONS

CIVIL PENALTIES AND FORFEITURE FUND AVAILABILITY AND APPROPRIATION

SECTION 5.1.(a) Availability. – The availability used to support appropriations made in this act from the Civil Penalty and Forfeiture Fund is based upon estimated collections of fines and forfeitures from the agencies and in the amounts listed below:

	FY 2007-2008	FY 2008-2009
Department of Revenue	$63,000,000	$63,000,000
Department of Transportation	$15,000,000	$15,000,000
Employment Security Commission	$3,000,000	$3,000,000
Department of Insurance	$1,000,000	$1,000,000
University of North Carolina	$3,500,000	$3,500,000
Other Agencies	$10,000,000	$10,000,000
Total Funds Available	$95,500,000	$95,500,000

SECTION 5.1.(b) Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2009, as follows:

	FY 2007-2008	FY 2008-2009
School Technology Fund	$18,000,000	$18,000,000
State Public School Fund	$77,500,000	$77,500,000
Total Appropriation	$95,500,000	$95,500,000

EDUCATION LOTTERY

SECTION 5.2.(a) Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of three hundred fifty million dollars ($350,000,000) for the 2007-2008 fiscal year.

SECTION 5.2.(b) The appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2007-2008 fiscal year are as follows:

Class Size Reduction	$ 90,364,291
Prekindergarten Program	84,635,709
Public School Building Capital Fund	140,000,000
Scholarships for Needy Students	35,000,000

Total Appropriation	$ 350,000,000

SECTION 5.2.(c) Notwithstanding G.S. 18C-164(f), if the actual net revenues exceed the amounts appropriated for the 2007-2008 fiscal year in subsection (b) of this section, the excess net revenues shall remain in the Education Lottery Fund, and then may be transferred by the Director of the Budget among the four categories in that subsection in the discretion of the Director and are appropriated for those purposes.

SECTION 5.2.(d) This section becomes effective June 30, 2007.

INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATION

SECTION 5.3.(a) The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2007-2008	**FY 2008-2009**
Receipts from Information Technology Enterprise Fee	$9,800,000	$9,800,000
BEACON/Data Integration Funds	$5,000,000	$5,000,000
Interest Income	$100,000	$100,000
IT Fund Balance June 30	$600,000	$690,000
Appropriation from General Fund	$4,140,000	$2,840,000
Total Funds Available	**$19,640,000**	**$18,430,000**

SECTION 5.3.(b) Appropriations are made from the Information Technology Fund for the 2007-2009 fiscal biennium as follows:

Office of Information Technology Services	**FY 2007-2008**	**FY 2008-2009**
Information Technology Operations	$9,452,835	$8,152,835
Information Technology Projects	$4,497,165	$4,497,165
BEACON/Data Integration Funds	$5,000,000	$5,000,000
Total	**$18,950,000**	**$17,650,000**

PART VI. GENERAL PROVISIONS

APPROPRIATION OF CASH BALANCES AND RECEIPTS

SECTION 6.1.(a) Expenditures of cash balances, federal funds, departmental receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and authorized for the 2007-2009 fiscal biennium as follows:

(1) For all budget codes listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated up to the amounts

specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2007-2008 fiscal year and the 2008-2009 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly.

(2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated for each year of the 2007-2009 fiscal biennium up to the level of actual expenditures for the 2006-2007 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the 2006-2007 fiscal year.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2007-2008 fiscal year and the 2008-2009 fiscal year and shall be used only to pay debt service requirements.

(4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2007-2008 fiscal year and the 2008-2009 fiscal year.

All these cash balances, federal funds, departmental receipts, grants, and gifts shall be expended and reported in accordance with the provisions of the State Budget Act, except as otherwise provided by law and this section.

SECTION 6.1.(b) Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act.

Overrealized receipts are appropriated up to the amounts necessary to implement this subsection.

In addition to the consultation and reporting requirements set out in G.S. 143C-6-4, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter on any overrealized receipts approved for expenditure under this subsection by the Director of the Budget. The report shall include the source of the receipt, the amount overrealized, the amount authorized for expenditure, and the rationale for expenditure.

SECTION 6.1.(c) Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year.

EXPENDITURES OF FUNDS IN RESERVES LIMITED

SECTION 6.2. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

REVISE FREQUENCY OF FEE REPORT

SECTION 6.3. G.S. 143C-9-4 reads as rewritten:

"**§ 143C-9-4. ~~Annual Fee Report.~~Biennial fee report.**

The Office of State Budget and Management shall prepare a report ~~annually~~ biennially on the fees charged by each State department, bureau, division, board, commission, institution, and agency during the previous two fiscal ~~year.~~years. The report shall include the statutory or regulatory authority for each fee, the amount of the fee, when the amount of the fee was last changed, the number of times the fee was collected during the prior fiscal year, and the total receipts from the fee during the prior fiscal year."

BUDGET REALIGNMENT

SECTION 6.4. Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Office of the State Controller and the Fiscal Research Division, may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the certified budget to reflect these adjustments only after reporting the proposed adjustments to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR INCREASING FEES PURSUANT TO THE STATE BUDGET ACT

SECTION 6.5. Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act, or in the Senate Appropriations Committee Reports on the Continuation, Expansion and Capital Budgets, that were distributed in the Senate Appropriations and Base Budget Committees and used to explain this act.

STAFFING ANALYSIS OF STATE AGENCY BUSINESS FUNCTIONS AND REDEPLOYMENT OF RESOURCES FROM HR/PAYROLL MANAGEMENT

SECTION 6.7.(a) The Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall conduct annual follow-up analyses of the Human Resources/Payroll Function Mapping Analysis that was completed in fiscal year 2007 by the BEACON staff and the Office of State Budget and Management. This initial analysis was conducted to provide not only a pre-implementation assessment of State agency Human Resources/Payroll staffing prior to BEACON HR/Payroll implementation but also to provide a basis on which new HR/Payroll roles required by BEACON implementation can be mapped. These follow-up analyses of State agency HR/Payroll staffing shall be completed by January 1 of each year to assure the staffing levels remain appropriate. The annual staffing analyses shall be conducted throughout the implementation of the BEACON HR/Payroll System and shall continue for a reasonable time after the implementation to assure that the staffing levels are adjusted based on the increased efficiency provided by the implementation.

SECTION 6.7.(b) The Office of State Budget and Management, in consultation with the Office of State Controller, shall conduct a staffing analysis of the

business functions of State government to include, but not be limited to, agency fiscal offices, budget offices, and procurement offices to be completed by April 30, 2008. This initial analysis will serve as a pre-implementation assessment of State agency business functions staffing prior to the proposed implementation of the remaining components of the BEACON ERP System. Follow-up analyses shall be conducted annually and completed by January 1 of each year to assure the staffing levels remain appropriate. The annual staffing analyses shall be conducted throughout the implementation of future BEACON components and shall continue for a reasonable time after the implementation to assure that the staffing levels are adjusted based on the increased efficiency provided by the implementation.

SECTION 6.7.(c) By April 30, 2008, the Office of State Budget and Management, in consultation with the Office of State Controller, and then by January 1, 2009, and annually thereafter, the Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall report to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division on the results of the annual staffing analyses of State government business functions conducted pursuant to subsection (a) of this section and on the implementation of the BEACON HR/Payroll System.

SECTION 6.7.(d) Prior to any staffing changes that result from the staffing analyses conducted pursuant to subsection (b) of this section, the Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall report to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division on the annual staffing analyses of State government business functions conducted pursuant to subsection (b) of this section and on the proposed implementation of the remaining components of the BEACON ERP System.

SECTION 6.7.(e) Notwithstanding any other provision of law, the Office of State Budget and Management may evaluate the impact of the BEACON Program on affected agencies and develop a plan for addressing resources affected by the Program. The State Redeployment Plan shall be implemented to the extent possible. When compliance with federal or State law requires, a new position may be created if a current or contracted position is eliminated. The Office of State Budget and Management, in consultation with the Office of the State Controller, shall report to the Joint Legislative Commission on Governmental Operations within 30 days for each employee change made under the State Redeployment Plan and shall include a five-year fiscal impact incurred by the State when converting any contracted position to a permanent position. This subsection expires June 30, 2008.

BEACON DATA INTEGRATION

SECTION 6.8.(a) The Office of the State Controller, in cooperation with the State Chief Information Officer, shall develop a Strategic Implementation Plan for the integration of databases and the sharing of information among State agencies and programs. This plan shall be developed and implemented under the governance of the BEACON Project Steering Committee and in conjunction with leadership in State agencies and with the support and cooperation of the Office of State Budget and Management. This plan shall include the following:

(1) Definition of requirements for achieving statewide data integration.

(2) An implementation schedule to be reviewed and adjusted by the General Assembly annually based on funding availability.
(3) Priorities for database integration, commencing with the integration of databases that the BEACON Project Steering Committee identifies as most beneficial in terms of maximizing fund availability and realizing early benefits.
(4) Identification of current statewide and agency data integration efforts and a long-term strategy for integrating those projects into this effort.
(5) Detailed cost information for development and implementation, as well as five years of operations and maintenance costs.

While it is the intent that this initiative provide broad access to information across State government, the plan shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law shall be limited to appropriate and authorized persons.

SECTION 6.8.(b) Of the funds appropriated from the General Fund to the North Carolina Information Technology Fund, the sum of five million dollars ($5,000,000) for the 2007-2008 fiscal year shall be used for BEACON data integration as provided by subsection (a) of this section. The Office of the State Controller, in coordination with State agencies and with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any federal matching funds or other resources to assist in funding this initiative.

Funds authorized in this section may be used for the following purposes:
(1) To support the cost of a project manager to conduct the activities outlined herein reportable to the Office of the State Controller.
(2) To support two business analysts to provide support to the program manager and agencies in identifying requirements under this program.
(3) To engage a vendor to develop the Strategic Implementation Plan as required herein.
(4) To conduct integration activities as approved by the Governor and the North Carolina General Assembly.

SECTION 6.8.(c) The Office of the State Controller, with the assistance of the State Chief Information Officer, shall present the Strategic Implementation Plan directed herein to the 2008 Session of the General Assembly for action as deemed appropriate. Prior to the convening of the 2008 General Assembly, the Office of the State Controller shall provide status reports of this activity to the Joint Legislative Commission on Governmental Operations or the Fiscal Research Division of the General Assembly as requested.

SECTION 6.8.(d) This effort shall not place any new or additional requirements upon The University of North Carolina or the North Carolina Community College System.

USE OF COLLECTION ASSISTANCE FEE

SECTION 6.9.(a) G.S. 105-243.1(e)(4) reads as rewritten:

"(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed ~~three hundred fifty-three thousand dollars ($353,000)~~ five hundred thousand dollars ($500,000) a year."

SECTION 6.9.(b) The General Assembly finds that a computer system that records tax payments and determines when the payments are overdue directly and primarily relates to the collection of overdue tax debts and that the cost of the computer system is subject to the collection assistance fee set forth in G.S. 105-243.1. The

Department of Revenue is authorized to use funds in the 20% Collection Assistance Fee Account, Budget Code 24704-2474, during the 2007-2009 fiscal biennium to replace the Department's current computer system, and these funds are appropriated to the Department for that purpose. The Department shall not use more than forty million dollars ($40,000,000) from the Account to replace the Department's current computer system. Funds appropriated to the Department in this subsection remain in the Account until withdrawn for expenditures for a replacement computer system and shall remain in the Account if not expended during the 2007-2009 fiscal biennium for the purposes set forth in this subsection.

OFFICE OF INFORMATION TECHNOLOGY SERVICES BUDGET REVIEW

SECTION 6.11.(a) Notwithstanding G.S. 147-33.88, the Office of Information Technology Services (ITS) shall develop an annual budget for review and approval by the Office of State Budget and Management in accordance with the schedule prescribed by the Director. The approved ITS budget shall be included in the Governor's budget recommendations to the General Assembly.

SECTION 6.11.(b) The Office of State Budget and Management shall ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by the Office of Information Technology Services.

OFFICE OF INFORMATION TECHNOLOGY SERVICES REVIEW OF STATE IT BUDGET SUBMISSIONS

SECTION 6.12.(a) The State Chief Information Officer (SCIO) shall review each information technology project budget request from the various State departments, agencies, and institutions prior to the formal submission of those requests to the Governor in order to facilitate a coherent and cost-effective State investment strategy for information technology projects and systems. The SCIO's review shall:

(1) Identify the purpose of the information technology project or system.
(2) Identify whether the project or system would result in any duplication of effort across governmental agencies, including State, local, and federal agencies.
(3) Determine the completeness, timeliness, and accessibility of the data developed and used by the system.
(4) Estimate the cost and actual staffing for the project or system.
(5) Ascertain the organizational location of the system as well as the hardware and software inventories associated with the system or project.
(6) Assess the current and potential benefits that the technology investment would provide to the State.
(7) Identify any opportunities for the State to leverage federal and local support of the information technology system or project.
(8) Consider any other information pertinent to the utility, functionality, and cost-effectiveness of the project or system.

The SCIO shall submit the detailed analysis of each information technology budget request to the Office of State Budget and Management (OSBM). Based on that analysis, the OSBM may require State departments, agencies, and institutions to coordinate information technology budget requests and projects to increase efficiency and eliminate duplication in the governance, organization, staffing, and functionality of information technology projects and systems across State government.

SECTION 6.12.(b) By February 1, 2008, the Office of State Budget and Management shall report to the General Assembly on its efforts and outcomes relative

to increasing the efficiency and cost-effectiveness of the State's information technology projects and programs as prescribed by this section. This report shall include detailed information on initiatives to eliminate duplication.

SECTION 6.12.(c) This section does not apply to The University of North Carolina System or to the Judicial Branch.

GEOGRAPHIC INFORMATION SYSTEM (GIS) STUDY

SECTION 6.13.(a) The Office of State Budget and Management (OSBM), in consultation with the Center for Geographic Information and Analysis (CGIA), the State Chief Information Officer, and the chair of the Geographic Information Coordinating Council (GICC), shall conduct a study to identify the development and use of Geographical Information Systems (GIS) in North Carolina by State agencies. The study shall identify the purpose of each system; any duplication of effort across agencies, including local governments and federal agencies; the completeness, timeliness, and accessibility of the data developed and used by the systems; the cost and actual staffing for each system; the organizational location of each system; and the hardware and software inventories associated with each system. The study shall also assess the current and potential benefits that GIS investments provide to the State and identify opportunities for the State to leverage federal and local support for North Carolina GIS systems.

SECTION 6.13.(b) OSBM shall make recommendations on the governance, organization, and staffing of GIS in and across State agencies and on a coherent and cost-effective State investment strategy for GIS that appropriately leverages local and federal support and eliminates duplication of capabilities. The report shall include a recommended strategy for consolidating State GIS initiatives. The OSBM shall make a written report of these findings and recommendations to the General Assembly by April 30, 2008.

SECTION 6.13.(c) This section does not apply to The University of North Carolina or to the Judicial Branch.

E-COMMERCE LONG-RANGE STRATEGY REPORT

SECTION 6.14. The Office of the State Controller shall evaluate the opportunities for efficiencies in State government through the use of electronic commerce as it relates to both disbursement and collection of funds, and shall report the results of that evaluation to the 2008 Regular Session of the 2007 General Assembly. The report shall include all of the following:

(1) Input from the entire State government user base, including State agencies, universities, community colleges, local education agencies, and other units of government that may be disbursing or collecting State funds. Input is also to be obtained from the various central agencies involved in the financial affairs of State government and from the Office of Information Technology.

(2) Specific proposals that would, if implemented, expand electronic commerce activity in the State government fiscal environment, and which shall include the establishment of an ongoing function within State government to execute the expansion. The recommendations should address activities that are suitable for statewide contractual arrangements, as well as those suitable for governmental entities to pursue individually. The recommendations should include expected costs and benefits of these implementations; recommendations for

funding recurring and nonrecurring costs of the specific proposals; and a business case to support the recommendations.

(3) Proposed legislation that may be considered by the 2008 Regular Session of the 2007 General Assembly to ensure compliance with merchant card industry policies and standards for operations and security.

(4) Proposed legislation that may be considered by the 2008 Regular Session of the 2007 General Assembly that addresses any inconsistencies or conflicts in existing statutes relating to electronic commerce activities.

Periodic updates on this activity may be requested by the Joint Legislative Commission on Governmental Operations. The final report is due no later than April 30, 2008.

UNC DISTINGUISHED PROFESSOR CHALLENGE-GRANT INITIATIVE/REDUCE BACKLOG FOR DISTINGUISHED PROFESSOR ENDOWMENT TRUST FUND PROFESSORSHIPS

SECTION 6.15.(a) The UNC Distinguished Professor Challenge-Grant Initiative is established as a reserve fund to be administered by the Board of Governors of The University of North Carolina. Funds in the UNC Distinguished Professor Challenge-Grant Initiative shall be used to provide State matching funds for a private challenge-grant initiative and shall be allocated consistent with G.S. 116-41.15. Funds from the UNC Distinguished Professor Challenge-Grant Initiative when matched with private funds shall provide the funding required to endow one distinguished professorship at each of the 16 constituent institutions of The University of North Carolina in the 2007-2008 fiscal year. All professorships endowed through this Initiative shall be in the fields of teacher education, engineering, nursing, or the traditional arts and sciences.

SECTION 6.15.(b) Funds are allocated in the North Carolina Senate Committee Report on the Continuation, Expansion and Capital Budget for the purpose of addressing the existing backlog of professorships under the Distinguished Professors Endowment Trust Fund.

MEDICAID COUNTY SHARE RELIEF

SECTION 6.16. In recognition of the increasing cost of Medicaid services and the burden this places on county finances, it is the intent of the General Assembly to develop a method for relieving counties of the county share of the nonfederal share of Medicaid expenditures. It is the further intent of the General Assembly that this relief will be in place by July 1, 2008. Methods being considered will allow counties to use those funds the counties would otherwise spend on Medicaid to support improvements in education at the local level without limiting the State's ability to provide critical State-funded services, including education.

ELIMINATION OF VACANT POSITIONS

SECTION 6.17. The Office of State Budget and Management shall eliminate all positions across State government that are funded through the General Fund and vacant for more than six months on June 30, 2007, by transferring from the various State departments, agencies, and institutions the salary and benefits-related funding appropriated for State government positions vacant on that date. There is established in the Office of State Budget and Management a Reserve for Eliminated Positions. Notwithstanding G.S. 143C-6-9, the sum of thirty-four million four hundred

three thousand one hundred seventy-nine dollars ($34,403,179) shall be credited to the Reserve for Eliminated Positions from the savings associated with the elimination of vacant positions required by this section, effective July 1, 2007. The provisions of this section do not apply to The University of North Carolina, the community colleges, and the public schools.

SALARY RESERVE BALANCES

SECTION 6.19. Notwithstanding G.S. 143C-6-4(b)(2), during the 2007-2009 fiscal biennium, a State agency may, with approval of the Director of the Budget, spend more than was authorized in the certified budget for a purpose or program if the overexpenditure is required to accommodate the redistribution of salary reserve balances within a State department.

CLARIFY THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE DIRECTOR OF A LOCAL MANAGEMENT ENTITY

SECTION 6.20.(a) G.S. 122C-121 reads as rewritten:

"**§ 122C-121. Area director.**

(a) The area director is an employee of the area ~~board~~ board, shall serve at the pleasure of the board, and shall be appointed in accordance with G.S. 122C-117(7). ~~The area director is the administrative head of the area program.~~ As used in this subsection, "employee" means an individual and does not include a corporation, a partnership, a limited liability corporation, or any other business association.

(a1) The area board shall establish the area director's salary under Article 3 of Chapter 126 of the General Statutes. An area board may request an adjustment to the salary ranges under G.S. 126-9(b). The request shall include specific information supporting the need for the adjustment, including comparative salary and patient caseload data for other LMEs, and shall also include the specific amount the area board proposes to pay the director. The area board shall not request a salary adjustment that is more than ten percent (10%) above the normal allowable salary range as determined by the State Personnel Commission.

(a2) The area board shall not provide the director with any benefits that are not also provided by the area board to all permanent employees of the area program. The director shall be reimbursed only for allowable employment-related expenses at the same rate and in the same manner as other employees of the area program.

(b) The area board shall evaluate annually the area director for performance based on criteria established by the Secretary and the area board. In conducting the evaluation, the area board shall consider comments from the board of county commissioners.

(c) The area director is the administrative head of the area program. In addition to the duties under G.S. 122C-111, the area director shall:

(1) ~~Appoint and supervise~~ Appoint, supervise, and terminate area program staff.
(2) Administer area authority services.
(3) Develop the budget of the area authority for review by the area board.
(4) Provide information and advice to the board of county commissioners through the county manager.
(5) Act as liaison between the area authority and the Department.

(d) Except when specifically waived by the Secretary, the area director shall meet all the following minimum qualifications:

(1) Masters degree.
(2) Related experience.

(3) Management experience.
(4) Any other qualifications required under G.S. 122C-120.1."

SECTION 6.20.(b) G.S. 122C-121(a1), as enacted in subsection (a) of this section, applies to salary plans submitted and contracts entered into, extended, modified, or renewed on or after July 1, 2007.

CONTINUATION REVIEW OF CERTAIN FUNDS, PROGRAMS, AND DIVISIONS

SECTION 6.21.(a) No later than February 1, 2008, the Administrative Office of the Courts shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:
(1) Dispute Resolution and Community Mediation Programs.
(2) Association of Clerks of Superior Court.
(3) The Conference of District Attorneys.

The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(b) No later than February 1, 2008, the Office of Indigent Defense Services shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Division of Sentencing Services. The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(c) No later than February 1, 2008, the Department of Correction shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:
(1) Criminal Justice Partnership Program.
(2) Harriet's House.
(3) Women at Risk.
(4) Summit House.
(5) Contracts for long-term residential treatment beds: Evergreen; Mary Frances Center.

The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(d) No later than February 1, 2008, the Department of Juvenile Justice and Delinquency Prevention shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:
(1) The Boys and Girls Clubs.
(2) Juvenile Assessment Center.
(3) Project Challenge.
(4) Juvenile Crime Prevention Council.
(5) The Governor's One-on-One Program.
(6) Support Our Students (SOS).

The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(e) No later than February 1, 2008, the Department of Justice shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the North Carolina Legal Education Assistance Fund. The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(f) No later than February 1, 2008, the Department of Crime Control and Public Safety shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:

(1) North Carolina Victims Assistance Network.
(2) National Guard Tarheel Challenge Program.
(3) Butner Public Safety Division.

The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(g) No later than February 1, 2008, the Department of Environment and Natural Resources shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Environmental Stewardship Initiative. The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(h) No later than February 1, 2008, the Department of Commerce shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:

(1) Regional Partnerships.
(2) Council of Government funds.
(3) State Aid to Nonprofits.

The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(i) No later than February 1, 2008, the Department of Health and Human Services shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:

(1) Office of Policy and Planning.
(2) Senior Games.
(3) Dental Supplies/Division of Public Health.

The report shall include all of the information listed in subsection (j) of this section.

SECTION 6.21.(j) The reports required in subsections (a) through (i) of this section shall include the following information for each program:

(1) A description of the program, including information on services provided, the recipients of the services, and the resource requirements.
(2) Meaningful measures of program performance and whether the program is meeting these measures.
(3) The rationale for continuing, reducing, or eliminating funding.
(4) The consequences of discontinuing program funding.
(5) Recommendations for improving services.
(6) Recommendations for reducing costs.
(7) The identification of policy issues that should be brought to the attention of the General Assembly.

SECTION 6.21.(k) The Appropriations Committees of the Senate and House of Representatives may review the funds, programs, and divisions listed in this section and shall determine whether to continue, reduce, or eliminate funding for the funds, programs, and divisions, subject to the continuation review program. The Fiscal Research Division may issue instructions to the State departments and agencies referenced in subsections (a) through (i) of this section regarding the expected content and format of the reports required by this section.

AT LEAST 20% OF PARKING LOT MUST BE PERVIOUS

SECTION 6.22.(a) G.S. 143-214.7 is amended by adding a new subsection to read:

"(d2) At least twenty percent (20%) of any area designed to be used for vehicular parking, except for a covered area or a multilevel area, shall be a pervious surface."

SECTION 6.22.(b) G.S. 143-215.6A(a)(11) reads as rewritten:

"(a) A civil penalty of not more than twenty-five thousand dollars ($25,000) may be assessed by the Secretary against any person who:

...

(11) Violates or fails to act in accordance with ~~G.S. 143-214.7(d1).~~G.S. 143-214.7(d1) or (d2)."

SECTION 6.22.(c) This section becomes effective July 1, 2008, and applies to any area designed to be used for vehicular parking for which an application for a building permit, a zoning application, or a subdivision plat, is submitted on or after that date.

UNIVERSITY CANCER RESEARCH FUND

SECTION 6.23.(a) Effective July 1, 2007, Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-29.1. University Cancer Research Fund.**

(a) The University Cancer Research Fund is established as a special revenue fund in the Office of the President of The University of North Carolina. Allocations from the fund shall be made to UNC Hospitals at the discretion of the President of The University of North Carolina only for the purpose of cancer research.

(b) The General Assembly finds that it is imperative that the State provide a minimum of sixteen million dollars ($16,000,000) each calendar year to the University Cancer Research Fund; therefore, effective July 1 of each calendar year:

(1) Notwithstanding G.S. 143C-9-3, the unobligated balance of the funds credited to the Tobacco Trust Account in an amount not to exceed sixteen million dollars ($16,000,000) is hereby transferred from the Tobacco Trust Account to the University Cancer Research Fund and appropriated for this purpose.

(2) There is appropriated from the General Fund to the University Cancer Research Fund an amount equal to the difference between the amount transferred pursuant to subdivision (1) of this subsection and sixteen million dollars ($16,000,000).

(c) The University Cancer Research Fund may also receive revenue from other sources.

(d) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year."

SECTION 6.23.(b) Effective July 1, 2008, G.S. 116-29.1(b), as enacted in subsection (a) of this section, is amended by deleting "sixteen million dollars ($16,000,000)" each place it appears and substituting "thirty-two million dollars ($32,000,000)".

SECTION 6.23.(c) Effective July 1, 2009, G.S. 116-29.1(b), as amended in subsection (b) of this section, is amended by deleting "thirty-two million dollars ($32,000,000)" each place it appears and substituting "fifty million dollars ($50,000,000)".

STATE SUPPORT OF OUR MILITARY PERSONNEL

SECTION 6.24. The General Assembly finds that North Carolina has a rich military heritage and is the site of some of the nation's major military installations, including Camp Lejeune, Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, New River Marine Corps Air Station, United States Coast Guard Air Station, Elizabeth City, and Cherry Point Marine Corps Air Station. The General Assembly

further finds that North Carolina is the home to more than 770,000 veterans of our nation's armed forces and about 120,000 active-duty military personnel, one of the largest active-duty military populations in our entire country. In appreciation of and gratitude to those North Carolinians, both living and deceased, who have served in our armed forces in service to our country, the General Assembly provides funding for and support of the following initiatives:

(1) Defense and Security Technology Accelerator.
(2) Mental Health Services for Returning Veterans.
(3) The Soldier Institute for Regenerative Medicine.
(4) Military Morale, Welfare, and Recreation Fund.
(5) National Guard Family Assistance Centers.
(6) National Guard Pension Fund.

PART VII. PUBLIC SCHOOLS

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2007-2008 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (d) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

These funds shall be allocated to individuals according to rules adopted by the State Board of Education.

SECTION 7.1.(b) The following monthly salary schedules shall apply for the 2007-2008 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 31 steps with each step corresponding to one year of teaching experience.

2007-2008 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,975	N/A
1	$3,017	N/A
2	$3,061	N/A
3	$3,217	$3,603
4	$3,357	$3,760
5	$3,491	$3,910
6	$3,620	$4,054
7	$3,724	$4,171
8	$3,772	$4,225
9	$3,821	$4,280
10	$3,871	$4,336
11	$3,920	$4,390
12	$3,971	$4,448
13	$4,022	$4,505
14	$4,075	$4,564
15	$4,129	$4,624
16	$4,184	$4,686
17	$4,239	$4,748
18	$4,298	$4,814

19	$4,356	$4,879
20	$4,414	$4,944
21	$4,476	$5,013
22	$4,537	$5,081
23	$4,603	$5,155
24	$4,667	$5,227
25	$4,732	$5,300
26	$4,798	$5,374
27	$4,866	$5,450
28	$4,937	$5,529
29	$5,008	$5,609
30+	$5,106	$5,719

2007-2008 Monthly Salary Schedule
"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	$3,273	N/A
1	$3,319	N/A
2	$3,367	N/A
3	$3,539	$3,964
4	$3,693	$4,136
5	$3,840	$4,301
6	$3,982	$4,460
7	$4,096	$4,588
8	$4,149	$4,647
9	$4,203	$4,707
10	$4,258	$4,769
11	$4,312	$4,829
12	$4,368	$4,892
13	$4,424	$4,955
14	$4,483	$5,021
15	$4,542	$5,087
16	$4,602	$5,154
17	$4,663	$5,223
18	$4,728	$5,295
19	$4,792	$5,367
20	$4,855	$5,438
21	$4,924	$5,515
22	$4,991	$5,590
23	$5,063	$5,671
24	$5,134	$5,750
25	$5,205	$5,830
26	$5,278	$5,911
27	$5,353	$5,995
28	$5,431	$6,083
29	$5,509	$6,170
30+	$5,617	$6,291

SECTION 7.1.(c) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19

years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 7.1.(d) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 7.1.(e) The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 7.1.(f) Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 7.1.(g) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 7.1.(h) As used in this section, the term "teacher" shall also include instructional support personnel.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2007-2008 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the salary schedules for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2007-2008 fiscal year, commencing July 1, 2007, is as follows:

2007-2008 Principal and Assistant Principal Salary Schedules

	Classification				
Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	$3,730	-	-	-	-
5	$3,878	-	-	-	-
6	$4,022	-	-	-	-
7	$4,137	-	-	-	-
8	$4,190	$4,190	-	-	-
9	$4,245	$4,245	-	-	-
10	$4,301	$4,301	$4,355	-	-
11	$4,355	$4,355	$4,412	-	-
12	$4,412	$4,412	$4,468	$4,528	-
13	$4,468	$4,468	$4,528	$4,587	$4,648
14	$4,528	$4,528	$4,587	$4,648	$4,710
15	$4,587	$4,587	$4,648	$4,710	$4,775
16	$4,648	$4,648	$4,710	$4,775	$4,840
17	$4,710	$4,710	$4,775	$4,840	$4,904
18	$4,775	$4,775	$4,840	$4,904	$4,973
19	$4,840	$4,840	$4,904	$4,973	$5,041
20	$4,904	$4,904	$4,973	$5,041	$5,114
21	$4,973	$4,973	$5,041	$5,114	$5,185
22	$5,041	$5,041	$5,114	$5,185	$5,257
23	$5,114	$5,114	$5,185	$5,257	$5,331
24	$5,185	$5,185	$5,257	$5,331	$5,407
25	$5,257	$5,257	$5,331	$5,407	$5,485
26	$5,331	$5,331	$5,407	$5,485	$5,564
27	$5,407	$5,407	$5,485	$5,564	$5,675
28	$5,485	$5,485	$5,564	$5,675	$5,789
29	$5,564	$5,564	$5,675	$5,789	$5,905
30	$5,675	$5,675	$5,789	$5,905	$6,023
31	$5,789	$5,789	$5,905	$6,023	$6,143
32	-	$5,905	$6,023	$6,143	$6,266
33	-	-	$6,143	$6,266	$6,391
34	-	-	$6,266	$6,391	$6,519
35	-	-	-	$6,519	$6,649
36	-	-	-	$6,649	$6,782
37	-	-	-	-	$6,918

2007-2008 Principal and Assistant Principal Salary Schedules

	Classification			
Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-14	$4,775	-	-	-
15	$4,840	-	-	-
16	$4,904	$4,973	-	-
17	$4,973	$5,041	$5,185	-

18	$5,041	$5,114	$5,257	$5,331
19	$5,114	$5,185	$5,331	$5,407
20	$5,185	$5,257	$5,407	$5,485
21	$5,257	$5,331	$5,485	$5,564
22	$5,331	$5,407	$5,564	$5,675
23	$5,407	$5,485	$5,675	$5,789
24	$5,485	$5,564	$5,789	$5,905
25	$5,564	$5,675	$5,905	$6,023
26	$5,675	$5,789	$6,023	$6,143
27	$5,789	$5,905	$6,143	$6,266
28	$5,905	$6,023	$6,266	$6,391
29	$6,023	$6,143	$6,391	$6,519
30	$6,143	$6,266	$6,519	$6,649
31	$6,266	$6,391	$6,649	$6,782
32	$6,391	$6,519	$6,782	$6,918
33	$6,519	$6,649	$6,918	$7,056
34	$6,649	$6,782	$7,056	$7,197
35	$6,782	$6,918	$7,197	$7,341
36	$6,918	$7,056	$7,341	$7,488
37	$7,056	$7,197	$7,488	$7,638
38	$7,197	$7,341	$7,638	$7,791
39	-	$7,488	$7,791	$7,947
40	-	$7,638	$7,947	$8,106
41	-	-	$8,106	$8,268

SECTION 7.2.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 7.2.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of

the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 7.2.(e) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

SECTION 7.2.(f) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 7.2.(g) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 7.2.(h) Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 7.2.(i) During the 2007-2008 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

CENTRAL OFFICE SALARIES

SECTION 7.3.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2007-2008 fiscal year, beginning July 1, 2007.

School Administrator I	$3,217	$6,041
School Administrator II	$3,414	$6,407
School Administrator III	$3,624	$6,797
School Administrator IV	$3,770	$7,068
School Administrator V	$3,922	$7,354

School Administrator VI	$4,161	$7,799
School Administrator VII	$4,328	$8,113

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

SECTION 7.3.(b) The monthly salary ranges that follow apply to public school superintendents for the 2007-2008 fiscal year, beginning July 1, 2007.

Superintendent I	$4,594	$8,606
Superintendent II	$4,877	$9,126
Superintendent III	$5,174	$9,682
Superintendent IV	$5,491	$10,270
Superintendent V	$5,828	$10,896

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

SECTION 7.3.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 7.3.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

SECTION 7.3.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 7.3.(f) The annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be four percent (4%), commencing July 1, 2007. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing salary increases to these personnel.

NONCERTIFIED PERSONNEL SALARIES

SECTION 7.4.(a) The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be four percent (4%) commencing July 1, 2007.

SECTION 7.4.(b) Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2006-2007 and who continue their employment for fiscal year 2007-2008 by providing an annual salary increase for employees of four percent (4%).

For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 7.4.(c) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of four percent (4%) for the 2007-2008 fiscal year.

BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY SCHEDULES

SECTION 7.5. Effective July 1, 2007, any permanent certified personnel employed during the 2006-2007 school year and paid on the teacher salary schedule with 30+ years of experience during the 2006-2007 school year shall receive a one-time bonus equivalent to one and sixty-six hundredths of one percent (1.66%), the average increase of the 27 to 30 year steps on the 2006-2007 teacher salary schedule. Effective July 1, 2007, any permanent personnel employed during the 2006-2007 school year and paid at the top of the principal and assistant principal salary schedule during the 2006-2007 school year shall receive a one-time bonus equivalent to two percent (2%).

For permanent part-time personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 7.6.(a) Funds for Supplemental Funding. – The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement. Therefore, funds are appropriated to State Aid to Local School Administrative Units for the 2007-2008 fiscal year and the 2008-2009 fiscal year to be used for supplemental funds for the schools.

SECTION 7.6.(b) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only: (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks; (ii) for salary supplements for instructional personnel and instructional support personnel; and (iii) to pay an amount not to exceed ten thousand dollars ($10,000) of the plant operation contract cost charged by the Department of Public Instruction for services.

Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools, such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

SECTION 7.6.(c) Definitions. – As used in this section:

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the:

a. Anticipated county property tax revenue availability,

b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521, and
d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:
a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
c. Add to the resulting amount the:
1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:
a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

(12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(14) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.6.(d) Eligibility for Funds. – Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 7.6.(e) Allocation of Funds. – Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole

or in part in the county based on the average daily membership of the county's students in the school units.

If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

SECTION 7.6.(f) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 7.6.(g) Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only.

This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

SECTION 7.6.(h) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.6.(i) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2008, if it determines that counties have supplanted funds.

SECTION 7.6.(j) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for

the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.7.(a) Funds for Small School Systems. – Except as provided in subsections (b) and (g) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least seven hundred eighty-eight thousand seven hundred eighty-nine dollars ($788,789), excluding textbooks for the 2007-2008 fiscal year and a base of at least seven hundred eighty-eight thousand seven hundred eighty-nine dollars ($788,789) for the 2008-2009 fiscal year.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fully fund the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county school administrative units.

SECTION 7.7.(b) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a

finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.7.(c) Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula because of (i) an increase in the population of the county in which the local school administrative unit is located or (ii) an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be continued for seven years after the unit becomes ineligible.

SECTION 7.7.(d) Definitions. – As used in this section:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual adopted by the State Board of Education.

(2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State-adjusted property tax base per student" means the sum of all county-adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.7.(e) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2008, if it determines that counties have supplanted funds.

SECTION 7.7.(f) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

SECTION 7.7.(g) Of the expansion funds appropriated for small school system supplemental funding in this act, the sum of seven hundred eighty-four thousand seven hundred three dollars ($784,703) shall be distributed to county school administrative units that have less than 1,300 students and have experienced a decline in average daily membership since the 2001-2002 school year. These funds shall be used to reduce the ratio of students to teachers in grades K-5 by one, in grades 6-8 by two, and in grades 9-12 by three.

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING

SECTION 7.8.(a) Funds are appropriated in this act to address the capacity needs of local school administrative units to meet the needs of disadvantaged students. Each local school administrative unit shall use funds allocated to it for disadvantaged student supplemental funding to implement a plan jointly developed by the unit and the LEA Assistance Program team. The plan shall be based upon the needs of students in the unit not achieving grade-level proficiency. The plan shall detail how these funds shall be used in conjunction with all other supplemental funding allotments such as Low-Wealth, Small County, At-Risk Student Services/Alternative Schools, and Improving Student Accountability, to provide instructional and other services that meet the educational needs of these students. Prior to the allotment of disadvantaged student supplemental funds, the plan shall be approved by the State Board of Education.

Funds received for disadvantaged student supplemental funding shall be used, consistent with the policies and procedures adopted by the State Board of Education, only to:

(1) Provide instructional positions or instructional support positions and/or professional development;
(2) Provide intensive in-school and/or after-school remediation;
(3) Purchase diagnostic software and progress-monitoring tools; and
(4) Provide funds for teacher bonuses and supplements. The State Board of Education shall set a maximum percentage of the funds that may be used for this purpose.

The State Board of Education may require districts receiving funding under the Disadvantaged Student Supplemental Fund to purchase the Education Value Added Assessment System in order to provide in-depth analysis of student performance and help identify strategies for improving student achievement. This data shall be used exclusively for instructional and curriculum decisions made in the best interest of children and for professional development for their teachers and administrators.

SECTION 7.8.(b) Funds are appropriated in this act to evaluate the Disadvantaged Student Supplemental Funding Initiatives and Low-Wealth Initiatives. The State Board of Education shall use these funds to:

(1) Evaluate the strategies implemented by local school administrative units with Disadvantaged Student Supplemental Funds and Low-Wealth Funds and assess their impact on student performance; and

(2) Evaluate the efficiency and effectiveness of the technical assistance and support provided to local school administrative units by the Department of Public Instruction.

The State Board of Education shall report the results of the evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by January 15 of each year.

SECTION 7.8.(c) Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding shall be allotted based on: (i) the local school administrative unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

(1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:20.2;

(2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of 1:19.7;

(3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.4; and

(4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs shall receive no less than the DSSF amount allotted in 2006-2007.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula.

SECTION 7.8.(d) If a local school administrative unit's wealth increases to a level that adversely affects the unit's DSSF allotment ratio, the DSSF allotment for that unit shall be maintained at the prior year level for one additional fiscal year.

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

SECTION 7.9.(a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2.5%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed ten and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

SECTION 7.9.(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores "superior" on the standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency.

CHILDREN WITH DISABILITIES

SECTION 7.10. The State Board of Education shall allocate funds for children with disabilities on the basis of three thousand one hundred eighty-six dollars and fifty-seven cents ($3,186.57) per child for a maximum of 172,317 children for the 2007-2008 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2007-2008 allocated average daily membership in the local school administrative unit.

The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.11. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of one thousand forty-two dollars and fifty-three cents ($1,042.53) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2007-2008 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 58,470 children for the 2007-2008 school year.

The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY

SECTION 7.12.(a) Funds appropriated for the 2007-2008 and 2008-2009 fiscal years for Student Accountability Standards shall be used to assist students to perform at or above grade level in reading and mathematics in grades 3-8 as measured by the State's end-of-grade tests. The State Board of Education shall allocate these funds to local school administrative units based on the number of students who score at Level I or Level II on either reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation category shall be used to improve the academic performance of (i) students who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4 and 7. These funds may also be used to improve the academic performance of students who are performing at Level I or II on the high school end-of-course tests. These funds shall not be transferred to other allocation categories or otherwise used for other purposes. Except as otherwise provided by law,

local boards of education may transfer other funds available to them into this allocation category.

The principal of a school receiving these funds, in consultation with the faculty and the site-based management team, shall implement plans for expending these funds to improve the performance of students.

Local boards of education are encouraged to use federal funds such as Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

These funds shall be allocated to local school administrative units for the 2007-2008 fiscal year within 30 days of the date this act becomes law.

SECTION 7.12.(b) Funds appropriated for Student Accountability Standards shall not revert at the end of each fiscal year but shall remain available for expenditure until August 31 of the subsequent fiscal year.

LITIGATION RESERVE FUNDS

SECTION 7.13. The State Board of Education may expend up to two hundred thousand dollars ($200,000) each year for the 2007-2008 and 2008-2009 fiscal years from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.14.(a) The State Board of Education may impose any of the following conditions on allotments to local boards of education for replacement school buses:

(1) The local board of education shall use the funds only to make the first, second, or third year's payment on a financing contract entered into pursuant to G.S. 115C-528.

(2) The term of a financing contract entered into under this section shall not exceed three years.

(3) The local board of education shall purchase the buses only from vendors selected by the State Board of Education and on terms approved by the State Board of Education.

(4) The Department of Administration, Division of Purchase and Contract, in cooperation with the State Board of Education, shall solicit bids for the direct purchase of school buses and activity buses and shall establish a statewide term contract for use by the State Board of Education. Local boards of education and other agencies shall be eligible to purchase from the statewide term contract. The State Board of Education shall also solicit bids for the financing of school buses.

(5) A bus financed pursuant to this section shall meet all State and federal motor vehicle safety regulations for school buses.

(6) Any other condition the State Board of Education considers appropriate.

SECTION 7.14.(b) Any term contract for the purchase or lease-purchase of school buses or school activity buses shall not require vendor payment of the electronic procurement transaction fee of the North Carolina E-Procurement Service.

DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM

SECTION 7.15.(a) If the State Board of Education does not have sufficient resources in the ADM Contingency Reserve line item to make allotment adjustments in

accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual, the State Board of Education may use funds appropriated to State Aid for Public Schools for this purpose.

SECTION 7.15.(b) If the higher of the first or second month average daily membership in a local school administrative unit is at least two percent (2%) or 100 students lower than the anticipated average daily membership used for allotments for the unit, the State Board of Education shall reduce allotments for the unit. The reduced allotments shall be based on the higher of the first or second month average daily membership plus one-half of the number of students overestimated in the anticipated average daily membership.

The allotments reduced pursuant to this subsection shall include only those allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual.

MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS

SECTION 7.17.(a) The State Board of Education shall grant flexibility to a local board of education regarding the use of mentor funds to provide mentoring support, provided the local board submits a detailed plan on the use of the funds to the State Board and the State Board approves that plan. The plan shall include information on how all mentors in the local school administrative unit have been or will be adequately trained to provide mentoring support.

Local boards of education shall use funds allocated for mentor teachers to provide mentoring support to all State-paid newly certified teachers, second-year teachers who were assigned mentors during the prior school year, and entry-level instructional support personnel who have not previously been teachers.

SECTION 7.17.(b) The State Board, after consultation with the Professional Teaching Standards Commission, shall adopt standards for mentor training.

SECTION 7.17.(c) Each local board of education with a plan approved pursuant to subsection (a) of this section shall report to the State Board on the impact of its mentor program on teacher retention. The State Board shall analyze these reports to determine the characteristics of mentor programs that are most effective in retaining teachers and shall report its findings to the Joint Legislative Education Oversight Committee by October 15 of each year of the biennium.

SECTION 7.17.(d) In addition to the report required in subsection (c) of this section, the State shall also evaluate the effectiveness of a representative sample of local mentor programs and report on its findings to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by December 15 of each year of the biennium. The evaluation shall focus on quantitative evidence, quality of service delivery, and satisfaction of those involved. The report shall include the results of the evaluation and recommendations both for improving mentor programs generally and for an appropriate level of State support for mentor programs.

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.18.(a) The State Board of Education shall use funds appropriated in this act for State Aid to Local School Administrative Units to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2006-2007 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

(1) Incentive awards in schools that achieve higher than expected improvements may be:

a. Up to one thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and
b. Up to five hundred dollars ($500.00) for each teacher assistant.

(2) Incentive awards in schools that meet the expected improvements may be:
a. Up to seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and
b. Up to three hundred seventy-five dollars ($375.00) for each teacher assistant.

SECTION 7.18.(b) The State Board of Education may use funds appropriated to the State Public School Fund to implement the consolidated assistance program, as directed in Section 7.6(b) of S.L. 2006-66. The Board shall report to the Joint Legislative Education Oversight Committee by January 15, 2008, on any restructuring of the program pursuant to this section.

LEARN AND EARN HIGH SCHOOLS

SECTION 7.19.(a) Funds are appropriated in this act for the Learn and Earn high school workforce development program. The purpose of the program is to create rigorous and relevant high school options that provide students with the opportunity and assistance to earn an associate degree or two years of college credit by the conclusion of the year after their senior year in high school. The State Board of Education shall work closely with the Education Cabinet and the New Schools Project in administering the program.

SECTION 7.19.(b) These funds shall be used to establish new high schools in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and postsecondary college curricula operate seamlessly and meet the needs of participating employers.

Funds shall not be allotted until Learn and Earn high schools are certified as operational.

SECTION 7.19.(c) During the first year of its operation, a high school established under G.S. 115C-238.50 shall be allotted a principal regardless of the number of State-paid teachers assigned to the school or the number of students enrolled in the school. The budget flexibility authorized by G.S. 115C-105.25 does not apply to these positions.

SECTION 7.19.(d) The State Board of Education, in consultation with the State Board of Community Colleges and The University of North Carolina Board of Governors, shall conduct an annual evaluation of this program. The evaluation shall include measures as identified in G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability; (ii) recommended statutory and policy changes; and (iii) recommendations for improvement of the program. The State Board of Education shall report the results of this evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by January 15 of each fiscal year.

SECTION 7.19.(e) Enrollment fees and tuition for The University of North Carolina courses in which Learn and Earn students are enrolled are allowable uses of these funds. Tuition costs may include laboratory fees assessed to all students enrolled in the course or a similar course.

SECTION 7.19.(f) Textbooks required for college courses in which Learn and Earn students are enrolled may be purchased with these funds.

SECTION 7.19.(g) Payment of fees from these funds by local school administrative units to partnering community colleges and universities are restricted to technology or course fees. Funds appropriated in this act shall not be used to support the cost of athletic or other student activity or campus fees not required by enrollment in a specific course.

SECTION 7.19.(h) The State Board of Education shall allot funds for university enrollment, tuition and fees, and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in university courses. The State Board of Education shall allot funds for community college fees and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in community college courses.

SECTION 7.19.(i) Of the funds appropriated to the State Public School Fund for the 2007-2008 fiscal year, the State Board of Education may use up to eight hundred fifty thousand dollars ($850,000) to establish additional Learn and Earn high schools that become certified as operational.

NORTH CAROLINA VIRTUAL PUBLIC SCHOOL

SECTION 7.20.(a) The North Carolina Virtual Public School (NCVPS) program shall report to the State Board of Education and shall maintain an administrative office at the Department of Public Instruction.

SECTION 7.20.(b) The Director of NCVPS shall continue to ensure that course quality standards are established and met and that all e-learning opportunities offered by State-funded entities to public school students are consolidated under the North Carolina Virtual Public School Program, eliminating course duplication.

SECTION 7.20.(c) Subsequent to course consolidation, the Director shall prioritize e-learning course offerings for students residing in rural and low-wealth county LEAs, in order to expand available instructional opportunities. First-available e-learning instructional opportunities should include courses required as part of the standard course of study for high school graduation and AP offerings not otherwise available.

SECTION 7.20.(d) The State Board of Education shall implement an allotment formula developed pursuant to Section 7.16(d) of S.L. 2006-66, for funding e-learning, effective in the 2008-2009 fiscal year.

SECTION 7.20.(e) The North Carolina Virtual Public School (NCVPS) shall be available at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs. The Department of Public Instruction shall communicate to local school administrative units all applicable guidelines regarding the enrollment of nonpublic school students in these courses.

SMALL RESTRUCTURED HIGH SCHOOLS

SECTION 7.21. The State Board of Education shall report to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee no later than January 15 of each year on the results of its evaluation of the small, restructured high school program. The evaluation shall include measures as identified in G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability; and (ii) recommendations for improvement of the program.

NC WISE POSITIONS

SECTION 7.22. Notwithstanding G.S. 143C-6-4, the State Board of Education may, subject to the approval of the Office of State Budget and Management, in consultation with the Office of Information Technology Services, and after consultation with the Joint Legislative Commission on Governmental Operations, use funds appropriated in this act for NC WISE to create a maximum of 10 positions and incur expenditures necessary to maintain and administer the NC WISE system within the Department of Public Instruction.

21ST CENTURY LITERACY COACHES

SECTION 7.23. Funds are appropriated in this act to support the selection and hiring of new literacy coaches for middle schools or other public schools with an eighth grade class. No more than one literacy coach shall be placed in each such school. The State Board of Education, in consultation with the North Carolina Teacher Academy, shall develop a site selection process including formal criteria. The site must receive formal approval by the State Board of Education to receive funds for this purpose. To be selected schools must:

(1) Contain an eighth grade class, and

(2) Ensure that literacy coaches will have no administrative responsibilities in the schools in which they are placed.

MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL READINESS

SECTION 7.24.(a) The Department of Public Instruction shall continue the implementation of the "More at Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services and the Department of Public Instruction. The program shall include:

(1) A process and system for identifying children at risk of academic failure.

(2) A process and system for identifying children who are not being served in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.

(3) A curriculum or several curricula that are research-based and/or built on sound instructional theory. These curricula shall: (i) focus primarily on oral language and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.

(4) An emphasis on ongoing family involvement with the prekindergarten program.

(5) Evaluation of child progress through a statewide evaluation, as well as ongoing assessment of the children by teachers.

(6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.

(7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.

(8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services and the Department of Public Instruction. The Department may use the child care rating system to assist in determining program participation.

(9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth-to-kindergarten education.

(10) A local contribution. Programs must demonstrate that they are accessing resources other than "More at Four."

(11) A system of accountability.

(12) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services and the Department of Public Instruction shall consider the reallocation of existing funds from State and local programs that provide prekindergarten-related care and services.

SECTION 7.24.(b) The Department of Public Instruction shall implement a plan to expand "More at Four" program standards within existing resources to include four- and five-star-rated centers and schools serving four-year-olds and develop guidelines for these programs. The "NC Prekindergarten Program Standards" initiative shall recognize four- and five-star-rated centers that choose to apply and meet equivalent "More at Four" program standards as high quality pre-k classrooms. Classrooms meeting these standards shall have access to training and workshops for "More at Four" programs. Whenever expansion slots are available, these classrooms shall have first priority to receive them.

The "More at Four" program shall review the number of slots filled by counties on a monthly basis and shift the unfilled slots to counties with waiting lists. The shifting of slots shall occur through January 31 of each year, at which time any remaining funds for slots unfilled shall be used to meet the needs of the waiting list for subsidized child care.

SECTION 7.24.(c) The Department of Public Instruction shall submit a report by February 1, 2008, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division. This final report shall include the following:

(1) The number of children participating in the program.

(2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.

(3) The expected expenditures for the programs and the source of the local match for each grantee.

(4) The location of program sites and the corresponding number of children participating in the program at each site.

(5) A comprehensive cost analysis of the program, including the cost per child served by the program.

(6) The status of the NC Prekindergarten initiatives as outlined in this section.

SECTION 7.24.(d) For the 2007-2008 and the 2008-2009 fiscal years, the "More at Four" program shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors.

SECTION 7.24.(e) The "More at Four" program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of existing four-year-old classrooms with "More at Four" program funding shall be permitted when current funding is eliminated, reduced, or redirected as required to meet other specified federal or State educational mandates.

ADMINISTRATIVE FUNDING FOR TEACHING FELLOWS PROGRAM

SECTION 7.25.(a) G.S. 115C-363.23A(f) reads as rewritten:

"(f) All funds appropriated to or otherwise received by the Teaching Fellows Program for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds, shall be placed in a revolving fund. This revolving fund shall be used for scholarship loans granted under the Teaching Fellows Program. With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used for campus and summer program support, and costs related to disbursement of awards and collection of loan repayments.

~~With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used by the~~ The Public School Forum, as administrator for the Teaching Fellows ~~Program, for~~ Program, may use up to eight hundred ten thousand dollars ($810,000) annually from the fund balance for costs associated with administration of the Teaching Fellows Program."

SECTION 7.25.(b) The funding provided for in this section shall be used to meet current administrative expenses of the Program and continue minority recruitment initiatives.

SECTION 7.25.(c) The Teaching Fellows Program shall report to the Joint Legislative Education Oversight Committee by March 15, 2008, on:

(1) Actual expenditures for the 2006-2007 fiscal year and budgeted expenditures for the 2007-2008 fiscal year for administration of the Program and

(2) Initiatives to recruit minorities to the Program.

SECTION 7.25.(d) The General Assembly urges the North Carolina Teaching Fellows Commission to use funds available in the revolving fund to establish additional teaching fellows scholarships.

NO COST SUMMER SCHOOL OR OTHER REMEDIATION ACTIVITIES

SECTION 7.26.(a) G.S. 115C-105.41 prohibits charging tuition or fees to Students at Risk for Academic Failure. Effective July 1, 2007, local school administrative units shall formally communicate to at-risk students and their parents or guardians that there will be no charge for participation in intervention activities/practices offered by the local school administrative units to at-risk students, or for transportation necessary for participation in the intervention activities.

SECTION 7.26.(b) Effective July 1, 2007, local school administrative units shall formally communicate to students and their parents or guardians that tuition and

fees will not be charged for summer school courses that are required for remediation or courses that are necessary for the student to meet graduation requirements.

LEARN AND EARN ONLINE

SECTION 7.27.(a) Funds are appropriated in this act for the Learn and Earn Online program. This program will allow high school students to enroll in college courses to qualify for college credit. Online courses will be made available to students through The University of North Carolina and the North Carolina Community College System.

SECTION 7.27.(b) Funds shall be used for course tuition, and only those technology and course fees, and textbooks required for course participation. Funds shall also support a liaison position to be housed at the Department of Public Instruction to coordinate with The University of North Carolina and the North Carolina Community College System, and to communicate course availability and related information to high school administrators, teachers, and counselors.

SECTION 7.27.(c) The State Board of Education shall determine the allocation of Learn and Earn Online course offerings across the State.

SECTION 7.27.(d) The State Board of Education shall allot funds for tuition, fees, and textbooks on the basis of and after verification of the credit hour enrollment of high school students in Learn and Earn Online courses. Community college student enrollments in Learn and Earn Online shall not be considered as a regular budget full-time equivalent (FTE) in the curriculum enrollment formula, but shall be accounted for separately and funds shall be allotted as a special allotment.

SECTION 7.27.(e) The University of North Carolina program shall report to The University of North Carolina Board of Governors, and the North Carolina Community College program shall report to the North Carolina Community College Board of Trustees. The Department of Public Instruction shall report to the State Board of Education.

SECTION 7.27.(f) Both The University of North Carolina and the North Carolina Community College System shall provide oversight and coordination, including coordination with the Department of Public Instruction, and with the North Carolina Virtual Public School (NCVPS) to avoid course duplication.

SECTION 7.27.(g) Course quality and rigor standards shall be established, and each program shall conduct course evaluations to ensure that the online courses made available to students meet the established standards.

SECTION 7.27.(h) The State Board of Education, The University of North Carolina, and the North Carolina Community College System shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than April 15, 2008, on the implementation of the program for the 2007-2008 school year and the proposed operating plan for the 2008-2009 school year. The report shall include the number of students enrolled in courses under the Learn and Earn Online program and the number of students who completed courses during the fall semester of the 2007-2008 school year.

SCHOOL CONNECTIVITY INITIATIVE

SECTION 7.28.(a) Funds are appropriated in this act to support the enhancement of the technology infrastructure for public schools. These funds shall be used for broadband access, equipment, and support services that create, improve, and sustain equity of access for instructional opportunities for public school students and educators.

SECTION 7.28.(b) As recommended in the Joint Report on Information Technology February 2007, the State Board of Education shall contract with an entity that has existing core network capability and demonstrated success in providing network services to education institutions within the State to serve as the administrator of the School Connectivity Initiative. The funds appropriated in this act shall be used to implement a plan approved by the State Board of Education to enhance the technology infrastructure for public schools that supports teaching and learning in the classrooms. The plan shall include the following components:

(1) A business plan with time lines, clearly defined outcomes, and an operational model including a governance structure, personnel, e-Rate reimbursement, support services to local school administrative units and schools, and a budget;
(2) Assurances for a fair and open bidding and contracting process;
(3) Technology assessment site survey template;
(4) Documentation of technology assessments;
(5) Documentation of how the technology will be used to enhance teaching and learning;
(6) Documentation of how existing State-invested funds for technology are maximized to implement the School Connectivity Initiative; and
(7) The number, location, and schedule of sites to be served in 2007-2008 and in 2008-2009.

SECTION 7.28.(c) Funds currently used for the services covered by these new funds shall not be supplanted by this additional funding and shall be used to support instructional technologies and local infrastructure in schools in support of acquisition and delivery of instructional technology resources to the classroom. Any refunds received for services paid with these technology funds shall return to the originating technology fund.

SECTION 7.28.(d) The State Board of Education shall report January 15, 2008, on its progress towards achieving the connectivity initiative and annually thereafter to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

SECTION 7.28.(e) As recommended in the E-Learning Report, February 2006, the Education Cabinet shall develop a plan to:

(1) Coordinate E-learning activities across the public and private universities and colleges, the community colleges, and the public schools;
(2) Establish a clear purpose and goals for the NCVirtual based on stakeholder needs and requirements;
(3) Develop a strategic plan with measurable goals with reports provided to the Education Cabinet;
(4) Develop, track, and report regularly to the Education Cabinet on appropriate accountability measures for those goals;
(5) Develop and manage an E-learning portal for the NCVirtual; and
(6) Use State-invested funds for E-Learning to eliminate duplication of service.

SECTION 7.28.(f) Up to three hundred thousand dollars ($300,000) may be transferred to the Office of the Governor to establish NCVirtual (NCV) within the Education Cabinet. These funds may be used for services to coordinate E-learning activities across all State educational agencies.

SECTION 7.28.(g) The Education Cabinet shall report on its progress towards developing the plan on January 1, 2008, and annually thereafter to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.29.(a) Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may reorganize in accordance with the plan adopted by the State Board of Education. The Department shall report to the Joint Legislative Commission on Governmental Operations on the reorganization.

SECTION 7.29.(b) This section expires June 30, 2008.

HIGH PRIORITY SCHOOLS

SECTION 7.34.(a) The State Board of Education may develop a policy for a two-year phaseout of the special supplementary funding currently provided to the two remaining high priority elementary schools and may use funds in the ADM Contingency Reserve to support any additional cost of the two-year phaseout.

SECTION 7.34.(b) The State Board of Education shall not use funds appropriated for State Aid to Local Administrative Units to contract with an outside organization to evaluate the high priority schools initiative begun in the 2001-2002 fiscal year. The Board may, however, use up to five hundred thousand dollars ($500,000) previously identified for this purpose to support the ongoing evaluation of the Disadvantaged Student Supplemental Funding Initiative.

DISTANCE EDUCATION

SECTION 7.35. Notwithstanding G.S. 143C-6-4, the State Board of Education may use monies from the State Public School Fund in the 2007-2008 fiscal year only to pay for the additional costs associated with an increased number of registration fees for students enrolling in Distance Education courses.

CHILD NUTRITION OPERATING FUNDS

SECTION 7.36. The State Board of Education shall establish a reimbursement formula for lunches served in public schools to help offset the cost of the elementary school lunches. This reimbursement shall be in addition to the amount of federal reimbursement for free and reduced-price lunches served.

PART VIII. COMMUNITY COLLEGES

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT

SECTION 8.1.(a) Funds appropriated to the Community Colleges System Office for the College Information System Project shall not revert at the end of the 2006-2007 fiscal year but shall remain available until expended.

SECTION 8.1.(b) Notwithstanding G.S. 143C-6-4, the Community Colleges System Office may, subject to the approval of the Office of State Budget and Management, in consultation with the Office of Information Technology Services, and after consultation with the Joint Legislative Commission on Governmental Operations, use funds appropriated in this act for the College Information System Project to create a maximum of 10 positions or incur expenditures necessary to transfer the maintenance and administration of the College Information System Project from the vendor to the

System Office. Personnel positions created pursuant to this subsection shall be located in community colleges across the State.

SECTION 8.1.(c) The Community Colleges System Office shall report on a quarterly basis to the Joint Legislative Education Oversight Committee on the implementation of the College Information System Project.

SECTION 8.1.(d) Subsection (a) of this section becomes effective June 30, 2007.

CARRYFORWARD OF EQUIPMENT FUNDS FOR COMMUNITY COLLEGES

SECTION 8.2.(a) Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community Colleges System Office may carry forward an amount not to exceed ten million dollars ($10,000,000) of the operating funds that were not reverted in fiscal year 2006-2007 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.2.(b) This section becomes effective June 30, 2007.

INSTRUCTIONAL RESOURCE ALLOCATION FORMULA

SECTION 8.3. The State Board of Community Colleges shall develop a new funding formula for library books and related instructional resources before distributing funds appropriated for this purpose for the 2007-2009 fiscal biennium. The revised instructional resource allocation formula shall reflect the availability of online subscription resources and electronic media and should include a base amount per college.

REPORT ON NCCCS DISTANCE LEARNING AND ONLINE CAPABILITIES

SECTION 8.4. The Community Colleges System Office shall report by March 1, 2008, to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management on its efforts regarding distance learning opportunities. This report shall complement the report authorized by the General Assembly in Part 6 of S.L. 2004-179 and shall address the following:

(1) The expenditure of funds appropriated in this act for bandwidth at community colleges, including a description of each community college's current bandwidth capacity;

(2) A five-year history of the number of courses offered and number of FTE students served through distance learning;

(3) Results from student and instructor evaluations of distance learning courses;

(4) Current and anticipated future joint efforts between the North Carolina Community College System and The University of North Carolina and North Carolina private colleges, regarding distance learning; and

(5) Analysis of necessary changes or enhancements to improve the sharing of distance learning and online opportunities with The University of North Carolina and the Department of Public Instruction.

COMMUNITY COLLEGE FACULTY SALARY PLAN

SECTION 8.5.(a) It is the intent of the General Assembly to establish a community college faculty salary plan that (i) provides accountability to the General Assembly, (ii) maintains local flexibility and autonomy for the community colleges, and

(iii) ensures that community college faculty members have a uniform minimum salary based on level of education, equivalent applicable experience, or both.

SECTION 8.5.(b) The minimum salaries for community college faculty shall be based on the following education levels:

(1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.

(2) Associate Degree or Equivalent. – This education level includes faculty members who have an associate degree or have completed two or more years of college but have no degree.

(3) Bachelor's Degree.

(4) Master's Degree or Education Specialist.

(5) Doctoral Degree.

SECTION 8.5.(c) For the 2007-2008 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	$33,314
Associate Degree or Equivalent	$33,805
Bachelor's Degree	$35,931
Master's Degree or Education Specialist	$37,817
Doctoral Degree	$40,537.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 8.5.(d)

(1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:

a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.

b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.

c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.

d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.

e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average

community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

Except as provided by subdivision (2) of this subsection, a community college shall not transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by this subsection.

(2) With the approval of the State Board of Community Colleges, a community college at which the average faculty salary is eighty-five percent (85%) or less of the national average may transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by sub-subdivision e. of subdivision (1) of this subsection. The State Board shall approve the transfer only for purposes that directly affect student services.

The State Board of Community Colleges shall adopt guidelines to implement the provisions of this subdivision.

(3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industries to increase faculty salaries.

SECTION 8.5.(e) As used in this section:

(1) "Average faculty salary at a community college" means the total nine-month salary from all sources of all nine-month, full-time, curriculum faculty at the college, as determined by the North Carolina Community College System on October 1 of each year.

(2) "National average community college faculty salary" means the nine-month, full-time, curriculum salary average, as published by the Integrated Postsecondary Education Data System (IPEDS), for the most recent year for which data are available.

SECTION 8.5.(f) The State Board of Community Colleges shall adopt guidelines to implement the provisions of this section.

SECTION 8.5.(g) The State Board of Community Colleges shall report to the appropriations subcommittees on education, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2007, and every year thereafter through December 1, 2009, on the implementation of this section.

STUDY COMMUNITY COLLEGE ACCESS

SECTION 8.6. The Joint Legislative Education Oversight Committee shall conduct a study to determine whether the North Carolina Community College System is appropriately organized to provide adequate geographic access, while minimizing overhead costs. Specifically, the Committee shall review the organization and structure of the Community College System, the number of colleges and satellite campuses within the System, and the location and size of the colleges. The Committee shall also study the State Board of Community Colleges' policy and procedure for approving new programs and whether the State could realize any savings from consolidating high-cost programs at regional locations.

COMMUNITY COLLEGE CONNECTIVITY FUNDS

SECTION 8.7. In expending funds appropriated for increasing the bandwidth capacity among the colleges of the North Carolina Community College System, the Community Colleges System Office shall seek the best value among

information technology providers in order to maximize online instruction, provide accurate data transmission, and utilize video services.

STUDY OF FTE FUNDING FORMULA

SECTION 8.8. The Fiscal Research Division, in consultation with the North Carolina Community College System, shall consider modifications to community college funding formulas to ensure that colleges have sufficient funds to adequately serve students when enrollment increases. In the course of the study, the Fiscal Research Division shall:

(1) Make findings and recommendations for a new formula budget computation for the Basic Skills Block Grant, which has not been reviewed for at least two decades and may be impacted by potential changes in the allocation of federal funds for literacy education through the Workforce Investment Act, Title II;

(2) Consider whether funding for equipment and instructional resources should be incorporated into the FTE funding formula;

(3) Make findings and recommendations regarding the appropriateness of adjusting the "Other Costs" factors in the Instructional and Institutional Support formulas; and

(4) Review the Institutional Support formula to determine whether funding is appropriately allocated between the Base Allotment and Enrollment Allotment.

The Fiscal Research Division shall report the results of its study to the Joint Legislative Education Oversight Committee and to the chairs of the Senate Committee on Appropriations/Base Budget and the House of Representatives Appropriations Committee by April 15, 2008.

REALIGNMENT OF STATE AID ALLOCATIONS

SECTION 8.9. The State Board of Community Colleges shall examine new State Aid allocation options that more closely align the allocation and expenditure of State-appropriated resources. The State Board shall realign the 2007-2008 formula budget computation to incorporate the Academic Support Supplement into the Institutional Support Formula.

EDUCATION INSIGHT PROJECT EXEMPT FROM CERTAIN INFORMATION TECHNOLOGY LAWS

SECTION 8.12.(a) Except as provided by subsection (b) of this section, and notwithstanding any other provision of law, the North Carolina Community College System and the Department of Public Instruction are exempt from the provisions of Article 3D of Chapter 147 of the General Statutes with regard to their participation in the Birth-20 Education Insight Project, which is a collaborative effort between The University of North Carolina, the North Carolina Community College System, the Department of Public Instruction, and private information technology providers.

SECTION 8.12.(b) The exemption provided by this act does not relieve the North Carolina Community College System and the Department of Public Instruction from information technology security responsibilities under G.S. 147-33.111.

PART IX. UNIVERSITIES

NC SCHOOL OF SCIENCE AND MATHEMATICS ENROLLMENT GROWTH FORMULA

SECTION 9.1. The Office of State Budget and Management jointly with The University of North Carolina and the Fiscal Research Division of the General Assembly shall conduct a study to create a formula for enrollment growth at the North Carolina School of Science and Mathematics. This formula shall be used to calculate the amount of funds needed for enrollment growth for the North Carolina School of Science and Mathematics. The formula shall also be used for calculating the enrollment growth funding request to be submitted to the 2008 Session of the North Carolina General Assembly.

REPORTING ON UNC FACULTY WORKLOAD

SECTION 9.2.(a) The Board of Governors of The University of North Carolina shall conduct a study on faculty workload at The University of North Carolina. The study shall be done using the Delaware Study Method of collecting data. Information in the report shall include all of the following:

(1) The faculty workload data for each constituent institution of The University of North Carolina compared to The University of North Carolina enrollment model.

(2) The University of North Carolina faculty workload average as compared to The University of North Carolina enrollment model student credit hours per instructional position.

(3) The faculty workload of regional and peer institutions as compared to each constituent institution faculty average and to The University of North Carolina faculty workload average.

SECTION 9.2.(b) The Board of Governors of The University of North Carolina shall submit the study report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than March 1, 2008.

USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS

SECTION 9.3.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of seventy-five million six hundred thirty-eight thousand sixteen dollars ($75,638,016) for the 2007-2008 fiscal year and the sum of seventy-five million six hundred thirty-eight thousand sixteen dollars ($75,638,016) for the 2008-2009 fiscal year. There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars ($13,981,202) for the 2007-2008 fiscal year and the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars ($13,981,202) for the 2008-2009 fiscal year. There is appropriated from the Escheat Fund income to the Department of Administration, Division of Veterans Affairs, the sum of six million two hundred twenty-eight thousand six hundred thirty-three dollars ($6,228,633) for the 2007-2008 fiscal year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars ($6,520,964) for the 2008-2009 fiscal year. The funds appropriated by this subsection shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

If the interest income generated from the Escheat Fund is less than the amounts referenced in this subsection, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this subsection; however, under no circumstances shall the Escheat Fund principal be reduced below the sum of four hundred million dollars ($400,000,000).

SECTION 9.3.(b) The North Carolina State Education Assistance Authority (SEAA) shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the Scholarship Programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and the Community College System regarding the respective scholarship programs, and then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 9.3.(c) There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of one million one hundred fifty-seven thousand dollars ($1,157,000) for the 2007-2008 fiscal year and the sum of one million one hundred fifty-seven thousand dollars ($1,157,000) for the 2008-2009 fiscal year to be allocated to the SEAA for need-based student financial aid to be used in accordance with G.S. 116B-7 and this act. The SEAA shall use these funds only to provide scholarship loans (known as the Millennium Teaching Scholarship Loan Program) to North Carolina high school seniors interested in preparing to teach in the State's public schools who also enroll at any of the Historically Black Colleges and Universities that do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred dollars ($6,500) each shall be given to Elizabeth City State University, Fayetteville State University, and Winston-Salem State University, the three universities without any Teaching Fellows, for the purposes specified in this subsection. The SEAA shall administer these funds and shall establish any additional criteria needed to award these scholarship loans, the conditions for forgiving the loans, and the collection of the loan repayments when necessary.

SECTION 9.3.(d) All obligations to students for uses of the funds set out in this section that were made prior to the effective date of this section shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS

SECTION 9.4.(a) Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.9. Board of Governors' Medical Scholarship Loan Program.**

(a) Administration of Medical Scholarship Loan Program. – The Board of Governors' Medical Scholarship Loan Program was established by the Board of Governors of The University of North Carolina. The Board of Governors' Medical Scholarship Loan Program operates under the purview of the Board of Governors and is administered by the Board of Governors.

(b) Medical Scholarship Loan Program. – Pursuant to this section, the Board of Governors' Medical Scholarship Loan Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers, and an annual stipend of five thousand dollars ($5,000) per year to any student who has been accepted for admission to the Duke University School of Medicine, the Brody School of Medicine at East Carolina University, the University of North Carolina at Chapel Hill School of Medicine, or the Wake Forest University School of Medicine.

(c) Criteria for Awarding Scholarship Loans. – The Board of Governors may adopt standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board of Governors shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program.

(d) Terms of Scholarship Loans. – All awards made under this section shall be made as scholarship loans and shall be evidenced by notes made payable to the Board of Governors that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board of Governors. The Board of Governors shall forgive the loan if, within seven years after graduation, the recipient practices medicine in North Carolina for four years. The Board of Governors shall also forgive the loan if it finds that it is impossible for the recipient to practice medicine in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

(e) Reversions. – All unused funds appropriated to or otherwise received by the Board of Governors for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

SECTION 9.4.(b) This section becomes effective July 1, 2007, and applies to all awards from the Board of Governors' Medical Scholarship Program made to students admitted into medical school on or after July 1, 2007.

BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS

SECTION 9.5.(a) Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.10. Board of Governors' Dental Scholarship Loan Program.**

(a) Administration of Dental Scholarship Program. – The Board of Governors' Dental Scholarship Loan Program was established by the Board of Governors of The University of North Carolina. The Board of Governors' Dental Scholarship Loan Program operates under the purview of the Board of Governors and is administered by the Board of Governors.

(b) Dental Scholarship Loan Program. – Pursuant to this section, the Board of Governors' Dental Scholarship Loan Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers to any first-year students, required dental equipment, and an annual stipend of five thousand dollars ($5,000) per year to any student who has been accepted for admission to the School of Dentistry at the University of North Carolina at Chapel Hill.

(c) Criteria for Awarding Scholarship Loans. – The Board of Governors may adopt standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board of Governors shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program.

(d) Terms of Scholarship Loans. – All awards made under this section shall be made as scholarship loans and shall be evidenced by notes made payable to the Board that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board of Governors. The Board of Governors shall forgive the loan if, within seven years after graduation, the recipient practices dentistry in North Carolina for four years. The Board of Governors shall also forgive the loan if it finds that it is impossible for the recipient to practice dentistry in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

(e) Reversions. – All unused funds appropriated to or otherwise received by the Board for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

SECTION 9.5.(b) This section becomes effective July 1, 2007, and applies to all awards from the Board of Governors' Dental Scholarship Program made to students admitted to the School of Dentistry at the University of North Carolina at Chapel Hill on or after July 1, 2007.

GRADUATE NURSE SCHOLARSHIP LOANS FOR FULL-TIME NURSING FACULTY IN THE NC COMMUNITY COLLEGE SYSTEM

SECTION 9.6.(a) G.S. 90-171.100 reads as rewritten:

"**§ 90-171.100. Graduate Nurse Scholarship Program for Faculty Production established; administration.**

(a) There is established the Graduate Nurse Scholarship Program for Faculty Production. The North Carolina Nursing Scholars Commission shall determine selection criteria, methods of selection, and shall select recipients of scholarship loans made under the Graduate Nurse Scholarship Program for Faculty Production.

(b) The Graduate Nurse Scholarship Program for Faculty Production shall be used to provide the following:

(1) A scholarship loan for up to two years in the amount of fifteen thousand dollars ($15,000) per year, per recipient, to students enrolled in a masters degree program in nursing education or any other area of the nursing field that would permit them to become a nursing instructor at a North Carolina community college or university.

(2) A scholarship loan for up to three years in the amount of fifteen thousand dollars ($15,000) per year, per recipient, to students enrolled in a doctoral degree program in nursing education or any other area of the nursing field that would permit them to become a nursing instructor at a North Carolina community college or university.

(3) A scholarship loan for up to two years in the amount of fifteen thousand dollars ($15,000) per year, per recipient, to nursing faculty in the North Carolina Community College System enrolled in a master's degree program in nursing education.

(b1) The State Education Assistance Authority shall adopt specific rules to regulate these scholarship loans.

(c) If a recipient is awarded a scholarship loan under this program and is enrolled, or accepted for enrollment, in an eligible program, but is unable to pursue the course of study in nursing for a semester due to limited faculty resources at the institution for that semester, then the recipient shall continue to receive the scholarship loan for that semester and shall not be required to forfeit or repay the scholarship loan for that semester, provided that the recipient remains otherwise eligible for the program. This waiver shall be valid for only one semester of study and may extend a recipient's eligibility for funding under the program by no more than one semester.

(d) The Commission shall adopt stringent standards, which may include minimum grade point average, scholastic aptitude test scores, and other standards deemed appropriate by the Commission, to ensure that only the best potential students receive loans under the Graduate Nurse Scholarship Program for Faculty Production. Standards adopted by the Commission shall include provisions for ensuring that the qualifications of applicants who are or would be nontraditional students are considered fairly in providing them with opportunities to compete for the loans. Standards adopted

by the Commission shall also provide that community college nursing faculty receive preference in awarding scholarship loans under this section. Loans under the Graduate Nurse Scholarship Program for Faculty Production shall be awarded only to applicants who meet the standards set by the Commission and who agree to teach in a North Carolina public or private nursing program upon completion of the nursing education program supported by the loan. If a recipient under this section is a nursing faculty member at a community college, then as a condition of a scholarship loan received under G.S. 90-171.100(b)(3), the recipient shall agree to continue to work for the community college system in North Carolina as provided in G.S. 90-171.101(b).

(e) The Commission shall develop and administer the Graduate Nurse Scholarship Program for Faculty Production in cooperation with nursing schools at institutions approved by the Commission and the North Carolina Board of Nursing. The Graduate Nurse Scholarship Program for Faculty Production shall provide for participants to be exposed to a range of extracurricular activities while in school, which activities shall be aimed at instilling in students a strong motivation to remain in the practice of nursing education and to provide leadership for the nursing profession.

(f) The Commission shall make an effort to identify and encourage minority students and students who may not otherwise consider a career in nursing to apply for the Graduate Nurse Scholarship Program for Faculty Production.

(g) Upon the naming of recipients of loans from the Graduate Nurse Scholarship Program for Faculty Production, the Commission shall inform the State Education Assistance Authority (SEAA) of its decisions. The SEAA shall perform all of the administrative functions necessary to implement this Article, which functions shall include: rulemaking, dissemination of information to the public, distribution and receipt of applications for scholarship loans, and the functions necessary for the execution, payment, and enforcement of promissory notes required under this Article."

SECTION 9.6.(b) G.S. 90-171.101(b) reads as rewritten:

"(b) The State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient teaches in a public or private nursing education program in a public or private educational institution in North Carolina for one year for every year a scholarship loan was ~~provided.~~ provided; unless the recipient was a nursing faculty member of a community college. In those circumstances, the State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient teaches in a community college nursing education program in North Carolina for one year for every year a scholarship loan was provided. If the recipient repays the scholarship loan by cash payments, all indebtedness shall be repaid within 10 years. The Authority may provide for accelerated repayment and for less than full-time employment options to encourage the practice of nursing education in either geographic or nursing specialty shortage areas. The Authority shall adopt specific rules to designate these geographic areas and these nursing specialty shortage areas, upon recommendations of the North Carolina Center for Nursing. The North Carolina Center for Nursing shall base its recommendations on objective information provided by interested groups or agencies and upon objective information collected by the Center. The Authority may forgive the scholarship loan if it determines that it is impossible for the recipient to teach in a public or private nursing ~~program~~ program, or in a community college nursing program if that was a condition of the scholarship loan, in North Carolina for a sufficient time to repay the loan because of the death or permanent disability of the recipient within 10 years following graduation or termination of enrollment in a nursing education program."

ESTABLISH THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND (EARN)

SECTION 9.7.(a) Article 23 of Chapter 116 of the General Statutes is amended by adding the following new section to read:

"**§ 116-209.26. Education Access Rewards North Carolina Scholars Fund.**

(a) The following definitions apply to this section:

(1) Academic year. – A period of time in which a student in matriculated status is expected to complete the equivalent of at least two semesters' or three quarters' academic work.

(2) Eligible postsecondary institution. – A school that is:

a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4); or

b. A community college as defined in G.S. 115D-2(2).

(3) Matriculated status. – Being recognized as a first-time candidate for a degree or certificate, exclusive of any course credits earned while in high school, in a defined program of study at an eligible postsecondary institution.

(4) Title IV. – Title IV of the Higher Education Act of 1965, as amended.

(b) There is established the Education Access Rewards North Carolina Scholars Fund. The purpose of the Fund is to provide grants to certain eligible students to enable them to obtain an education beyond the high school level at certain postsecondary institutions in North Carolina without incurring student loans to meet their financial need during the first two years of their postsecondary education. The State Education Assistance Authority (SEAA) shall administer the Fund.

(c) Criteria for awarding the grants shall be developed by the SEAA and include all of the following:

(1) The student must qualify as a legal resident of North Carolina, a legal resident of the United States, and as a resident for tuition purposes in accordance with G.S. 116-143.1.

(2) Within seven months of the fiscal year in which the grant is to be disbursed, the student must have:

a. Graduated from a North Carolina high school;

b. Received a General Education Development (GED) Certificate from a North Carolina institution; or

c. Completed a high school education in a home school setting meeting the qualifications and requirements under G.S. 115C-564.

(3) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status on a full-time basis at an eligible postsecondary institution in North Carolina.

(4) The student must be an eligible dependent student. For purposes of this subdivision, an "eligible dependent student" is a student who:

a. Either is classified as dependent for the Title IV programs or is a ward or dependent of the court; and

b. Demonstrates total family income not exceeding two hundred percent (200%) of the applicable federal poverty guideline, according to standards set by the SEAA and measured using data elements available to the SEAA from the Free Application for Federal Student Aid (FAFSA) or such other source as the SEAA may deem appropriate.

(5) The student must meet all other eligibility requirements for the federal Pell Grant.

(6) In order to retain eligibility for a grant for the student's second academic year, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for Title IV programs by the eligible postsecondary institution in which the student is enrolled.

(7) The student may not receive a grant in an amount that, when combined with the federal Pell Grant, exceeds the student's cost of attendance as defined under Title IV.

(8) The student may not receive a grant under this section for more than the equivalent of two academic years.

(d) The maximum grant for which a student is eligible under this section shall be four thousand dollars ($4,000) per academic year. In the event there are not sufficient funds to provide each eligible student with the maximum grant, it is the intent of the General Assembly that eligible students who have matriculated into an eligible postsecondary institution in North Carolina with at least one academic year of college credit receive the maximum grant amount and all other eligible students shall receive a reduced grant amount.

(e) The grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the SEAA not inconsistent with this section.

(f) The State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee by December 1, 2009, and by each December 1 thereafter, regarding the Fund and grants awarded from the Fund.

(g) Grant funds unexpended shall remain available to the SEAA for future grants to be awarded under this section."

SECTION 9.7.(b) There is appropriated from the Escheat Fund to the State Education Assistance Authority the sum of fifty million dollars ($50,000,000) for the 2007-2008 fiscal year and the sum of fifty million dollars ($50,000,000) for the 2008-2009 fiscal year to implement this section. Notwithstanding subsection (a) of this section, no grant shall be disbursed to an eligible student under G.S. 116-209.26, as enacted by this act, before July 1, 2008.

MANAGEMENT FLEXIBILITY TO REORGANIZE BUDGET CODE 16012 UNC BOARD OF GOVERNORS RELATED EDUCATIONAL PROGRAMS

SECTION 9.8.(a) Notwithstanding G.S. 143C-6-4, for the 2007-2008 fiscal year, the General Administration of The University of North Carolina and the State Educational Assistance Authority shall, with the approval of the Office of State Budget and Management, reorganize budget code 16012, UNC Board of Governors Related Educational Programs, so that the budget reflects and segregates each specific program individually. The Office of State Budget and Management shall work with the University of North Carolina General Administration and the State Educational Assistance Authority to ensure that each program represented in code 16012 is identified and budgeted separately.

SECTION 9.8.(b) The University of North Carolina General Administration shall report the new budget structure for budget code 16012, as approved by the Office of State Budget and Management, to the Fiscal Research Division of the General Assembly no later than March 31, 2008.

FUTURE TEACHERS OF NC SCHOLARSHIP LOAN PROGRAM

SECTION 9.9. G.S. 116-209.38(a) reads as rewritten:

"(a) There is established the Future Teachers of North Carolina Scholarship Loan Fund. The purpose of the Fund is to provide a two-year scholarship loan of six thousand five hundred dollars ($6,500) per year for any North Carolina student pursuing a college degree to teach in the public schools of the State. The scholarship loan shall be paid only for the student's junior and senior years. The scholarship loan is available if the student is enrolled in a State institution of higher education or a private institution of higher education located in this State that has an accredited teacher preparation program for students planning to become certified teachers in North Carolina. The State Education Assistance Authority shall administer the Fund and shall award ~~100~~ 150 scholarship loans annually."

PRINCIPALS' EXECUTIVE PROGRAM

SECTION 9.10.(a) The operating budget of the Principals' Executive Program (PEP) is appropriated on a nonrecurring basis for the 2007-2009 fiscal biennium until the General Assembly receives data showing the program has a positive, measurable impact on conditions for teaching and learning in schools.

SECTION 9.10.(b) The Principals' Executive Program shall develop a formalized admissions policy that does all of the following:

(1) Gives priority to school administrators working in high-need schools so that State resources are targeted to those who most need support.

(2) Takes into account geographic diversity to ensure that school administrators statewide are served. If more school administrators seek admission than slots are available, the Principals' Executive Program shall retain those names and offer priority admission to those on the waiting list for the next class. The Principals' Executive Program shall also use these waiting lists to assess demand and determine how best to allocate resources among the various executive training courses.

SECTION 9.10.(c) The State Board of Education and the Board of Governors of The University of North Carolina shall recommend to the Joint Legislative Education Oversight Committee a plan to provide input on the Principals' Executive Program's priorities and feedback on its performance. This plan shall be presented no later than April 1, 2008.

REPEAL NORTH CAROLINA PROGRESS BOARD

SECTION 9.11. Part 2A of Article 9 of Chapter 143B of the General Statutes is repealed.

REVERT MOTORSPORTS CAPITAL ACCOUNT

SECTION 9.12. Effective June 30, 2007, the unencumbered balance of the funds appropriated to the NC Motor Sports Testing and Research Complex in Section 32.1 of S.L. 2004-124, as amended by Section 3 of S.L. 2004-184, shall revert to the General Fund.

ELIMINATE CENTER FOR NURSING

SECTION 9.14.(a) Article 9F of Chapter 90 of the General Statutes is repealed.

SECTION 9.14.(b) G.S. 90-171.62(b) reads as rewritten:

"(b) The State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient practices

nursing in North Carolina for one year for every year a scholarship loan was provided. If the recipient repays the scholarship loan by cash payments, all indebtedness shall be repaid within ten years. The Authority may provide for accelerated repayment and for less than full-time employment options to encourage the practice of nursing in either geographic or nursing specialty shortage areas. The Authority shall adopt specific rules to designate these geographic areas and these nursing specialty shortage ~~areas, upon recommendations of the North Carolina Center for Nursing. The North Carolina Center for Nursing shall base its recommendations on objective information provided by interested groups or agencies and upon objective information collected by the Center.~~ areas and may seek information from appropriate sources regarding geographic or nursing specialty shortage areas. The Authority may forgive the scholarship loan if it determines that it is impossible for the recipient to practice nursing in North Carolina for a sufficient time to repay the loan because of the death or permanent disability of the recipient within ten years following graduation or termination of enrollment in a nursing education program."

SECTION 9.14.(c) G.S. 90-171.101(b) reads as rewritten:

"(b) The State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient teaches in a public or private nursing education program in a public or private educational institution in North Carolina for one year for every year a scholarship loan was provided. If the recipient repays the scholarship loan by cash payments, all indebtedness shall be repaid within 10 years. The Authority may provide for accelerated repayment and for less than full-time employment options to encourage the practice of nursing education in either geographic or nursing specialty shortage areas. The Authority shall adopt specific rules to designate these geographic areas and these nursing specialty shortage ~~areas, upon recommendations of the North Carolina Center for Nursing. The North Carolina Center for Nursing shall base its recommendations on objective information provided by interested groups or agencies and upon objective information collected by the Center.~~ areas and may seek information from appropriate sources regarding geographic or nursing specialty shortage areas. The Authority may forgive the scholarship loan if it determines that it is impossible for the recipient to teach in a public or private nursing program in North Carolina for a sufficient time to repay the loan because of the death or permanent disability of the recipient within 10 years following graduation or termination of enrollment in a nursing education program."

SECTION 9.14.(d) G.S. 126-5(c1)(16) is repealed.

TRANSFER AGRICULTURAL RESEARCH STATIONS AND RESEARCH FARMS FROM THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO UNC BOARD OF GOVERNORS FOR NC STATE UNIVERSITY

SECTION 9.15.(a) The Division of Research Stations is transferred from the Department of Agriculture and Consumer Services to the Board of Governors of The University of North Carolina to be allocated to North Carolina State University. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The agricultural research stations and research farms transferred by this section shall be under the direction and control of North Carolina State University, in consultation with North Carolina Agricultural and Technical State University.

SECTION 9.15.(b) North Carolina State University is designated as the lead agency for all of the State's agricultural research stations and research farms, including those already under the direction and control of North Carolina State University on June 30, 2007, and those that are transferred to North Carolina State University by subsection

(a) of this section. As lead agency for the management of all of the State's agricultural research stations and research farms, North Carolina State University shall do all of the following:

(1) Manage the agricultural research stations and research farms pursuant to G.S. 116-40.9.

(2) Consolidate and downsize the agricultural research stations and research farms to make them operate more efficiently and to reduce administrative costs beginning with the 2008-2009 fiscal year.

(3) Evaluate each agricultural research station and research farm to determine which of the stations or farms should be retained by the State and which are noncritical and should be divested by the State.

SECTION 9.15.(c) North Carolina State University shall consult with North Carolina Agricultural and Technical State University, the Department of Agriculture and Consumer Services, the Farm Bureau, and other interested parties as appropriate in implementing subdivisions (2) and (3) of subsection (b) of this section. The Board of Governors of The University of North Carolina shall consult with North Carolina Agricultural and Technical State University prior to consolidating, downsizing, or closing any agricultural research station or research farm at which North Carolina Agricultural and Technical State University has ongoing research.

SECTION 9.15.(d) By March 15, 2008, North Carolina State University shall report its findings and recommendations regarding the implementation of this section to the Board of Governors of The University of North Carolina.

SECTION 9.15.(e) Notwithstanding G.S. 146-30, the proceeds from the sale of any agricultural research station or research farm sold pursuant to this section shall be reinvested in the State's agricultural research efforts, as determined by the Board of Governors of The University of North Carolina.

SECTION 9.15.(f) Part 3 of Article 1 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.9. State farms.**

State-owned farmland, including timberland, allocated to North Carolina State University, shall be managed by North Carolina State University, in consultation with North Carolina Agricultural and Technical State University, for research, teaching, and demonstration in agriculture, forestry, and aquaculture. Research projects on the State farms shall be approved by North Carolina State University. North Carolina State University may sell surplus commodities produced on the farms."

SECTION 9.15.(g) G.S. 106-22.1 is repealed.

SECTION 9.15.(h) G.S. 66-58(c)(1b) reads as rewritten:

"(c) The provisions of subsection (a) shall not prohibit:

...

(1b) The sale by North Carolina State University at University-owned facilities of dairy products, including ice cream, cheeses, milk-based beverages, and the by-products of heavy cream, produced by the Dairy and Process Applications Laboratory, so long as any profits are used to support the Department of Food Science and College of Agriculture and Life Sciences at North Carolina State University. The sale by North Carolina State University of surplus commodities on State farms, as allowed by G.S. 116-40.9.

...."

UNC ITEMIZED BUDGET REQUEST FOR 2009-2011 FISCAL BIENNIUM

SECTION 9.16. Notwithstanding any other provisions of law, for the 2009-2010 fiscal year and for the 2010-2011 fiscal year, the Board of Governors of The University of North Carolina shall submit an itemized budget request to the Director of the Budget for each of the constituent institutions, affiliated entities, and General Administration. The request shall contain the following information:

(1) A description of State-funded activities and a justification for the existence of each activity as aligned with the mission of The University of North Carolina.

(2) An itemized account of expenditures by personnel and non-personnel costs required to maintain the activity at the current level of service.

(3) An itemized account of progress made toward implementation of recommendations of the President's Advisory Committee on Efficiency and Effectiveness (PACE) and additional recommendations proposed and implemented by the chancellors of the constituent institutions.

(4) An itemized account of actual PACE cost savings and cost avoidance and the uses of the repurposed funds.

(5) A request for total required expenditures for the 2009-2010 fiscal year and for the 2010-2011 fiscal year showing increases and decreases that are properly and correctly aligned to reflect how the funds are to be expended for each activity.

STATE SUPPORT FOR HIGHER EDUCATION COSTS

SECTION 9.17.(a) Article 1 of Chapter 116 of the General Statutes is amended by adding a new Part to read:

"Part 2C. State Support Received By Students for Higher Education Costs.

"**§ 116-30.25. Information regarding State support received by students for higher education costs at constituent institutions.**

(a) The University of North Carolina General Administration shall develop methodology for reporting the approximate amount of total State support provided to students attending constituent institutions of The University of North Carolina.

(b) Each constituent institution shall provide to students, upon graduation, a letter detailing the approximate amount that the State of North Carolina contributed to the support of their education. The amount of State support shall be based on the methodology developed by the University of North Carolina General Administration pursuant to subsection (a) of this section.

(c) Each letter shall also provide an opportunity for students to donate to need-based scholarships. The President of The University of North Carolina shall establish a Need-Based Scholarship Trust Fund for receiving donations, and the proceeds shall be administered by the State Education Assistance Authority."

SECTION 9.17.(b) This section applies to the fall term of the 2007-2008 academic year and each subsequent academic term.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

PHYSICIAN SERVICES

SECTION 10.1. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

LIABILITY INSURANCE

SECTION 10.2.(a) The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars ($1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

SECTION 10.2.(b) The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

SECTION 10.2.(c) The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

FUNDS FOR JIM "CATFISH" HUNTER CHAPTER OF THE ALS ASSOCIATION

SECTION 10.3. Funds appropriated in this act for the Jim "Catfish" Hunter Chapter of the ALS Association shall be expended only for services provided within North Carolina.

DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES

SECTION 10.4. Subject to rules adopted by the State Controller, an employee of the Department of Health and Human Services may authorize, in writing, the periodic deduction from the employee's salary or wages for employment by the State, a designated lump sum to be paid to satisfy the cost of services received for child care provided by the Department.

NON-MEDICAID REIMBURSEMENT CHANGES

SECTION 10.5. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Rehabilitation Except DSB Over 55 Grant	Other
1	$8,364	$4,200
2	10,944	5,300
3	13,500	6,400
4	16,092	7,500
5	18,648	7,900
6	21,228	8,300
7	21,708	8,800
8	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Medical Eye Care Program in the Division of Services for the Blind shall be up to one hundred twenty-five percent (125%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income (% of poverty)	State Participation	Client Participation
0-150%	100%	0%

151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

COMMUNITY HEALTH CENTER CHANGES

SECTION 10.6.(a) Of the funds appropriated in this act for Community Health Grants, the sum of seven million dollars ($7,000,000) in recurring funds for the 2007-2008 fiscal year and the sum of two million dollars ($2,000,000)for the 2008-2009 fiscal year shall be allocated to federally qualified health centers and those health centers that meet the criteria for federally qualified health centers, State-designated rural health centers, free clinics, public health departments, school-based health centers, and other nonprofit organizations that provide primary and preventative medical services to uninsured or medically indigent patients to:

(1) Increase access to preventative and primary care services by uninsured or medically indigent patients in existing or new health center locations;

(2) Establish community health center services in counties where no such services exist;

(3) Create new services or augment existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health; and

(4) Increase capacity necessary to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

Grant funds may not be used to enhance or increase compensation or other benefits of personnel, administrators, directors, consultants, or any other parties. Grant funds may not be used to supplant federal funds traditionally received by federally qualified community health centers and may not be used to finance or satisfy any existing debt. In distributing funds, the Department of Health and Human Services shall consider the availability of other funds for the agency, the incidence of poverty or indigent clients served, arrangements for after-hours care, and collaboration with the applicant's community hospital and other safety-net organizations.

SECTION 10.6.(a1) Notwithstanding subsection (a) of this section, of the funds allocated in this section for the 2007-2008 fiscal year, the sum of three hundred seventy-five thousand dollars ($375,000) shall be used to provide a cost of operations increase to eligible school-based and school-linked adolescent health centers.

SECTION 10.6.(b) The Office shall work with the North Carolina Community Health Center Association (hereafter "NCCHCA") and the North Carolina Public Health Association (hereafter "NCPHA") to establish an advisory committee to develop an objective and equitable process for awarding grant funds. The Office shall also develop auditing and accountability procedures. Not more than one percent (1%) of the funds appropriated in this section may be used to reimburse the Office for administering the grant program in collaboration with the NCCHCA and the NCPHA.

SECTION 10.6.(c) Recipients of grant funds shall provide to the Office annually a written report detailing the number of additional uninsured and medically indigent patients that are cared for, the types of services that were provided, and any

other information requested by the Office as necessary for evaluating the success of the grant program.

SECTION 10.6.(d) The Office shall work with the NCCHCA and NCPHA to study and present recommendations for continuing funds to support the expansion of community health centers, State-designated rural health centers, and public health departments to serve more of the State's uninsured and indigent population. The Office shall submit the report to the 2008 Regular Session of the 2007 General Assembly upon its convening.

COLLABORATION AMONG DEPARTMENTS OF ADMINISTRATION, HEALTH AND HUMAN SERVICES, JUVENILE JUSTICE AND DELINQUENCY PREVENTION, AND PUBLIC INSTRUCTION ON SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE

SECTION 10.9.(a) School-Based Child and Family Team Initiative established. –

(1) Purpose and duties. – There is established the School-Based Child and Family Team Initiative. The purpose of the Initiative is to identify and coordinate appropriate community services and supports for children at risk of school failure or out-of-home placement in order to address the physical, social, legal, emotional, and developmental factors that affect academic performance. The Department of Health and Human Services, the Department of Public Instruction, the State Board of Education, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and other State agencies that provide services for children shall share responsibility and accountability to improve outcomes for these children and their families. The Initiative shall be based on the following principles:

a. The development of a strong infrastructure of interagency collaboration;
b. One child, one team, one plan;
c. Individualized strengths-based care;
d. Accountability;
e. Cultural competence;
f. Children at risk of school failure or out-of-home placement may enter the system through any participating agency;
g. Services shall be specified, delivered, and monitored through a unified Child and Family Plan that is outcome-oriented and evaluation-based;
h. Services shall be the most efficient in terms of cost and effectiveness and shall be delivered in the most natural settings possible;
i. Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable, permanent home, their schools, and their community; and
j. Families and consumers shall be involved in decision making throughout service planning, delivery, and monitoring.

(2) Program goals and services. – In order to ensure that children receiving services are appropriately served, the affected State and local agencies shall:

a. Increase capacity in the school setting to address the academic, health, mental health, social, and legal needs of children.
b. Ensure that children receiving services are screened initially to identify needs and assessed periodically to determine progress and sustained improvement in educational, health, safety, behavioral, and social outcomes.
c. Develop uniform screening mechanisms and a set of outcomes that are shared across affected agencies to measure children's progress in home, school, and community settings.
d. Promote practices that are known to be effective based upon research or national best practice standards.
e. Review services provided across affected State agencies to ensure that children's needs are met.
f. Eliminate cost shifting and facilitate cost-sharing among governmental agencies with respect to service development, service delivery, and monitoring for participating children and their families.
g. Participate in a local memorandum of agreement signed annually by the participating superintendent of the local LEA, directors of the county departments of social services and health, director of the local management entity, the chief district court judge, and the chief district court counselor.

(3) Local level responsibilities. – In coordination with the North Carolina Child and Family Leadership Council (Council), the local board of education shall establish the School-Based Child and Family Team Initiative (Initiative) at designated schools and shall appoint the Child and Family Team Leaders who shall be a school nurse and a school social worker. Each local management entity that has any selected schools in its catchment area shall appoint a Care Coordinator, and any department of social services that has a selected school in its catchment area shall appoint a Child and Family Teams Facilitator. The Care Coordinators and Child and Family Team Facilitators shall have as their sole responsibility working with the selected schools in their catchment areas and shall provide training to school-based personnel, as required. The Child and Family Team Leaders shall identify and screen children who are potentially at risk of academic failure or out-of-home placement due to physical, social, legal, emotional, or developmental factors. Based on the screening results, responsibility for developing, convening, and implementing the Child and Family Team Initiative is as follows:
a. School personnel shall take the lead role for those children and their families whose primary unmet needs are related to academic achievement.
b. The local management entity shall take the lead role for those children and their families whose primary unmet needs are related to mental health, substance abuse, or developmental disabilities and who meet the criteria for the target population established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

c. The local department of public health shall take the lead role for those children and their families whose primary unmet needs are health-related.
d. Local departments of social services shall take the lead for those children and their families whose primary unmet needs are related to child welfare, abuse, or neglect.
e. The chief district court counselor shall take the lead for those children and their families whose primary unmet needs are related to juvenile justice issues.

A representative from each named or otherwise identified publicly supported children's agency shall participate as a member of the Team as needed. Team members shall coordinate, monitor, and assure the successful implementation of a unified Child and Family Plan.

(4) Reporting requirements. – School-Based Child and Family Team Leaders shall provide data to the Council for inclusion in their report to the North Carolina General Assembly. The report shall include the following:
a. The number of and other demographic information on children screened and assigned to a team and a description of the services needed by and provided to these children;
b. The number of and information about children assigned to a team who are placed in programs or facilities outside the child's home or outside the child's county and the average length of stay in residential treatment;
c. The amount and source of funds expended to implement the Initiative;
d. Information on how families and consumers are involved in decision making throughout service planning, delivery, and monitoring;
e. Other information as required by the Council to evaluate success in local programs and ensure appropriate outcomes; and
f. Recommendations on needed improvements.

(5) Local advisory committee. – In each county with a participating school, the superintendent of the local LEA shall either identify an existing cross agency collaborative or council, or shall form a new group, to serve as a local advisory committee to work with the Initiative. Newly formed committees shall be chaired by the superintendent and one other member of the committee to be elected by the committee. The local advisory committee shall include the directors of the county departments of social services and health, the directors of the local management entity, the chief district court judge, the chief district court counselor, and representatives of other agencies providing services to children, as designated by the Committee. The members of the Committee shall meet as needed to monitor and support the successful implementation of the School-Based Child and Family Team Initiative.

The Local Child and Family Team Advisory Committee may designate existing cross agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

SECTION 10.9.(b) North Carolina Child and Family Leadership Council. –

(1) Leadership Council established; location. – There is established the North Carolina Child and Family Leadership Council (Council). The Council shall be located within the Department of Administration for organizational and budgetary purposes.

(2) Purpose. – The purpose of the Council is to review and advise the Governor in the development of the School-Based Child and Family Team Initiative and to ensure the active participation and collaboration in the Initiative by all State agencies and their local counterparts providing services to children in participating counties in order to increase the academic success and reduce out-of-home and out-of-county placements of children at risk of academic failure.

(3) Membership. – The Superintendent of Public Instruction and the Secretary of Health and Human Services shall serve as cochairs of the Council. Council membership shall include the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Chairman of the State Board of Education, the Director of the Administrative Office of the Courts, and other members as appointed by the Governor.

(4) The Council shall:

a. Sign an annual memorandum of agreement (MOA) among the named State agencies to define the purposes of the program and to ensure that program goals are accomplished.

b. Resolve State policy issues, as identified at the local level, which interfere with effective implementation of the School-Based Child and Family Team Initiative.

c. Direct the integration of resources, as needed, to meet goals and ensure that the Initiative promotes the most effective and efficient use of resources and eliminates duplication of effort.

d. Establish criteria for defining success in local programs and ensure appropriate outcomes.

e. Develop an evaluation process, based on expected outcomes, to ensure the goals and objectives of this Initiative are achieved.

f. Review progress made on integrating policies and resources across State agencies, reaching expected outcomes, and accomplishing other goals.

g. Report semiannually, on January 1 and July 1, on progress made and goals achieved to the Office of the Governor, the Joint Appropriations Committees and Subcommittees on Education, Justice and Public Safety, and Health and Human Services, and the Fiscal Research Division of the Legislative Services Office.

The Council may designate existing cross agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

SECTION 10.9.(c) Department of Health and Human Services. – The Secretary of the Department of Health and Human Services shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

SECTION 10.9.(d) Department of Juvenile Justice and Delinquency Prevention. – The Secretary of the Department of Juvenile Justice and Delinquency

Prevention shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

SECTION 10.9.(e) Administrative Office of the Courts. – The Director of the Administrative Office of the Courts shall ensure that the Office collaborates in the development and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

SECTION 10.9.(f) Department of Public Instruction. – The Superintendent of Public Instruction shall ensure that the Department collaborates in the development and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

COMPREHENSIVE TREATMENT SERVICES PROGRAM/ESTABLISHMENT OF TASK FORCE ON THE COORDINATION OF CHILDREN'S SERVICES

SECTION 10.10.(a) The Department of Health and Human Services shall continue the Comprehensive Treatment Services Program for children at risk for institutionalization or other out-of-home placement. The Program shall be implemented by the Department in consultation with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected State agencies. The purpose of the Program is to provide appropriate and medically necessary nonresidential and residential treatment alternatives for children at risk of institutionalization or other out-of-home placement. Program funds shall be targeted for non-Medicaid eligible children. Program funds may also be used to expand a system-of-care approach for services to children and their families statewide. The program shall include the following:

(1) Behavioral health screening for all children at risk of institutionalization or other out-of-home placement.

(2) Appropriate and medically necessary nonresidential and residential services for children within the child mental health deaf and hard of hearing target population.

(3) Appropriate and medically necessary nonresidential and residential treatment services, including placements for sexually aggressive youth.

(4) Appropriate and medically necessary nonresidential and residential treatment services, including placements for youth needing substance abuse treatment services and children with serious emotional disturbances.

(5) Multidisciplinary case management services, as needed.

(6) A system of utilization review specific to the nature and design of the Program.

(7) Mechanisms to ensure that children are not placed in department of social services custody for the purpose of obtaining mental health residential treatment services.

(8) Mechanisms to maximize current State and local funds and to expand use of Medicaid funds to accomplish the intent of this Program.

(9) Other appropriate components to accomplish the Program's purpose.

(10) The Secretary of the Department of Health and Human Services may enter into contracts with residential service providers.

(11) A system of identifying and tracking children placed outside of the family unit in group homes, therapeutic foster care home settings, and other out-of-home placements.

(12) The development of a strong infrastructure of interagency collaboration.
(13) Individualized strengths-based care.

SECTION 10.10.(b) In order to ensure that children at risk for institutionalization or other out-of-home placement are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these children:

(1) Provide only those treatment services that are medically necessary.
(2) Implement utilization review of services provided.
(3) Adopt the following guiding principles for the provision of services:
  a. Service delivery system must be outcome-oriented and evaluation-based.
  b. Services should be delivered as close as possible to the child's home.
  c. Services selected should be those that are most efficient in terms of cost and effectiveness.
  d. Services should not be provided solely for the convenience of the provider or the client.
  e. Families and consumers should be involved in decision making throughout treatment planning and delivery.
  f. Services shall be specified, delivered, and monitored through a unified Child and Family Plan incorporating the principles of one-child-one-team-one-plan.
  g. Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable, permanent home, their schools, and their community.
(4) Implement all of the following cost-reduction strategies:
  a. Preauthorization for all services except emergency services.
  b. Levels of care to assist in the development of treatment plans.
  c. Clinically appropriate services.

SECTION 10.10.(c) The Department shall collaborate with other affected State agencies such as the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, the Administrative Office of the Courts, and with local departments of social services, area mental health programs, and local education agencies to eliminate cost shifting and facilitate cost-sharing among these governmental agencies with respect to the treatment and placement services.

SECTION 10.10.(d) The Department shall not allocate funds appropriated for Program services until a Memorandum of Agreement has been executed between the Department of Health and Human Services, the Department of Public Instruction, and other affected State agencies. The Memorandum of Agreement shall address specifically the roles and responsibilities of the various departmental divisions and affected State agencies involved in the administration, financing, care, and placement of children at risk of institutionalization or other out-of-home placement. The Department shall not allocate funds appropriated in this act for the Program until the Memoranda of Agreement between local departments of social services, area mental health programs, local education agencies, the Administrative Office of the Courts, and the Department of Juvenile Justice and Delinquency Prevention, as appropriate, are executed to effectuate the purpose of the Program. The Memoranda of Agreement shall address issues pertinent to local implementation of the Program, including provision for the

immediate availability of student records to a local school administrative unit receiving a child placed in a residential setting outside the child's home county.

SECTION 10.10.(e) Notwithstanding any other provision of law to the contrary, services under the Comprehensive Treatment Services Program are not an entitlement for non-Medicaid eligible children served by the Program.

SECTION 10.10.(f) Of the funds appropriated in this act for the Comprehensive Treatment Services Program, the Department of Health and Human Services shall establish a reserve of three percent (3%) to ensure availability of these funds to address specialized needs for children with unique or highly complex problems.

SECTION 10.10.(g) The Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected agencies, shall report on the following Program information:

(1) The number and other demographic information of children served.
(2) The amount and source of funds expended to implement the Program.
(3) Information regarding the number of children screened, specific placement of children, including the placement of children in programs or facilities outside of the child's home county, and treatment needs of children served.
(4) The average length of stay in residential treatment, transition, and return to home.
(5) The number of children diverted from institutions or other out-of-home placements such as training schools and State psychiatric hospitals and a description of the services provided.
(6) Recommendations on other areas of the Program that need to be improved.
(7) Other information relevant to successful implementation of the Program.

SECTION 10.10.(h) The Department shall report on the following Program funding information:

(1) The amount of Program funding allocated and expended by each LME.
(2) The amount of Program funds each LME transferred out of the Program to serve purposes other than those outlined by this Program and an explanation of why LMEs transferred the funding.
(3) Recommendations to improve the penetration rate of Program funds to serve the intended populations across the State.

SECTION 10.10.(i) Article 24 of Chapter 120 of the General Statutes reads as rewritten:

"Article 24.

"The Legislative Study Commission on Children and Youth.

"**§ 120-215. Commission created; purpose.**

There is created the Legislative Study Commission on Children and Youth. The purpose of the Commission is to study and evaluate the system of delivery of services to children and youth and to make recommendations to improve service delivery to meet present and future needs of the children and youth of this State. This study shall be a continuing one and the evaluation ongoing.

"**§ 120-216. Commission duties.**

The Commission shall have the following duties:

(1) Study the needs of children and youth. This study shall include, but is not limited to:

for two years. Members may be reappointed for two consecutive terms and may be appointed again after having been off the Commission for two years.

(c) Commission members shall receive no salary as a result of serving on the Commission and the Task Force on the Coordination of Children's Services but shall receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

"**§ 120-218. Commission meetings; public hearings; staff.**

(a) The Commission shall hold its initial meeting at the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Subsequent meetings shall be held upon the call of the Commission cochairs. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint a cochair each from the membership of the Commission.

(b) The Commission may hold public hearings across the State to solicit public input with respect to issues relating to children and youth.

(c) The Commission may contract for clerical or professional staff or for any other services it may require in the course of its ongoing study. At the request of the Commission, the Legislative Services Commission may supply members of the staff of the Legislative Services Office and clerical assistance to the Commission as the Legislative Services Commission considers appropriate. The Commission and the Task Force on the Coordination of Children's Services may, with the approval of the Legislative Services Commission, meet in the State Legislative Building or the Legislative Office Building.

"**§ 120-219. Commission reports.**

The Commission shall report to the General Assembly and to the Governor the results of its study and recommendations. A written report shall be submitted to each biennial session of the General Assembly at its convening.

"**§ 120-220. Commission authority.**

The Commission and the Task Force on the Coordination of Children's Services has the authority to obtain information and data from all State officers, agents, agencies, and departments, while in discharge of its duties, pursuant to G.S. 120-19, as if it were a committee of the General Assembly.

"**§ 120-221. Task Force on the Coordination of Children's Services.**

(a) There is created the Task Force on the Coordination of Children's Services, which shall be a Task Force of the Commission. The following members of the Commission shall serve on the Task Force:

(1) Five of the Commission members appointed by the Speaker of the House of Representatives, as follows:

a. The Commission member who serves on the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Commission member who is a member of the House of Representatives and who also serves on the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services,

b. The Commission member who is a local health director,

c. The Commission member who is the parent of a child at risk for behavioral, social, health, or safety problems or academic failure, and

d. The Commission member who is the director of a county department of social services.

(2) Five of the Commission members appointed by the President Pro Tempore of the Senate, as follows:

a. The Commission member who is a member of the Senate and serves on the Joint Legislative Education Oversight Committee, and the Commission member who serves on the Senate Appropriations Committee on Justice and Public Safety,
b. The Commission member who represents a local board of education,
c. The Commission member who is a representative of Action for Children of North Carolina, and
d. The Commission member who is the director of an area authority or county program.

(3) One designee of each of the following ex officio Commission members:
a. The Secretary of Health and Human Services,
b. The Superintendent of Public Instruction, and
c. The Secretary of Administration.

(4) Each cochair of the Commission shall appoint one of the Task Force members as cochair of the Task Force.

(b) The purpose of the Task Force is to study and recommend changes to the Commission, the Governor, and the General Assembly to improve collaboration and coordination among agencies that provide services to children, youth, and families with multiple service needs. Task Force recommendations shall include mechanisms for establishing clear State leadership, consistent policy direction, and increased accountability at the State and local levels. As part of its work, the Task Force shall:

(1) Identify existing State, regional, and local collaborative bodies (including their charges, scopes of authority, and accountability requirements) that have been created by legislation, administrative rule, or agency policy and that are charged with serving, protecting, or improving the well-being of North Carolina's children, youth, and families. Once it has identified the collaborative bodies, the Task Force shall consider how they could be consolidated, reorganized, or eliminated in order to improve their effectiveness and accountability, increase the likelihood that key players will actively participate, and reduce unnecessary duplication of effort. The Task Force shall also consider the creation of a mechanism for coordination and communication among the State and local collaborative bodies, incentives for collaboration, clarification of roles among agencies, and ways to monitor the extent to which groups are collaborating.

(2) Study the practices of agencies currently implementing a system of care platform of practices and make recommendations regarding whether to adopt those practices statewide and across child-serving agencies as the preferred mechanism for providing services to children, youth, and families. In examining this issue, the Task Force shall identify those State and local agencies that are currently implementing practices that are consistent with a system of care, those states that have implemented a system of care as a statewide policy initiative, and the extent to which a system of care is cost-effective.

(3) The Task Force shall also examine the following principles that are associated with a system of care and determine whether to recommend the adoption of a State policy that reflects these principles:
a. Services for children should promote success, safety, and permanence.

b. Services should be child- and family-centered, giving priority to keeping children with their families, in their home, school, and community.
c. Services should actively promote early identification and intervention.
d. Services should be designed to protect the rights of children.
e. Services shall be integrated and comprehensive, addressing the child's physical, educational, social, and emotional needs through a single child and family team.
f. Services shall be outcomes-accountable and tied to a unified child and family plan.
g. Agency resources and services shall be shared and coordinated.
h. Services shall be provided as close to home as appropriate in the least restrictive setting consistent with what is known to be effective.
i. Services shall be culturally competent.
j. Services shall address the unique strengths, needs, and potential of each child and family, and shall be sufficiently flexible to meet highly individualized child and family needs.
k. Management of the child-serving system is a responsibility shared among all public and private child-serving agencies that should be held collectively accountable for outcomes.

(4) In reviewing principles relating to a system of care, the Task Force shall determine whether they articulate goals that are measurable and if not, determine whether they could be modified to reflect measurable goals.

(5) Study any other issues the Task Force determines would improve coordination and collaboration among child-serving agencies.

(c) The Task Force shall report at least annually to the Commission or more frequently at the request of the cochairs of the Commission, and shall also report on April 1 of each year to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division."

SECTION 10.10.(j) Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. Professional staff shall be those assigned to subject areas or agencies involving child-serving programs administered by the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and the Department of Public Instruction. Clerical staff shall be furnished to the Task Force through the offices of the House of Representatives and Senate Directors of Legislative Assistants.

SECTION 10.10.(k) The Department shall report on April 1, 2008, and April 1, 2009, on the implementation of subsections (a) through (h) of this section. The reports required under this subsection shall be made to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

SENIOR CENTER OUTREACH

SECTION 10.11.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging and Adult Services, for the 2007-2009 fiscal biennium, shall be used by the Division of Aging and Adult Services to enhance senior center programs as follows:

(1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or

(2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

SECTION 10.11.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

(1) Formally endorse the need for such a center;

(2) Formally agree on the sponsoring agency for the center; and

(3) Make a formal commitment to use local funds to support the ongoing operation of the center.

SECTION 10.11.(c) State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

QUALITY IMPROVEMENT CONSULTATION PROGRAM FOR ADULT CARE HOMES

SECTION 10.12. The Department's Division of Aging and Adult Services shall develop a Quality Improvement Consultation Program for Adult Care Homes. The purpose of the Program is to promote better care and improve quality of life in a safe environment for residents in adult care homes through consultation and assistance with adult care home providers. The county departments of social services shall be responsible for implementation of the Program with all adult care homes located in the respective county, based on a timetable for statewide implementation.

The Division of Aging and Adult Services shall consult with adult care home providers, county departments of social services, consumer advocates, and other interested stakeholders and parties in the development of the Quality Improvement Consultation Program for Adult Care Homes.

The Program will address the following topics:

(1) Principles and philosophies that are resident-centered and promote independence, dignity, and choice for residents;

(2) Approaches to develop continuous quality improvement with a focus on resident satisfaction and optimal outcomes;

(3) Dissemination of best practice models that have been used successfully elsewhere;

(4) A determination of the availability of standardized instruments, and their use to the extent possible, to assess and measure adult care home performance according to quality of life indicators;

(5) Utilization of quality improvement plans for adult care homes that identify and resolve issues that adversely affect quality of care and services to residents. The plans include agreed upon time frames for completion of improvements and identification of needed resources;

(6) Training required to equip county departments of social services' staff to implement the Program;

(7) A distinction of roles between the regulatory role of the Department's Division of Facility Services and the quality improvement consultation

and monitoring responsibilities of the county departments of social services; and

(8) Identification of staffing and other resources needed to implement the Program.

The Division of Aging and Adult Services shall conduct a pilot of the Quality Improvement Consultation Program for Adult Care Homes. No more than four county departments of social services shall participate in the pilot. The Division of Aging and Adult Services shall consider geographic balance and size in carrying out the pilot. At the conclusion of the pilot, the Division of Aging and Adult Services shall make recommendations regarding the effectiveness of the Quality Improvement Consultation Program for Adult Care Homes. If the Division recommends expansion of the pilot to other counties or statewide implementation of the Program, its report shall include the cost and a proposed timetable for implementing these recommendations, including the identification of any necessary statutory and administrative rule changes. The recommendations shall be made to the Secretary of the Department of Health and Human Services, the North Carolina Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Subcommittee on Health and Human Services.

STATE-COUNTY SPECIAL ASSISTANCE

SECTION 10.13.(a) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars ($1,231) per month per resident.

SECTION 10.13.(b) Effective January 1, 2007, the maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred forty-eight dollars ($1,148) per month per resident unless adjusted by the Department in accordance with subsection (d) of this section.

SECTION 10.13.(c) The maximum monthly rate for residents in Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars ($1,515) per month per resident unless adjusted by the Department in accordance with subsection (d) of this section.

SECTION 10.13.(d) Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State-County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State-County Special Assistance set forth in subsections (b) and (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance and related transfer costs and responsibilities from State-County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Subject to approval by the

Centers for Medicare and Medicaid Service (CMS) and prior to implementing this section, the Department may disregard a limited amount of income for individuals whose countable income exceeds the adjusted State-County Special Assistance rate. The amount of the disregard shall not exceed the difference between the Special Assistance rate prior to the adjustment and the Special Assistance rate after the adjustment and shall be used to pay a portion of the cost of the ACH-PCS and reduce the Medicaid payment for the individual's personal care services provided in an adult care home. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of the services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.13.(e) Effective July 1, 2007, the Department of Health and Human Services shall recommend rates for State-County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates appropriate cost methodology and cost reports submitted by adult care homes that receive State-County Special Assistance funds and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers.

SPECIAL ASSISTANCE IN-HOME

SECTION 10.14.(a) Part 3 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-47.1. Special Assistance in-home payments.**

The Department of Health and Human Services may use funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special Assistance for Adults. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be seventy-five percent (75%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State."

SECTION 10.14.(b) For State fiscal year 2007-2008, qualified individuals shall not receive payments at rates less than they would have been eligible to receive in State fiscal year 2006-2007.

CHILD CARE SUBSIDY RATES

SECTION 10.15.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

SECTION 10.15.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

SECTION 10.15.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

SECTION 10.15.(d) Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 10.15.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

SECTION 10.15.(f) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the

General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

SECTION 10.15.(g) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.15.(h) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.

(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.

(3) The child for whom a child care subsidy is sought is a citizen of the United States.

CHILD CARE ALLOCATION FORMULA

SECTION 10.16.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

(1) Funds shall be allocated based upon the projected cost of serving children in a county under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.

(2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.

SECTION 10.16.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

SECTION 10.16.(c) Notwithstanding subsection (a) of this section, the Department of Health and Human Services shall allocate up to twelve million dollars ($12,000,000) in federal block grant funds and State funds appropriated for fiscal years 2007-2008 and 2008-2009 for child care services. These funds shall be allocated to prevent termination of child care services. Funds appropriated for specific purposes, including market rate adjustments, may also be allocated by the Department separately from the allocation formula described in subsection (a) of this section.

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 10.17.(a) No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds appropriated by this act unless federal law requires

a match. If the Department reallocates additional funds above twenty-five thousand dollars ($25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a fifteen percent (15%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).

SECTION 10.17.(b) If funds are reallocated to local purchasing agencies in accordance with subsection (a) of this section, the Department of Health and Human Services shall evaluate the fifteen percent (15%) local matching requirement to determine its effect on local purchasing agencies and whether the matching requirement should be adjusted. The Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2008.

CHILD CARE REVOLVING LOAN

SECTION 10.18. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

CHILD CARE MARKET RATE ADJUSTMENTS

SECTION 10.18A. Not later than October 1, 2007, the Department shall implement an adjustment to child care market rates, by region, based upon the 2007 Child Care Market Rate Study. Rate adjustments shall be implemented as follows:

(1) For three- to five-star child care center-based rates, counties in Region 1 shall receive twenty percent (20%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.

(2) For three- to five-star child care center-based rates, counties in Regions 2-5 shall receive thirty percent (30%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.

(3) For three- to five-star child care home-based rates, all counties shall receive ten percent (10%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS

SECTION 10.19.(a) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

SECTION 10.19.(b) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.

(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.
(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.
(4) For amounts of forty thousand dollars ($40,000) or more, a request for proposal process and advertising in a major newspaper.

SECTION 10.19.(c) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records.
(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
(3) Not include expenses funded by State funds.
(4) Be supplemental to and not supplant preexisting resources for related program activities.
(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
(6) Be otherwise allowable under federal or State law.
(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 10.19.(d) The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 10.19.(e) The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2007-2008 and 2008-2009 shall be administered and distributed in the following manner:

(1) Capital expenditures are prohibited for fiscal years 2007-2008 and 2008-2009. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143-34.40.

(2) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2007-2008 and 2008-2009.

SECTION 10.19.(f) A county may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes.

SECTION 10.19.(g) For fiscal years 2007-2008 and 2008-2009, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars ($52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

EQUAL ALLOCATIONS FOR EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES

SECTION 10.19A. The one million two hundred eighty-five thousand eight hundred seventy dollars ($1,285,870) appropriated in this act for the 2007-2008 fiscal year and the six million six hundred thirty-one thousand four hundred seventy-one dollars ($6,631,471) appropriated in this act for the 2008-2009 fiscal year to the Department of Health and Human Services, Division of Child Development, for the North Carolina Partnership for Children, Inc., shall be allocated equally in each fiscal year among the counties whose percent of need funded is below fifty percent (50%).

NCPC PERSONNEL RECORD PROTECTION

SECTION 10.19B.(a) G.S. 143B-168.12(a)(2) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

...

(2) The North Carolina Partnership and the local partnerships shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

...."

SECTION 10.19B.(b) G.S. 143B-168.14(a)(2) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

...

(2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

...."

EVALUATION OF EDUCATIONAL SERVICES TO STUDENTS WITH HEARING AND VISUAL IMPAIRMENTS

SECTION 10.20.(a) To ensure students with hearing and visual impairments are appropriately educated in this State, the Department of Health and Human Services and the Department of Public Instruction shall:

(1) Collaborate in an evaluation of the State's entire service delivery model for deaf and blind students, including special needs of the students resulting from additional disabilities other than hearing and visual impairments, the training needs of professional staff, access to assistive technology, and curriculum content.

(2) Determine whether the State's schools for the deaf and blind should remain under the purview of the Department of Health and Human Services or if management of the schools should be transferred to the Department of Public Instruction.

(3) Develop a plan to reduce institutional capacity to an appropriate level for meeting the needs of hearing and visually impaired students in North Carolina.

SECTION 10.20.(b) The Department of Health and Human Services and the Department of Public Instruction shall report their findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Education/Public Instruction, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division by April 1, 2008.

EARLY INTERVENTION SERVICES REPORT

SECTION 10.21.(a) The Department of Health and Human Services, Division of Public Health, shall report on Early Intervention services. The report shall include the following information for all children, ages birth to three years, entering the Early Intervention system as of July 1, 2007, through December 31, 2007:

(1) Children served: the number of children referred and the source of referral, the number of children receiving initial evaluations, the number of children determined eligible, the number of children enrolled, and the number of IFS Plans developed.

(2) Services provided: the number and types of evaluation services, treatment services, and other services provided and whether the service was provided by an employee of a children's developmental services agency or a private provider.

(3) Sliding scale participation: the percentage of enrolled children whose family income falls into each of the following categories: at or below two hundred percent (200%) of the federal poverty level, between two hundred fifty percent (250%) and three hundred percent (300%) of the

federal poverty level, between three hundred fifty percent (350%) and four hundred percent (400%) of the federal poverty level, and over four hundred percent (400%) of the federal poverty level. These percentages shall be reported based on gross income and net income after allowable deductions.

The Division of Public Health shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than February 1, 2008.

SECTION 10.21.(b) In order to reduce the amount of State funds appropriated for the Child Development Service Agency program and to increase the amount of receipts collected for the services provided by this program, a portion of the funding for the Child Development Service Agency is designated as a nonrecurring appropriation for the 2007-2008 and the 2008-2009 fiscal years. To achieve the purposes of this action by the General Assembly, the Department of Health and Human Services, Division of Public Health, shall engage in vigorous efforts to collect additional Medicaid and other third-party reimbursements from clients and their families. These efforts are necessary to offset any potential shortfall and may yield additional revenue that could be used to provide increased services to additional children. The Department of Health and Human Services, Division of Public Health, shall report on these efforts and the results to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than March 1, 2008.

COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

SECTION 10.22.(a) Of funds appropriated in this act from the General Fund to the Department of Health and Human Services, the sum of two million three hundred fifty-two thousand four hundred sixty-eight dollars ($2,352,468) for the 2007-2008 fiscal year and the sum of two million dollars ($2,000,000) for the 2008-2009 fiscal year shall be allocated for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) to provide grants-in-aid to local public health departments, American Indian tribes, and faith-based and community-based organizations to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to the health status of white persons. These grants shall focus on the use of preventive measures to support healthy lifestyles. The areas of focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and homicides and motor vehicle deaths.

The three hundred fifty-two thousand four hundred sixty-eight dollars ($352,468) in nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Health Disparities Initiative in the 2007-2008 fiscal year, shall be deposited into a special fund to be established by the Department as the Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and William Martin Minority Health Initiative Fund to honor the memory of and in recognition of the recent deaths of Senators Robert Holloman, Jeanne Lucas, and William Martin and Representatives Bernard Allen, John Hall, and Howard Hunter. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina. These efforts shall include:

(1) Providing enhanced education and outreach to minority populations on the prevention, diagnosis, and treatment of heart disease, breast cancer, diabetes, obesity, hypertension, sickle cell anemia, and HIV infection.
(2) Addressing cultural and communication barriers to quality care by improving interpersonal processes between clinicians and patients.

SECTION 10.22.(b) The Department of Health and Human Services shall report on the following with respect to funds appropriated to the CFEHDI program in fiscal years 2005-2006, 2006-2007, and 2007-2008. The report shall address for each fiscal year:

(1) Which community programs and local health departments received CFEHDI grants.
(2) What amount of funding did each program or local health department receive.
(3) Which of the minority populations were served by the programs or local health departments.
(4) Which counties were served by the programs or local health departments.
(5) What activities were planned and implemented by the programs or local health departments to fulfill the community focus of the CFEHDI program.

The report shall also contain a comprehensive evaluation of all grantees with regard to fulfilling the goals of the program, assessing the difference the funded activities have made in the community, and addressing and mitigating the health disparities identified in the Racial and Ethnic Health Disparities in North Carolina, Report Card 2006. In addition, the Department shall solicit from the grantees their observations and recommendations on ways the CFEHDI program can best accomplish its goals. The report shall also include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State. The Department shall submit the report not later than March 1, 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

FUNDS FOR SCHOOL NURSES

SECTION 10.23.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million one hundred thousand dollars ($2,100,000) for the 2007-2008 fiscal year and the sum of three million one hundred thousand dollars ($3,100,000) for the 2008-2009 fiscal year shall be used for the school nurse initiative. All funds appropriated or allocated for school nurses shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used for funding nurses for State agencies. All funds shall be used for direct services.

SECTION 10.23.(b) All school nurses funded with State funds shall participate, as needed, in child and family teams.

HEALTH PROMOTION AND DISEASE PREVENTION INVENTORY AND PLAN

SECTION 10.25.(a) In order to reduce costs and eliminate duplication of effort, the Department of Health and Human Services shall create an inventory of all of

the health promotion and disease prevention activities, including funding, staffing, and other resources for these activities and also including funding and resources for related task forces and committees. The inventory shall include at a minimum State and local health department activities that address tobacco-use prevention and cessation, obesity, improved nutrition and diet, physical exercise, public awareness and education concerning asthma, cancer, diabetes, heart disease, stroke, and accomplishment of the goals of the federal government's Healthy People 2010 Report.

SECTION 10.25.(b) The Department shall adopt a plan to combine the resources for the activities listed in subsection (a) of this section into a single funding stream allocation to be distributed to local health departments to utilize in accomplishing the 10 essential services of public health, which shall encompass all of the activities listed in subsection (a) of this section. The Department shall develop a formula that will distribute these funds on an equitable basis and that takes into consideration the following factors for areas served by each local health department:

(1) Rate of infant mortality.
(2) Rate of adolescent pregnancy.
(3) Rates of cancer, heart disease, and diabetes.
(4) Number of persons without health insurance.
(5) Median income.
(6) Percent of county population enrolled in Medicaid.
(7) Percent of the population that is minority.

SECTION 10.25.(c) The Department shall report on the inventory and the plan not later than February 1, 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

FUNDS FOR HEALTH CARE IN HONOR OF THE MEMORY OF SENATOR JEANNE H. LUCAS

SECTION 10.25A. Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Eliminating Health Disparities Initiative, the Breast and Cervical Cancer Control Program, and the Purchase of Medical Care for Cancer Treatment shall be allocated to a special fund established for each of those purposes and allocated as provided in this act and are appropriated to honor the memory of Senator Jeanne H. Lucas.

AIDS DRUG ASSISTANCE PROGRAM

SECTION 10.26. For the 2007-2008 fiscal year and the 2008-2009 fiscal year, the Department may adjust the financial eligibility criterion of the ADAP up to an amount not exceeding two hundred fifty percent (250%) of the federal poverty level in order to serve as many eligible North Carolinians living with HIV disease as possible within existing resources plus any new federal resources. If the Department raises the eligibility limit above one hundred twenty-five percent (125%) of the federal poverty level and a waiting list develops as a result, the Department shall give priority on the waiting list to those individuals at or below one hundred twenty-five percent (125%) of the federal poverty level.

DISEASE PREVENTION PROGRAMS

SECTION 10.27.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for HIV prevention may also be used by the State Health Director and local health departments to implement subsection

(b) of this section and other services that will further the purpose of communicable disease prevention. Funds may also be used to support peer-to-peer counseling.

SECTION 10.27.(b) Article 6 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"**§ 130A-150. Community-based safe-syringe program.**

(a) The State Health Director may designate up to three local health department applicants to develop and implement community-based programs ("safe-syringe programs") for safe-syringe services as part of a comprehensive disease prevention program. The State Health Director shall designate a local health department as one of the three programs only if the local board of health submits to the State Health Director letters of support for such a program from all of the following:

(1) The county board of commissioners.
(2) The local board of health.
(3) The local health director.
(4) The local director of the Mental Health, Developmental Disabilities, and Substance Abuse Services area or county program.

Selected programs shall include case management, outreach, and transportation services, and referrals for housing and medical care. A local board of health may adopt rules establishing additional criteria that shall be included in the safe-syringe program in that county or district. The State Health Director shall establish a mechanism for evaluating the implementation and effectiveness of selected safe-syringe programs.

(b) G.S. 90-113.22 and G.S. 90-113.23 do not apply to persons who are employees, volunteers, or participants in a community-based clean-syringe-safe-syringe program approved by the local board of health as authorized under this section. This immunity from prosecution under G.S. 90-113.22 and G.S. 90-113.23 applies only to acts committed while carrying out the person's duties as an employee or volunteer of a clean-syringe-safe-syringe program or during the course of a client's participation in the clean-syringe-safe-syringe exchange program."

CHILD SUPPORT PROGRAM/ENHANCED STANDARDS

SECTION 10.28.(a) The Department of Health and Human Services shall implement and maintain performance standards for each of the State and county child support enforcement offices across the State. These performance standards shall include the following:

(1) Cost per collections.
(2) Consumer satisfaction.
(3) Paternity establishments.
(4) Administrative costs.
(5) Orders established.
(6) Collections on arrearages.
(7) Location of absent parents.
(8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting that allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

SECTION 10.28.(b) The Department of Health and Human Services shall report on its progress, in compliance with this section, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives

Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1 of each even-numbered year beginning in 2008.

FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.29.(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) $390.00 per child per month for children aged birth through 5;
(2) $440.00 per child per month for children aged 6 through 12; and
(3) $490.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars ($15.00) is a special needs allowance for the child.

SECTION 10.29.(b) The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

(1) $390.00 per child per month for children aged birth through 5;
(2) $440.00 per child per month for children aged 6 through 12; and
(3) $490.00 per child per month for children aged 13 through 18.

SECTION 10.29.(c) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

SECTION 10.29.(d) The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per child per month with indeterminate HIV status;
(2) $1,000 per child per month confirmed HIV-infected, asymptomatic;
(3) $1,200 per child per month confirmed HIV-infected, symptomatic; and
(4) $1,600 per child per month terminally ill with complex care needs.

CHILD CARING INSTITUTIONS

SECTION 10.30. Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

SPECIAL CHILDREN ADOPTION FUND

SECTION 10.31.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one hundred thousand dollars ($100,000) shall be used to support the Special Children Adoption Fund for the 2007-2008 and 2008-2009 fiscal years. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose income exceeds two hundred percent (200%) of the federal poverty level.

SECTION 10.31.(b) Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2008, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

SECTION 10.31.(c) The Division of Social Services shall monitor the total expenditures in the Special Children Adoption Fund and redistribute unspent funds to ensure that the funds are used according to the guidelines established in subsection (a) of this section. The Division shall implement strategies to ensure that funds that have historically reverted for this program are used for the intended purpose.

LIMITATION ON STATE ABORTION FUND

SECTION 10.32. The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2007-2008 and 2008-2009 fiscal years.

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 10.33.(a) Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 10.33.(b) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

(1) An established follow-up system with a minimum of six months of follow-up services.
(2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.
(3) Cost-benefit data.
(4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
(5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
(6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 10.33.(c) The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

SECTION 10.33.(d) The Department shall report on the Intensive Family Preservation Services Program, including the information and data under subdivisions

(b)(2) through (b)(6) of this section, each even-numbered year beginning in 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

TANF BENEFIT IMPLEMENTATION

SECTION 10.35.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2007-2009", prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2007, through September 30, 2009. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2007 General Assembly.

SECTION 10.35.(b) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2007-2009 as approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, and Wilson.

SECTION 10.35.(c) Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2007 through 2009, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2007. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2007.

CLARIFY REVIEW AND SUBMISSION PROCESS FOR TANF STATE PLAN

SECTION 10.35A.(a) G.S. 108A-27.9(a) reads as rewritten:

"(a) The Department shall prepare and submit to the Director of the Budget a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department ~~shall submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for its review and then consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them.~~shall:

(1) Consult with local government and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from those organizations; and

(2) Upon complying with subdivision (1) of this subsection, submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for review."

SECTION 10.35A.(b) G.S. 108A-27.10(a) reads as rewritten:

"(a) The Director of the Budget shall, by May 15 of each ~~even-numbered calendar~~odd-numbered year, approve and recommend adoption by the General Assembly of the State Plan."

MEDICAID

SECTION 10.36.(a) Use of Funds, Allocation of Costs, Other Authorizations.

(1) Use of Funds. – Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy.

(2) Allocation of Nonfederal Cost of Medicaid. – Except as otherwise provided in this act, the State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004.

(3) Use of Funds for Development and Acquisition of Equipment and Software. – If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software and related operational costs through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed funds allocated for the 2007-2008 and 2008-2009 fiscal years for the new contract for the fiscal agent for the Medicaid Management Information System.

(4) Reports. – Unless otherwise provided, whenever the Department of Health and Human Services is required by this section to report to the General Assembly, the report shall be submitted to the House of Representatives Appropriations Subcommittee for Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division of the Legislative Services Office. Reports shall be submitted on the date provided in the reporting requirement.

SECTION 10.36.(b) Policy. –

(1) Volume purchase plans and single source procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

(2) Cost-containment programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

(3) Fraud and abuse. – The Division of Medical Assistance, Department of Health and Human Services, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

(4) Medical policy. – Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount,

sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars ($3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars ($3,000,000).

SECTION 10.36.(c) Eligibility. – Eligibility for Medicaid shall be determined in accordance with the following:

(1) Medicaid and Work First Family Assistance.

a. Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

	CATEGORICALLY NEEDY – WFFA*		**MEDICALLY NEEDY**
Family Size	Standard of Need & Families and Children Income Level	WFFA* Payment Level	Families and Children & AA, AB, AD* Income Level
1	$4,344	$2,172	$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

b. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need. These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.

d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.

b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

e. Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines and without regard to resources.

f. Family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.

(3) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

(4) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents", ages 18, 19, and 20, as defined in Section 1904(w)(1) of the Social Security Act [42 U.S.C. § 1396d(w)(1)], without regard to the adolescent's assets, resources, or income levels.

(5) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly engaged in work activities as part of their developmental plan, and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
$1.00 to $100.99	Up to $50.00
$101.00 to $200.99	$80.00
$201.00 to $300.99	$130.00
$301.00 and greater	$212.00

(6) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396(a)(10)(A)(ii)(XVIII).

SECTION 10.36.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

(1) Hospital inpatient.

(2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

(3) Nursing facilities. – Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare-certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare.

(4) Physicians, certified nurse midwife services, certified registered nurse anesthetists, nurse practitioners. – Fee schedules as developed by the Department of Health and Human Services.

(5) Community Alternative Program, EPSDT Screens. – Payments in accordance with rate schedule developed by the Department of Health and Human Services.

(6) Home health and related services, durable medical equipment. – Payments according to reimbursement plans developed by the Department of Health and Human Services.

(7) Hearing aids. – Wholesale cost plus dispensing fee to provider.

(8) Rural health clinical services. – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.

(9) Family planning. – Negotiated rate for local health departments. For other providers see specific services, e.g., hospitals, physicians.

(10) Independent laboratory and X-ray services. – Uniform fee schedules as developed by the Department of Health and Human Services.

(11) Ambulatory surgical centers.

(12) Private duty nursing, clinic services, prepaid health plans.

(13) Intermediate care facilities for the mentally retarded.

(14) Chiropractors, podiatrists, optometrists, dentists.

(15) Limitations on Dental Coverage. – Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.

(16) Medicare Buy-In. – Social Security Administration premium.
(17) Ambulance services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
(18) Optical supplies. – Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.
(19) Medicare crossover claims. – The Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care.
(20) Physical therapy, occupational therapy, and speech therapy. – Services limited to EPSDT-eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy, occupational therapy, and speech therapy services are subject to prior approval and utilization review.
(21) Personal care services. – The Department of Health and Human Services shall impose prior authorization on personal care services for all recipients. Criteria for prior authorization shall be developed in consultation with the Physician Advisory Group of the North Carolina Medical Society. The Department shall provide periodic data on recipients of personal care services to Community Care of North Carolina. Community Care of North Carolina shall assist the Department in assessing personal care services for medical necessity.
(22) Case management services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.
(23) Hospice.
(24) Medically necessary prosthetics or orthotics. – In order to be eligible for reimbursement, providers must be licensed or certified by the occupational licensing board or the certification authority having authority over the provider's license or certification. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.
(25) Health insurance premiums.
(26) Medical care/other remedial care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates.
(27) Pregnancy-related services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.
(28) Drugs. – Reimbursements. Reimbursements shall be available for prescription drugs as allowed by federal regulations plus a professional services fee per month, excluding refills for the same drug or generic equivalent during the same month. Payments for drugs are subject to

the provisions of this subdivision or in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription for generic drugs and four dollars ($4.00) per prescription for brand-name drugs. Adjustments to the professional services fee shall be established by the General Assembly. In addition to the professional services fee, the Department may pay an enhanced fee for pharmacy services.

Limitations on quantity. – The Department of Health and Human Services may establish authorizations, limitations, and reviews for specific drugs, drug classes, brands, or quantities in order to manage effectively the Medicaid pharmacy program, except that the Department shall not impose limitations on brand-name medications for which there is a generic equivalent in cases where the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary".

Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand-name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

Prior authorization. – The Department of Health and Human Services may impose prior authorization requirements or other restrictions under the state Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including but not limited to, medications for

schizophrenia, bipolar disorder, or (ii) HIV/AIDS only when all of the following conditions are met:

a. Evidence-based criteria must be available regarding efficacy or safety of the covered treatments and must be used as the basis for any policy restrictions.

b. Restrictions or authorization requirements must not be implemented without approval by majority vote of the Physician Advisory Group of the North Carolina Medical Society.

c. Community Care of North Carolina will provide targeted outreach and assistance to any individual encountering changes due to prior authorization of treatment for (i) mental illness, or (ii) HIV/AIDS.

(29) Other mental health services. – Unless otherwise covered by this section, coverage is limited to:

a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and

b. For children eligible for EPSDT services provided by:

1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and

2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice,

licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and licensed clinical supervisors, Medicaid-eligible adults may be self-referred.

d. Payments made for services rendered in accordance with this subdivision shall be to qualified providers in accordance with approved policies and the State Plan. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or licensee. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to require any private health insurer or health plan to make direct third-party reimbursements or payments to any service provider, practitioner, or licensee.

Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under sub-subdivisions a. and b.2. of this subdivision shall be established by the Division of Medical Assistance.

SECTION 10.36.(e) Provider payments and visits. –

(1) Payment is limited to Medicaid-enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars ($100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid-enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

(2) Reimbursement is available for up to 30 visits per recipient per fiscal year for the following services: hospital outpatient providers, physicians, nurse practitioners, nurse midwives, clinics, health departments, optometrists, chiropractors, and podiatrists. The Department of Health and Human Services shall adopt medical policies in accordance with G.S. 108A-54.2 to distribute the allowable number of visits for each service or each group of services consistent with federal law. In addition, the Department shall establish a threshold of some number of visits for these services. The Department shall ensure that primary care providers or the appropriate CCNC

network are notified when a patient is nearing the established threshold to facilitate care coordination and intervention as needed.

Prenatal services, all EPSDT children, emergency room services, and mental health services subject to independent utilization review are exempt from the visit limitations contained in this subdivision. The Department may authorize exceptions where the life of the patient would be threatened without such additional care.

SECTION 10.36.(f) Exceptions and limitations on services; authorization of co-payments and other services.

(1) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payment bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

(2) Co-Payment for Medicaid Services. – The Department of Health and Human Services may establish co-payments up to the maximum permitted by federal law and regulation.

SECTION 10.36.(g) Rules, Reports, and Other Matters. –

(1) Rules. – The Department of Health and Human Services may adopt temporary or emergency rules according to the procedures established in G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that:

a. These rules are necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse, or

b. These rules are necessary to address the requirements and procedures for enrollment and disenrollment of Medicaid providers and to enhance the quality of care of services.

Prior to the filing of these temporary or emergency rules with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary or emergency rule and its effect on State appropriations and local governments.

(2) Changes to Medicaid program; reports. – The Department shall report on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval. In addition to the entities listed in subsection (a)(4) of this section, the report shall be submitted to the Joint Legislative Health Care Oversight Committee.

MEDICAID COST-CONTAINMENT ACTIVITIES

SECTION 10.37. The Department of Health and Human Services may use up to five million dollars ($5,000,000) in the 2007-2008 fiscal year and up to five

million dollars ($5,000,000) in the 2008-2009 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost-containment programs.

Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, technology that improves clinical decision making, credit balance recovery and data mining services, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. On or before October 1, 2007, the Department shall also report the amounts paid for cost-containment activities in fiscal years 2003-2004 through 2006-2007, and the amount of savings realized from cost-containment activities in fiscal years 2003-2004 through 2006-2007.

COUNTY MEDICAID COST-SHARE

SECTION 10.38.(a) Effective July 1, 2000, the county share of the cost of Medicaid services currently and previously provided by Local Management Entities shall be increased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

SECTION 10.38.(b) Effective July 1, 2000, the county share of the cost of Medicaid Personal Care Services paid to adult care homes shall be decreased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS

SECTION 10.39.(a) Disproportionate share receipts reserved at the end of the 2007-2008 and 2008-2009 fiscal years shall be deposited with the Department of State Treasurer as nontax revenue for each of those fiscal years.

SECTION 10.39.(b) For each year of the 2007-2009 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred million dollars ($100,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of one hundred million dollars ($100,000,000) shall be reserved by the State Treasurer for future appropriations.

MEDICAID SPECIAL FUND TRANSFER

SECTION 10.40. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars ($43,000,000) for the 2007-2008 fiscal year and the sum of forty-three million dollars ($43,000,000) for the 2008-2009 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act. The Department may also use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share Hospital payment audit issues between the Department of Health and Human Services and the federal government related to fiscal years 1997-2002, and funds are appropriated from the fund for the 2007-2009 fiscal biennium for this purpose.

REQUIRED DATA SHARING BY PRIVATE INSURERS

SECTION 10.40A. G.S. 108A-55.4 reads as rewritten:

"**§ 108A-55.4. Insurers to provide certain information to Department of Health and Human Services.**

(a) As used in this section, the terms:

(1) "Department" means the Department of Health and Human ~~Services.~~Services and any contracted parties working on behalf of the Department of Health and Human Services.

(2) "Division" means the Division of Medical Assistance of the Department of Health and Human ~~Services.~~Services and any contracted parties working on behalf of the Department of Health and Human Services.

(3) "Health insurer" includes self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, [29 USC Section 1167(1)]), service benefit plans, managed care organizations, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service as a condition of doing business in the State.

(4) "Medical assistance" means medical assistance benefits provided under the State Medical Assistance Plan.

(5) 'Subscriber' means the policyholder of the insurance.

(6) 'Applicant/recipient' means an applicant or former applicant, or a present or former recipient of medical assistance benefits.

(7) 'Request' means any inquiry by the Department or Division for the purpose of determining the existence of insurance where the Department or Division may have expended public assistance benefits or to enforce or establish child or medical support enforcement orders.

(b) Health insurers, and pharmacy benefit managers regulated as third-party administrators under Article 56 of Chapter 58 of the General Statutes, shall provide, with respect to ~~individuals who are eligible for, or are provided, medical assistance,~~an applicant/recipient, upon request of the Division, information to determine during what period the individual or the individual's spouse or dependents may be ~~(or~~or may have ~~been)~~been covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the subscriber's name, subscriber's address, subscriber's identification number, ~~and~~ identifying number of the ~~plan~~plan, applicant/recipient's social security number, applicant/recipient's name, and

applicant/recipient's date of birth) in a manner prescribed by the Division. Notwithstanding any other provision of law, and in addition to the requirements set forth in subdivision (6) of this subsection, every health insurer ~~issuing a health benefit plan~~ shall provide, not more frequently than twelve times in a year and at no cost, to the Department of Health and Human Services, Division of Medical Assistance, upon its request, ~~information, including automated data matches conducted under the direction of the Department of Health and Human Services, Division of Medical Assistance,~~ information as necessary ~~to~~ so that the Division may (i) identify individuals who may also be applicants/recipients covered under the ~~insurer's health~~ benefit plans of the health insurer; ~~who are also recipients of medical assistance;~~ (ii) determine the period during which the ~~individual or the individual's spouses~~ individual, the individual's spouse, or the individual's dependents may be or may have been covered by the health benefit plan; and (iii) determine the nature of the coverage. To facilitate the Division in obtaining this and other related information, every health insurer shall:

~~(1) Cooperate with the Division to determine whether a named individual who is a recipient of medical assistance may be covered under the insurer's health benefit plan and eligible to receive benefits under the health benefit plan for services provided under the State Medical Assistance Plan.~~

(2) Respond to the request for ~~information~~ payment within 90 ~~working~~ days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the ~~insurer's health benefit plan.~~benefit plan of the health insurer.

(3) Accept the Division's right of recovery and the assignment to the Division of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State Medical Assistance Plan.

(4) Respond to any inquiry by the Division regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service.

(5) Agree not to deny a claim submitted by the Division solely on the basis of the date of submission of the claim, the type of format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:

a. The claim is submitted by the Division within the three-year period beginning on the date on which the item or service was furnished; and

b. Any action by the Division to enforce its rights with respect to such claim is commenced within six years of the Division's submission of the claim.

(6) Cooperate with the Division's requests to determine a named individual's eligibility or payment information under the benefit plan of the health insurer.

(c) ~~An~~ A health insurer that complies with this section shall not be liable on that account in any civil or criminal actions or proceedings."

LIMITATION ON PROVIDER INCREASES

SECTION 10.40B. Notwithstanding any other provision of this act to the contrary, if in this act funds are appropriated to the Department of Health and Human Services for a rate increase for providers and funds are also appropriated in this act to

the Department of Health and Human Services for an inflationary increase for providers, the Department shall ensure that providers receive either a rate increase or an inflationary increase, whichever is less.

TRANSFER OF ASSETS PERMANENT RULE EFFECTIVE DATE

SECTION 10.40C. In order to maximize potential savings to the State Medicaid program as soon as possible, notwithstanding G.S. 150B-21.3(b1), 10A NCAC 21B .0314, adopted by the Department of Health and Human Services on January 19, 2007, and approved by the Rules Review Commission on March 15, 2007, becomes effective on the day this act becomes law.

MMIS CAPABILITIES

SECTION 10.40D.(a) The Department of Health and Human Services, when contracting for a new or redesigned MMIS, shall ensure that the new or redesigned system is capable of the following:

(1) Receiving and tracking premium or other payments required by law.

(2) Compatibility with the administration of NC Health Choice, NC KIDS Care, the State Employees' Health Plan, and Medicaid waivers and the Medicare 646 waiver.

SECTION 10.40D.(b) The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division, on the date and implementation of the new MMIS system in accordance with the requirements of this section. The Department of Health and Human Services shall submit its report not later than May 1, 2008.

CRITICAL ACCESS PHARMACY SUPPLEMENTAL PAYMENTS

SECTION 10.40E. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of two million two hundred sixty thousand dollars ($2,260,000) for the 2007-2008 fiscal year and the sum of two million six hundred eighty thousand dollars ($2,680,000) for the 2008-2009 fiscal year shall be used to provide supplemental payments to critical access pharmacies as defined by the Division of Medical Assistance. The Division of Medical Assistance shall develop a methodology for identifying critical access pharmacies and providing supplemental payments that are equal to eighty percent (80%) of the difference between prescription drug payments at Average Wholesale Price minus ten percent (10%) and prescription drug payments at Average Wholesale Price minus fifteen percent (15%).

PILOT PROGRAM/MEDICAID DUAL ELIGIBLE SPECIAL NEEDS PLAN

SECTION 10.40F.(a) The Department of Health and Human Services, Division of Medical Assistance, shall evaluate and establish a pilot program in at least two but not more than four regions of the State to offer nursing facility certifiable (NFC) dual eligible Medicaid recipients services through a Special Needs Plan (SNP). The SNP will work with the Department's Community Care Networks. The SNP must be currently licensed in the State, have expertise in managing NFC dually eligible Medicaid recipients, have expertise or a relationship with experts in geriatrics and be capable and willing to work directly with Community Care North Carolina (CCNC). The SNP must also have no citations or ongoing investigations from the State, the Centers for Medicaid and Medicare Services, or other regulatory agency.

SECTION 10.40F.(b) In establishing the pilot program, the Department shall select up to four regions (county clusters) based on the number of NFC dual

eligible Medicaid recipients, number of skilled nursing facilities, and other factors. These regions and their respective CCNC will work with the SNP to promote enhanced care, greater efficiency, and cost savings.

SECTION 10.40F.(c) The Department shall report on the evaluation, selection, and implementation of the pilot program to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than May 1, 2008. The Department shall include in its report information on increased primary care visits, hospital admission and readmission rates, mortality rates, results of pharmacy management, measurable quality outcomes, and associated cost savings for NFC managed through this pilot. The Department shall also include in its report the feasibility of expansion of the pilot to other regions of the State or expansion into the assisted living and home-based populations.

IMPLEMENT ELECTRONIC QUALITY PRESCRIPTION MANAGEMENT PROGRAM

SECTION 10.41. The Department of Health and Human Services, Division of Medical Assistance, in consultation with the Community Care of NC (CCNC) program, shall implement an Electronic Quality Prescription Management program for prescription drugs through the use of personal data assistance (PDA) technology. The Division may designate CCNC through the Office of Rural Health and Community Care as the lead program to implement this section and shall assist CCNC by providing cost containment funds to purchase PDAs, connectivity, and software, and for other related costs.

TICKET TO WORK EFFECTIVE DATE CHANGE

SECTION 10.43. Section 10.18(c) of S.L. 2005-276, as amended by Section 10.9(a) of S.L. 2006-66, reads as rewritten:

"**SECTION 10.18.(c)** Subsection (b) of this section becomes effective July 1, 2006. Subsection (a) of this section becomes effective July 1, ~~2007.~~2008."

EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS REIMBURSEMENT SYSTEM

SECTION 10.44. Full implementation for the Community Alternatives Programs reimbursement system shall be not later than twelve months after the date on which the replacement Medicaid Management Information System becomes operational and stabilized.

FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY INCOME

SECTION 10.45.(a) Subject to approval from the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical Assistance, shall develop a schedule of cost-sharing requirements for families of children with incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation and Developmentally Disabled) Program and the CAP-C (Community Alternatives Program for Children). The cost-sharing amounts shall be based on a sliding scale of family income and shall take into account the impact on families with more than one child in the CAP programs. In developing the schedule, the Department shall also take into consideration how other states have implemented

cost-sharing in their CAP programs. The Division of Medical Assistance may establish monthly deductibles as a means of implementing this cost-sharing. The Department shall provide for at least one public hearing and other opportunities for individuals to comment on the imposition of cost-sharing under the CAP program.

SECTION 10.45.(b) This section becomes effective July 1, 2008, for children enrolled in CAP-MR/DD or CAP-C on and after that date. For currently enrolled CAP-MR/DD and CAP-C recipients, this section becomes effective at the recipient's first certification period following July 1, 2008.

SECTION 10.45.(c) The Division of Medical Assistance shall report on savings realized due to the cost-sharing implemented pursuant to this section. The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2009.

CONTINUE EFFORTS TO EXPAND COMMUNITY CARE AND IMPROVE QUALITY OF CARE FOR AGED, BLIND, AND DISABLED MEDICAID RECIPIENTS

SECTION 10.46.(a) The Department of Health and Human Services shall continue its efforts to expand the scope of Community Care of NC care management model to recipients of Medicaid and dually eligible individuals with a chronic condition and long-term care needs. In expanding the scope, the Department shall focus on the Aged, Blind, and Disabled, and CAP-DA populations for improvement in management, cost-effectiveness, and local coordination of services through Community Care of NC and in collaboration with local providers of care. The Department shall target personal care services, private duty nursing, home health, durable medical equipment, ancillary professional services, specialty care, residential services, including skilled nursing facilities, home infusion therapy, pharmacy, and other services determined target-worthy by the Department. The Department shall pilot communitywide initiatives and shall expand statewide successful models. The initiatives may include one or more pilot projects to control costs and improve quality of care for the Aged, Blind, and Disabled recipients of Medicaid.

SECTION 10.46.(b) The Department of Health and Human Services shall report not later than March 1, 2008, on the status of the implementation and findings of this pilot project with regard to improving the quality of care and controlling the cost of care for the Aged, Blind, and Disabled recipients of Medicaid. The report shall also address the Department's plans for expanding the pilot project and implementing the practices for all Aged, Blind, and Disabled Medicaid recipients in the State. The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

NC HEALTH CHOICE ENROLLMENT

SECTION 10.47. The Department of Health and Human Services may allow up to six percent (6%) enrollment growth annually over the prior fiscal year's enrollment in the NC Health Choice Program. The cap in enrollment growth shall be based on the month of highest Program enrollment in the prior fiscal year.

NC KIDS' CARE STUDY

SECTION 10.48. The Department of Health and Human Services, Division of Medical Assistance, shall determine the most cost-efficient and cost-effective method

for implementing a limited benefit medical assistance program, NC Kids' Care. In developing the Program, the Department shall include the following:

(1) Eligibility for benefits under NC Kids' Care is not an entitlement and is subject to availability of funds and State and federal requirements.

(2) NC Kids' Care shall provide health coverage to children whose income is not less than two hundred percent (200%) and not more than two hundred twenty-five percent (225%) of the federal poverty level.

(3) Children enrolled in NC Kids' Care must be ineligible for Medicaid, Medicare, or other government-sponsored health insurance.

(4) The premium for enrollment in NC Kids' Care shall be not more than twenty-five dollars ($25.00) per member per month except that the premium for a family shall not exceed seventy-five dollars ($75.00) per family per month.

(5) Providers of services to children enrolled in NC Kids' Care shall be paid at Medicaid rates.

The Department of Health and Human Services shall report its findings and recommendations on the scope and benefits of NC Kids' Care to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2008.

BUILD COMMUNITY INFRASTRUCTURE FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

INCREASE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT.

SECTION 10.49.(a) Except as otherwise provided in this subsection, funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for regionally funded, locally hosted substance abuse services shall be allocated for the purpose of developing and enhancing the American Society of Addiction Medicine (ASAM) continuum of care at the community level. In coordination with local management entities, the Division shall develop and direct purchasing mechanisms to improve the availability of substance abuse services offered on a local, regional, and statewide basis in coordination with one or more local management entities. In the event a local management entity is unable or unwilling to contract with a substance abuse provider for substance abuse services envisioned in this section, the Division may enter into a contract with substance abuse service providers, and, in such cases, the requirements of G.S. 122C-124.1 shall not apply. Of the funds allocated in this subsection for regionally funded, locally hosted substance abuse services, the sum of five hundred seventy-one thousand sixty-one dollars ($571,061) for the 2007-2008 fiscal year and the sum of seven hundred thirty-six thousand sixty-one dollars ($736,061) for the 2008-2009 fiscal year shall be allocated for residential substance abuse programs with a vocational component.

SECTION 10.49.(b) G.S. 122C-147.1 is amended by adding the following new subsection to read:

"(d1) Notwithstanding subsections (b) and (d) of this section, each area program shall determine whether to earn the funds for crisis services and funds for services to substance abuse clients in a purchase-for-service basis, under a grant, or some combination of the two. Area programs shall account for funds expended on a grant basis according to procedures required by the Secretary and in a manner that is similar to funds expended in a purchase-for-service basis."

SECTION 10.49.(c) Consistent with G.S. 122C-2, the General Assembly strongly encourages LMEs to use a portion of the funds appropriated for substance abuse treatment services to support prevention and education activities.

SECTION 10.49.(d) An LME may use up to one percent (1%) of funds allocated to it for substance abuse treatment services to provide nominal incentives for consumers who achieve specified treatment benchmarks.

SECTION 10.49.(e1) In providing treatment and services for adult offenders and increasing the number of TASC case managers, for which funds are allocated in this act to local management entities, each local management entity shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based interventions to individual needs at each stage of substance abuse treatment. Special emphasis should be placed on intermediate punishment offenders, community punishment offenders at risk for revocation, and DOC releasees who have completed substance abuse treatment while in custody.

In addition to the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to provide substance abuse services for adult offenders and to increase the number of TASC case managers, the Department shall allocate up to three hundred thousand dollars ($300,000) to Treatment Accountability for Safer Communities (TASC). These funds shall be allocated to TASC before funds are allocated to local management entities for mental health services, substance abuse services, and crisis services.

SECTION 10.49.(e2) In providing Drug Treatment Court services for which funds are allocated in this act to local management entities, the local management entity shall consult with the local drug treatment court team and shall select a treatment provider that meets all provider qualification requirements and the drug treatment court's needs. A single treatment provider may be chosen for non-Medicaid-eligible participants only. A single provider may be chosen who can work with all of the non-Medicaid-eligible drug treatment court participants in a single group. During the 52-week Drug Treatment Court program, participants shall receive an array of treatment and after-care services that meets the participant's level of need, including step-down services that support continued recovery.

SECTION 10.49.(f) Within available State and county resources, local management entities shall work with county public health departments and county sheriffs to provide medical assessments and medication, if appropriate, for inmates housed in county jails who are suicidal, hallucinating, or delusional. LMEs shall also examine ways to provide additional treatment to persons who are determined to be psychotic, severely depressed, suicidal, or who have substance abuse disorders. LMEs, county public health departments, and county sheriffs shall work together to develop all of the following:

(1) A statewide standardized evidence-based screening instrument to be used when offenders are booked.
(2) A designated LME employee who is responsible for screening the daily jail booking log for known mental health consumers.
(3) Protocols for effective communication between the LME and the jail staff including collaborative development of medication management protocols between the jail staff and the mental health providers.
(4) Training to help detention officers recognize signals of mental illness.

ADDITIONAL HOUSING ASSISTANCE.

SECTION 10.49.(g) The independent and supportive living apartments for persons with disabilities constructed from funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and the North Carolina Housing Finance Agency for that purpose shall be affordable to persons with incomes at the Supplemental Security Income (SSI) level. The Department shall maximize the number of subsidies that can be paid for with these funds by giving first priority to North Carolina Housing Agency-financed apartments, giving second priority to other publicly subsidized apartments, and third priority to market-rate apartments.

SECTION 10.49.(h1) The Department of Health and Human Services and the North Carolina Housing Finance Agency shall work together to develop a plan for the most efficient and effective use of State resources in the financing and construction of additional independent- and supportive-living apartments for individuals with mental health, developmental, or substance abuse disabilities. This plan shall address gaps in the housing continuum identified by the study that DHHS will conduct during fiscal year 2006-2007 and fiscal year 2007-2008. DHHS and NCHFA shall report this plan and also the progress of the Housing 400 Initiative to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by March 1, 2008.

SECTION 10.49.(h2) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, may transfer funds appropriated for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities to the North Carolina Housing Finance Agency (NCHFA) to be used for these purposes. If funds appropriated in this act for operating assistance for the independent supportive living apartments for people with disabilities exceed the amount necessary to finance those apartments for which funds were appropriated, then the excess funds may be used in each fiscal year to subsidize other apartments for individuals with disabilities that are affordable for individuals with income at the SSI level.

For the purposes of ensuring that State supported assisted housing is available to all disability groups, the NCHFA and the Department of Health and Human Services shall do the following:

(1) The NCHFA shall provide to the Division of Medical Assistance the name, address, and date of birth of each resident that receives housing assistance in NCHFA properties because of the recipient's disability.

(2) The Department of Health and Human Services shall review the Medicaid database to determine which of these residents receives Medicaid and, of those, the type of disability of each Medicaid recipient for whom information was provided under subdivision (1) of this subsection.

(3) The Department of Health and Human Services shall report to the General Assembly the aggregate statewide total by type of disability. The types of disability for which aggregate data is reported shall be mental illness, developmental disability, physical disability, and the multiple combination of these types. The report shall ensure that individuals with multiple diagnoses are counted only one time for each aggregate report. The Department of Health and Human Services shall ensure that information reported does not include information that would identify or lead to the identity of a Medicaid recipient. The Department of Health and Human Services shall submit the report to the Senate Appropriations Committee on Health and Human Services,

the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than May 1, 2008, and again not later than May 1, 2009.

Of the funds appropriated in this act to the Department of Health and Human Services for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities, not more than one hundred fifty thousand dollars ($150,000) may be used for administration of the subsidies and for evaluation and reporting requirements under this subsection.

SECTION 10.49.(i) The Department of Health and Human Services shall develop a "Transitional Residential Treatment Program" service definition to provide 24-hour residential treatment and rehabilitation for adults who have a pattern of difficult behaviors related to mental illness, which exceeds the capabilities of traditional community residential settings. DHHS shall submit the new service definition to the Centers for Medicare and Medicaid for approval no later than 90 days after the enactment of the Current Operations and Capital Appropriations Act for the 2007-2009 biennium.

SECTION 10.49.(j) The joint ad hoc subcommittee regarding the mentally ill in adult care homes convened by the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the North Carolina Commission on Aging may continue to study and identify rules and laws that are necessary to regulate facilities that provide housing for adults with mental illness in the same location with adults without mental illness.

SECTION 10.49.(k) The Department of Health and Human Services shall complete the development of a Uniform Screening Tool (UST) to be used by LMEs to determine the mental health of any individual admitted to any long-term care facility within an LME's catchment area. The UST shall be available for use no later than 90 days after the enactment of the Current Operations and Capital Appropriations Act for the 2007-2009 fiscal biennium.

SECTION 10.49.(l) Notwithstanding any other provision of law to the contrary, local management entities may directly provide case management and may bill for the services provided.

CRISIS AND ACUTE CARE SERVICES.

SECTION 10.49.(m) The fourteen million one hundred thirty-seven thousand eight hundred fifty-seven dollars ($14,137,857) appropriated in this act for crisis services in each fiscal year to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, shall be allocated to local management entities to continue to implement the crisis plans developed under S.L. 2006-66, Section 10.26. In allocating these funds, the Department shall consider the impact of the closure of any State institution on each local management entity. The Department of Health and Human Services may use up to two hundred fifty thousand dollars ($250,000) in each fiscal year of the funds allocated under this subsection to extend its contract with the crisis services consultant authorized under Section 10.26(b) of S.L. 2006-66.

SECTION 10.49.(n) S.L. 2006-66, Section 10.26(d), as amended by Section 11 of S.L. 2006-221, reads as rewritten:

"**SECTION 10.26.(d)** With the assistance of the consultant, the LMEs within a crisis region shall work together to identify gaps in their ability to provide a continuum of crisis services for all consumers and use the funds allocated to them to develop and

implement a plan to address those needs. At a minimum, the plan must address the development over time of the following components: 24-hour crisis telephone lines, walk-in crisis services, mobile crisis outreach, crisis respite/residential services, crisis stabilization units, 23-hour beds, facility-based crisis, in-patient crisis, detox, and transportation. Options for voluntary admissions to a secured facility must include at least one service appropriate to address the mental health, developmental disability, and substance abuse needs of adults, and the mental health, developmental disability, and substance abuse needs of children. Options for involuntary commitment to a secured facility must include at least one option in addition to admission to a State facility.

If all LMEs in a crisis region determine that a facility-based crisis center is needed and sustainable on a long-term basis, the crisis region shall first attempt to secure those services through a community hospital or other community facility. If all LMEs in the crisis region determine the region's crisis needs are being met, the LMEs may use the funds to meet local crisis service needs."

SECTION 10.49.(o) LMEs shall report monthly to the Department and to the consultant regarding the use of the funds, whether there has been a reduction in the use of State psychiatric hospitals for acute admissions, and any remaining gaps in local and regional crisis services. The consultant and the Department shall report quarterly to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services regarding each LME's proposed and actual use of the funds appropriated under this section. The reporting requirements under this subsection shall expire July 1, 2008.

SECTION 10.49.(q) G.S. 122C-147.1 is amended by adding the following new subsection to read:

"(b1) Notwithstanding subsection (b) of this section, funds appropriated by the General Assembly for crisis services shall not be allocated in broad disability or age/disability categories. Subsection (c) of this section shall apply to funds appropriated by the General Assembly for crisis services."

SECTION 10.49.(r) The Department of Health and Human Services shall develop a system for reporting to LMEs information regarding all visits to community hospital emergency departments by individuals who are in crisis due to a mental illness, a developmental disability, or a substance abuse disorder. The system shall be implemented no later than 90 days after the enactment of the Current Operations and Capital Appropriations Act for the 2007-2009 fiscal biennium.

SECTION 10.49.(s1) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division), the sum of two million five hundred thousand dollars ($2,500,000) for the 2007-2008 fiscal year and the sum of five million dollars ($5,000,000) for the 2008-2009 fiscal year shall be used to develop a pilot program to reduce State psychiatric hospital use and to increase local services for persons with mental illness. Of these funds, the sum of two hundred fifty thousand dollars ($250,000) in each fiscal year shall be retained by the Department. The remainder in each fiscal year shall be allocated to LMEs to be used in accordance with subdivision (c)(6) of this section. The Division and each selected LME shall implement an 18-month pilot beginning in the 2007-2008 fiscal year, as provided in subsections (s2) and (s3) of this section. It is the intent of the General Assembly to provide funds to expand the pilot program in the 2008-2009 fiscal year. To this end, the Division shall develop a plan for expanded pilots as provided in subsection (d) of this section.

SECTION 10.49.(s2) The purpose of the 18-month pilot program developed under subsection (s1) of this section and to be implemented during the 2007-2008 fiscal year is to test a mechanism to reduce psychiatric hospital use by holding an LME financially and clinically responsible for the cost of that use and by providing additional resources to build community capacity. The Department shall select at least three LMEs that submit a proposal to participate in the pilot to the Division no later than October 15, 2007. The proposal shall include a plan by the LME to reduce hospital use by a specified amount and an explanation of how the LME expects to accomplish this goal. To facilitate pilot implementation, the Division shall do all of the following:

(1) Calculate the cost of each LME's 2006-2007 use of State psychiatric hospital services based roughly on that hospital's total budget and the percentage of patients at the hospital admitted from the LME's catchment area.

(2) Calculate a daily rate for hospital usage based on 2006-2007 statewide usage. The daily rate shall be higher for subsequent admissions by the same patient and higher for patients admitted with a primary diagnosis of substance abuse.

(3) Provide the results from subdivisions (1) and (2) of this subsection to all LMEs not later than September 1, 2007.

(4) Award pilot participation not later than November 1, 2007, based upon the proposals that project the largest decrease in use and that the Division believes has the greatest likelihood of succeeding.

(5) Commence pilot implementation not later than January 1, 2008.

SECTION 10.49.(s3) Parameters of the pilot developed under subsection (s1) of this section are as follows:

(1) The pilot LMEs will have a virtual budget account for January 1, 2008, through June 30, 2008, based on one-half of the LME's cost of State psychiatric hospital use during the 2006-2007 fiscal year minus the LME's proposed reduction in hospital use. The virtual budget account will be for the full amount less an agreed upon reduction in the second year of the pilot.

(2) Every bed day used by patients from that LME's catchment area will be debited against that LME's virtual account.

(3) The cost of bed days will increase by the agreed upon amount for patients who are repeatedly admitted to the hospital.

(4) The cost of bed days will increase by the agreed upon amount for patients who are admitted with a primary diagnosis of substance abuse.

(5) The LME shall have one or more representatives on site at the State psychiatric hospital. The LME representatives shall be involved with patient admissions, development of treatment plans, supervision and delivery of treatment, and development and implementation of discharge plans.

(6) The pilot LMEs shall use their allocated funds to: (i) build community capacity through start-up operations or payment for local services; (ii) pay for the on-site representative at State psychiatric hospitals; and (iii) pay for patient bed days that are in excess of RFP's projected use.

(7) As of June 30, 2008, any savings to the State realized from the LMEs' reduced hospital usage, plus any funds remaining in the LMEs' virtual hospital budget account, will be transferred to the LMEs to be used to purchase hospital use in the 2008-2009 fiscal year. Any funds remaining from the two million two hundred twenty-five thousand

dollar ($2,225,000) allocation shall carry over to be used by the LMEs to pay for services to the mentally ill.

SECTION 10.49.(s4) Based on the experiences of the pilot programs authorized under subsections (s2) and (s3) of this section, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division) shall work with the existing hospital use study group to develop a proposal for subsequent pilots to reduce hospital use and build community services. The Division may use up to two hundred fifty thousand dollars ($250,000) in each fiscal year to develop the proposal. The Division shall submit an interim report on its progress to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (Oversight Committee) by October 15, 2007, and a second interim report by February 1, 2008. The Division shall submit its final report to the Oversight Committee by February 1, 2009.

SECTION 10.49.(s5) The budgets for the State psychiatric hospitals shall not be reduced during the 2007-2008 fiscal year as a result of the pilot developed under subsection (s1) of this section. However, those budgets shall be adjusted in following years to reflect the previous year's use by the LMEs participating in the pilot program.

SECTION 10.49.(t) Notwithstanding G.S. 122C-112.1(a)(30) and G.S. 122C-181, the Secretary of Health and Human Services may close Dorothea Dix Hospital, and the Secretary of Health and Human Services may close John Umstead Hospital or any unit or section of that hospital, provided that all of the following conditions have been met prior to closure of each hospital or unit thereof:

(1) The Secretary has notified the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure.

(2) The Secretary has presented a plan for the closure of each hospital or unit thereof to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (Oversight Committee) for its review, advice, and recommendations. The Secretary shall also provide a copy of the plan to each member of the General Assembly in a timely manner to permit each member of the General Assembly to comment at the presentation of the plan to the Oversight Committee. The plan shall address specifically all of the following: (i) the capacity of any replacement facility and the catchment area to meet the needs of those consumers who require long-term secure services as well as acute care; (ii) an inventory of existing capacity in the communities within the catchment area for patients to access crisis services, appropriate housing, and other necessary supports; (iii) how the State and the LMEs in the catchment area will attract and retain qualified private providers that will provide services to State-paid non-Medicaid-eligible consumers; and (iv) the impact of the closure on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and recommendations of the Oversight Committee and other members of the General Assembly.

(3) The Central Regional Hospital is operational and patient transfers from Dorothea Dix Hospital and John Umstead Hospital have been completed.

(4) Notwithstanding any other provision of law, the Secretary shall not close a State facility if there are not adequate replacement services available prior to the date of closure.

SECTION 10.49.(u) In keeping with the United States Supreme Court decision in Olmstead v. L.C. & E.W. and State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall continue to implement a plan for the transition of patients from State psychiatric hospitals to the community or to other long-term care facilities, as appropriate. The goal is to develop mechanisms and identify resources needed to enable patients and their families to receive the necessary services and supports based on the following guiding principles:

(1) Individuals shall be provided acute psychiatric care in non-State facilities when appropriate.

(2) Individuals shall be provided acute psychiatric care in State facilities only when non-State facilities are unavailable.

(3) Individuals shall receive evidence-based psychiatric services and care that are cost-efficient.

(4) The State shall minimize cost shifting to other State and local facilities or institutions.

The Department of Health and Human Services shall conduct an analysis of the individual patient service needs and shall develop and implement an individual transition plan, as appropriate, for patients in each hospital. The State shall ensure that each individual transition plan, as appropriate, shall take into consideration the availability of appropriate alternative placements based on the needs of the patient and within resources available for the mental health, developmental disabilities, and substance abuse services system. In developing each plan, the Department shall consult with the patient and the patient's family or other legal representative.

The Department of Health and Human Services shall submit reports on the status of implementation of this section to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. These reports shall be submitted on December 1, 2007, and May 1, 2008.

USE OF MENTAL HEALTH TRUST FUNDS.

SECTION 10.49.(v) Funds allocated to area programs to be spent on community-based programs that are remaining in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs (Trust Fund) as of June 30, 2007, shall be dispersed to the area programs to be spent according to the purposes for which the funds were allocated. The Department shall limit the LME fund balance to ensure that LMEs fully utilize funds dispersed to the LME for the stated purposes.

SECTION 10.49.(w1) G.S. 143C-9-2 reads as rewritten:

"**§ 143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.**

(a) The Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs is established as an interest-bearing, nonreverting special trust fund in the Office of State Budget and Management. Moneys in the Trust Fund shall be held in trust and used solely to increase community-based services that meet the mental health, developmental disabilities, and

substance abuse services needs of the State. The Trust Fund shall be used to supplement and not to supplant or replace existing State and local funding available to meet the mental health, developmental disabilities, and substance abuse services needs of the State.

The State Treasurer shall hold the Trust Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Trust Fund shall become part of the Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall be carried forward in the Trust Fund for the next succeeding fiscal year.

Moneys in the Trust Fund shall be expended only in accordance with subsection (b) of this section and in accordance with limitations and directions enacted by the General Assembly.

(b) Moneys in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs shall be allocated to area programs to be used only to:

(1) Provide start-up funds and operating support for programs and services that provide more appropriate and cost-effective community treatment alternatives for individuals currently residing in the State's mental health, developmental disabilities, and substance abuse services institutions.

~~(2) Facilitate the State's compliance with the United States Supreme Court decision in Olmstead v. L.C. and E.W.~~

(3) Facilitate reform of the mental health, developmental disabilities, and substance abuse services system and expand and enhance treatment and prevention services in these program areas to remove waiting lists and provide appropriate and safe services for clients.

(4) Provide bridge funding to maintain appropriate client services during transitional periods as a result of facility closings, including departmental restructuring of services.

~~(5) Construct, repair, and renovate State mental health, developmental disabilities, and substance abuse services facilities.~~

(c) Notwithstanding G.S. 143C-1-2, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143C-1-2, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(1) ~~(b)(2)~~ and (b)(3) of this section.

(d) Beginning July 1, 2007, the Secretary of the Department of Health and Human Services shall report annually to the Fiscal Research Division on the expenditures made during the preceding fiscal year from the Trust Fund. The report shall identify each expenditure by recipient and purpose and shall indicate the authority under subsection (b) of this section for the expenditure."

SECTION 10.49.(w2) Notwithstanding G.S. 143C-9-2(c), additional savings in the 2007-2008 and 2008-2009 fiscal years shall be used to fund the State's contribution for local management entity system administration.

SECTION 10.49.(x) Notwithstanding G.S. 143C-9-2, as amended by this act, the Secretary of Health and Human Services may use funds for the 2007-2008 fiscal year from the Trust Fund for Mental Health, Developmental Disabilities, and Substance

Abuse Services and Bridge Funding Needs (Trust Fund) or, if funds in the Trust Fund are insufficient, from other available sources in the Department of Health and Human Services, to support up to 66 new positions in the Julian F. Keith Alcohol and Drug Abuse Treatment Center, provided that these funds may be used only if the Julian F. Keith Alcohol and Drug Abuse Treatment Center opens before July 1, 2008.

STRENGTHEN THE SERVICES NETWORK.

SECTION 10.49.(y) The Department of Health and Human Services shall designate two additional local management entities to receive all State allocations through single stream funding. If DHHS has not made the designations by July 1, 2007, the designations shall be as enacted by the 2007 General Assembly. The Department shall develop clear standards for how an LME qualifies for single stream funding and shall award single stream funding to any other LME that meets those standards within the 2007-2008 and 2008-2009 fiscal years. In addition to the LMEs designated by the Department, the Piedmont, New River, Smoky Mountain, Guilford, and Mecklenburg LMEs shall continue to receive State allocations through single stream funding.

SECTION 10.49.(z) The Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the effectiveness of the 1915(b) Medicaid waiver and of those LMEs operating under a waiver.

SECTION 10.49.(aa) No later than July 1, 2008, the Department of Health and Human Services shall commence the process for three additional local management entities to apply for Medicaid waivers.

FILLING SERVICE GAPS.

SECTION 10.49.(bb) Funds appropriated in this act for mental health services and supported employment shall be allocated to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level. Funds appropriated to the Department of Health and Human Services for the 2006-2007 fiscal year for mental health services, substance abuse services, and crisis services and allocated based on the poverty level shall continue to be allocated by the Department to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level.

SECTION 10.49.(cc) G.S. 122C-147.1(c) shall apply to the State-funded service of developmental therapies.

SECTION 10.49.(dd) The Department of Health and Human Services shall develop and apply to the Centers for Medicare and Medicaid Services for additional home and community-based waivers for persons with developmental disabilities. In conjunction with the existing CAP MR/DD waiver, the new waivers will create a tiered system of services. Not later than March 1, 2008, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the status of the waivers required under this section.

SECTION 10.49.(ee) For the purpose of avoiding overutilization of community support services and overexpenditure of funds for these services, the Department of Health and Human Services shall immediately conduct an in-depth evaluation of the use and cost of community support services to identify existing and potential areas of overutilization and overexpenditure. The Department shall also adopt

or revise as necessary management policies and practices that will ensure that at a minimum:

(1) There is in place a list of community support services that are appropriate to meet the critical needs of the client and are cost effective;

(2) Community support services are appropriately utilized based on the critical needs of the client, and utilization is monitored routinely to ensure against overutilization;

(3) That expenditures for services are controlled to the maximum extent possible without unnecessarily impairing service quality and efficiency;

(4) Service providers are fully competent to provide each service, to provide the service in the most efficient manner, and that services and providers meet standards of protocol adopted by the Department. To this end, endorsement shall be based on compliance with: a Medicaid service-specific checklist, rules for Mental Health, Developmental Disabilities, and Substance Abuse Services, client rights rules in community Mental Health, Developmental Disabilities, and Substance Abuse Services, the Medicaid service records manual, and other Medicaid requirements as stipulated in the participation agreement with the Division of Medical Assistance. In accordance with G.S. 122C-115.4, an LME may remove a provider's endorsement;

(5) All community support services are subject to prior approval after the initial assessment and development of a person-centered plan has been completed;

(6) The initial assessment and development of person-centered plan provides for up to three service hours for adults and up to six service hours for community support for children/adolescents. If a provider determines that more time is needed for adults or child/adolescent services to complete the person-centered plan, additional hours may be provided as authorized by the contract entity. If additional hours are authorized, the LME may participate in the development of the person-centered plan, as part of its care coordination and quality management function as defined in G.S. 122C-115.4;

(7) Based on standards of care and practice, a stringent clinical review process for authorization of services is implemented uniformly and in accordance with State guidelines;

(8) Additional record audits of providers are conducted on a routine basis to continually ensure compliance with Medicaid requirements;

(9) Post-payment clinical reviews are conducted at the local level to ensure that consumers receive the appropriate level and intensity of care;

(10) Monitoring and reporting are conducted at least monthly to ensure appropriate utilization of all enhanced services. The reports shall include authorization by service, paid claims data by service, post-payment reviews, provider enrollment and termination, outlier utilization by provider and individual recipient;

(11) The Department shall tier the rates for the service of community supports. The rates shall be based on the level of qualifications of the individuals delivering the services and the types of services being delivered by these individuals; and

(12) The Department of Health and Human Services and the Department of Public Instruction shall amend their Memorandum of Agreement to ensure that each LME develops its own list of approved providers and individual service providers authorized to provide services on campus as provided under the Federal Safe Schools Act.

The Department shall report not later than November 1, 2007, on the list of community support services determined to be appropriate. Not later than March 1, 2008, the Department shall provide a detailed report on the implementation and status of each of the activities required by this subsection to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall also include clear standards for determining local management entity capability to perform utilization review and utilization management and clear statewide standards for utilization review and utilization management.

In order to assure full compliance with the laws of this State on the implementation of mental health reform, the Department shall not extend or enter into a new contract with an outside vendor to provide utilization review for behavioral health services until after the Department has (i) adopted statewide standards for transitioning Medicaid utilization review responsibilities to local management entities, (ii) has reported on the implementation of this subsection to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and (iii) has otherwise met all requirements imposed by law for the implementation of mental health reform.

LME ADMINISTRATIVE FUNDING.

SECTION 10.49.(ff) The General Assembly finds that counties have budgeted almost one hundred twenty-one million dollars ($121,000,000) to LMEs to pay for mental health, developmental disabilities, and substance abuse services. However, the General Assembly lacks information regarding the specific services that are purchased with those county funds. The General Assembly also lacks data regarding the incomes of persons receiving mental health, developmental disabilities, and substance abuse services that are paid for by either State or county funds. This lack of data severely limits the General Assembly's ability to determine the distribution of services that are being paid for with public funds, whether persons who are eligible for Medicaid are being enrolled in that program, and whether expanding the State's Medicaid eligibility criteria would impact a significant number of mental health, developmental disabilities, and substance abuse services consumers. Therefore, LMEs shall report annually to the Division all expenditures from county funds by the LME for services, start-up expenses, and capital and operational expenditures, regardless of the source of the funds and regardless of whether the funds were earned on a payment for service or grant basis. This reporting shall include specific information regarding the expenditure of all funds provided to the LME by the county or counties contained in the LME's catchment area and the amount of expenditures for services provided by the multicounty LME to residents of each county in the multicounty LME's catchment area. To the extent possible, the information shall be submitted through the Integrated Payment and Reimbursement System. LMEs shall also gather income data for all individuals receiving services. Notwithstanding G.S. 143C-6-4, Budget Adjustments Authorized, the Department of Health and Human Services shall use funds available to the Department to fully fund the State's contribution for LME system administration.

SECTION 10.49.(gg) It is the intent of the General Assembly that the deficit in State funding for local management entity system administration will be eliminated in future years through savings from hospital downsizing. The General Assembly anticipates that full funding for this purpose will be available in the 2009-2011 fiscal biennium.

SECTION 10.49.(hh) G.S. 122C-115.4(d) reads as rewritten:

"(d) Except as provided in G.S. 122C-142.1 and G.S. 122C-125, the Secretary may ~~not~~ neither remove from an LME nor designate another entity as eligible to implement any function enumerated under subsection (b) of this section unless all of the following applies:

(1) The LME fails during the previous three months to achieve a satisfactory outcome on any of the critical performance measures developed by the Secretary under G.S. 122C-112.1(33).

(2) The Secretary provides focused technical assistance to the LME in the implementation of the function. The assistance shall continue for at least six months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.

(3) If, after six months of receiving technical assistance from the Secretary, the LME still fails to achieve or maintain a satisfactory outcome on the critical performance measure, the Secretary shall enter into a contract with another LME or agency to implement the function on behalf of the LME from which the function has been removed."

SECTION 10.49.(ii) The State Auditor shall use available resources to conduct performance audits on local management entity billing and STR (screening, triage, and referral) functions. The State Auditor shall specifically focus on those local management entities identified as not meeting the primary functions required under G.S. 122C-115.4 and as set forth in guidelines adopted by the Department pursuant to Section 10.28 of S.L. 2006-66. The State Auditor shall begin the audit process once the guidelines adopted by the Department pursuant to Section 10.28 of S.L. 2006-66 are in place. The State Auditor shall report his findings and recommendations to the 2009 General Assembly upon its convening.

SECTION 10.49.(jj) The Department of Health and Human Services shall use available funds not to exceed two hundred fifty thousand dollars ($250,000) in each fiscal year to contract with the University of North Carolina at Chapel Hill, Kenan Flagler Business School, to provide administrative training to local management entities. The Department of Health and Human Services shall advise the Kenan Flagler Business School on prioritizing those local management entities that would most benefit from the training. The Department of Health and Human Services shall use funds available for the contract.

SECTION 10.49.(kk) In allocating funds from existing resources to local management entities for administrative costs, the Department shall ensure that each local management entity receives not less in service dollars than that local management entity expended for services in the 2006-2007 fiscal year.

DEVELOPMENTAL CENTER DOWNSIZING

SECTION 10.50.(a) In accordance with the Department of Health and Human Services' plan for mental health, developmental disabilities, and substance abuse services system reform, the Department shall ensure that the downsizing of the State's Developmental Centers is based upon individual needs and the availability of community-based services with a targeted goal of four percent (4%) each year. The Department shall implement cost-containment and reduction strategies to ensure the

corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the Developmental Centers in order to ensure that placements for ICF-MR level of care shall be made to appropriate community-based settings. Admissions to a State-operated ICF-MR facility is permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the Developmental Centers shall be reduced, and positions shall be eliminated as the census of each facility decreases in accordance with the Department's budget reduction formula. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as outreach.

SECTION 10.50.(b) The Department of Health and Human Services shall apply any savings in State appropriations in each year of the 2007-2009 biennium that result from reductions in beds or services as follows:

(1) The Department shall place nonrecurring savings in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and use the savings to facilitate the transition of clients into appropriate community-based services and support in accordance with G.S. 143C-9-2;

(2) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall retain recurring savings realized through implementation of this section to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead v. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the Developmental Centers, including the savings in direct State appropriations in the budgets of the Developmental Centers; and

(3) The Department of Health and Human Services, Division of Medical Assistance, shall transfer any recurring Medicaid savings resulting from the downsizing of State-operated Developmental Centers from the ICF-MR line in Medicaid to support Medicaid services to assist in continued community service opportunities for people with developmental disabilities.

SECTION 10.50.(c) Consistent with the requirements of this section, the Secretary of Health and Human Services shall update the existing plan to ensure that there are sufficient developmental disability/mental retardation regional centers to correspond with service catchment areas. The plan shall address:

(1) Methods of funding for community services necessitated by downsizing;

(2) How many State-operated beds and non-State-operated beds are needed to serve the population; and

(3) Alternative uses for facilities.

Not later than April 1, 2008, the Department shall provide an updated report on the development of the plan, and not later than April 1, 2009, shall report the final plan, including recommendations for legislative action, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.50.(d) The Department of Health and Human Services shall provide an updated report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the

Fiscal Research Division. The Department shall submit the progress report no later than January 15, 2008, and submit a final report no later than May 1, 2009.

DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10.51.(a) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in cooperation with area mental health authorities and county programs, identify and eliminate administrative and fiscal barriers created by existing State and local policies and procedures in the delivery of community-based mental health, developmental disabilities, and substance abuse services provided through the area programs and county programs, including services provided through the Comprehensive Treatment Services Program for Children and services delivered to multiply diagnosed adults. The Department shall implement changes in policies and procedures in order to facilitate all of the following:

(1) The provision of services to adults and children as defined in the Mental Health System Reform State Plan as priority or targeted populations.

(2) The provision of services to children not deemed eligible for the Comprehensive Treatment Services Program for Children, but who would otherwise be in need of medically necessary treatment services to prevent out-of-home placement.

(3) The provision of services in the community to adults remaining in and being placed in State institutions addressed in Olmstead v. L.C.

SECTION 10.51.(b) The Department shall rework the revised system of allocating State and federal funds to area mental health authorities and county programs to better reflect projected needs, including the impact of system reform efforts rather than historical allocation practices and spending patterns. The reworked allocation shall include the following:

(1) For each LME, the current allocation by source and age/disability category, and the newly proposed allocation by source and age/disability category;

(2) A clear formula for how the new allocations are derived with a detailed methodology for how the formula was created; and

(3) A plan for moving to the new formula.

The Department shall submit the reworked language to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than October 1, 2007, for review. The Department shall implement the system only after review and approval by the 2007 General Assembly, Regular Session 2008.

SECTION 10.51.(c) Area mental health, developmental disabilities, and substance abuse services authorities and county programs shall use all funds appropriated for and necessary to provide mental health, developmental disabilities, and substance abuse services to meet the need for these services. If excess funds are available after expending appropriated funds to fully meet service needs, one-half of these excess funds shall not revert to the General Fund but shall be transferred to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, except that one-half of the funds appropriated for the Comprehensive Treatment Services Program for Children that are unexpended and

unencumbered shall not revert to the General Fund but shall be carried forward and used only for services for children and adolescents.

The Department, in consultation with the area mental health authorities and county programs, shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the progress in implementing these changes. The report shall be submitted on October 1, 2007, and February 1, 2008.

SERVICES TO MULTIPLY DIAGNOSED ADULTS

SECTION 10.52.(a) In order to ensure that multiply diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

(1) Implement the following guiding principles for the provision of services:
   a. Service delivery system must be outcome-oriented and evaluation-based.
   b. Services should be delivered as close as possible to the consumer's home.
   c. Services selected should be those that are most efficient in terms of cost and effectiveness.
   d. Services should not be provided solely for the convenience of the provider or the client.
   e. Families and consumers should be involved in decision making throughout treatment planning and delivery.

(2) Provide those treatment services that are medically necessary.

(3) Implement utilization review of services provided.

SECTION 10.52.(b) The Department of Health and Human Services shall implement all of the following cost-reduction strategies:

(1) Preauthorization for all services except emergency services.

(2) Criteria for determining medical necessity.

(3) Clinically appropriate services.

SECTION 10.52.(c) No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply diagnosed adults.

SECTION 10.52.(d) The Department shall report on implementation of this section on May 1, 2008, and again on May 1, 2009, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

DEPARTMENTAL FLEXIBILITY IN SCHEDULING THE TRANSFER OF POSITIONS PERTAINING TO THE CLOSURE OF DOROTHEA DIX AND JOHN UMSTEAD HOSPITALS AND THE OPENING OF CENTRAL REGIONAL HOSPITAL

SECTION 10.53.(a) The Department of Health and Human Services may schedule the transfer of positions relating to the closure of Dorothea Dix Hospital and John Umstead Hospital and the opening of Central Regional Hospital in accordance

with appropriations and reductions in funding enacted in this act in a manner that is timely and with minimal disruption in services. The Department may not transfer more positions than are authorized in the House of Representatives Appropriations Committee Report on Health and Human Services, referenced in this act, for the closure of Dorothea Dix Hospital and John Umstead Hospital, the opening of Central Regional Hospital, the transfer of Whitaker School and R. J. Blackley ADATC to Central Regional Hospital, and the transfer of Dorothea Dix Hospital Forensic Unit beds to Broughton Hospital.

SECTION 10.53.(b) Of the funds appropriated in this act to the Department of Health and Human Services for Broughton Hospital, the sum of up to two hundred fifty thousand dollars ($250,000) may be used by Broughton Hospital to purchase a CT Scanner.

INSTITUTE OF MEDICINE TASK FORCE/STUDY OF SUBSTANCE ABUSE SERVICES IN NORTH CAROLINA

SECTION 10.53A.(a) The three hundred thousand dollars ($300,000) appropriated in this act to the Department of Health and Human Services for allocation to the North Carolina Institute of Medicine (NC IOM) shall be used by the IOM to hire new staff, to undertake additional studies annually at the request of the General Assembly, and to support a rapid-response capacity to analyze secondary data sources on health or health-related data to the General Assembly and to State and local government agencies.

SECTION 10.53A.(b) The North Carolina Institute of Medicine shall use a portion of the funds allocated to it in subsection (a) of this section to convene a task force to study substance abuse services in North Carolina. The NC IOM shall provide staff and arrange for meeting facilities for the Task Force.

SECTION 10.53A.(c) The Task Force shall include the following:

(1) Members of the North Carolina Senate and the North Carolina House of Representatives. Senate members shall be appointed by the President Pro Tempore of the Senate. Members of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

(2) Representatives of the North Carolina Department of Health and Human Services, local management entities, the North Carolina Department of Justice, the NC Office of the Attorney General, the North Carolina Community College System, and the North Carolina Department of Public Instruction.

(3) Providers of substance abuse services, academics and researchers with substance abuse expertise, local governmental agencies, business and industry, domestic violence organizations, consumer and family members, and other interested members of the public.

The IOM shall appoint as cochairs of the Task Force one member of the North Carolina House of Representatives, one member of the North Carolina Senate, and one member who provides substance abuse services selected from the Task Force.

SECTION 10.53A.(d) The Task Force shall:

(1) Identify the continuum of services needed for treatment of substance abuse services, including, but not limited to, prevention, outpatient services, residential treatment, and recovery supports. The Task Force shall examine what public and private organizations currently provide services, where services are offered, and gaps in the current service delivery system. The Task Force shall examine services that are

available through public and private systems, but shall focus on the availability of substance abuse services through the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and local management entities. The Task Force shall identify which services should be available locally throughout the State, and which services should be offered regionally or statewide.

(2) Identify evidence-based models of care or promising practices in coordination with the NC Practice Improvement Collaborative for the prevention and treatment of substance abuse and develop recommendations to incorporate these models into the current substance abuse service system of care.

(3) Examine different financing options to pay for substance abuse services at the local, regional, and State levels. The Task Force shall also consider different reimbursement methodology, including, but not limited to, fee-for-service, grant funding, case rates, and capitation.

(4) Examine the adequacy of the current and future substance abuse workforce, including, but not limited to, credentialed substance abuse counselors, availability of substance abuse workers throughout the State, and reimbursement levels. The Task Force shall develop a workforce education plan, if needed, to address current or future workforce shortages.

(5) Develop strategies to identify people in need of substance abuse services, including people who are dually diagnosed as having mental health and substance abuse problems. In addition, the Task Force shall examine strategies for providing substance abuse services to people with substance abuse problems identified through the State hospitals, and the judicial and social services systems.

(6) Examine barriers that people with substance abuse problems have in accessing publicly funded substance abuse services and explore possible strategies for improving access.

(7) Examine current outcome measures and identify other appropriate outcome measures to assess the effectiveness of substance abuse services, if necessary.

(8) Examine the economic impact of substance abuse in North Carolina. If data are available, the Task Force shall estimate the impact of substance abuse on the court system, health care system (e.g., through preventable hospitalizations), social services, and worker productivity.

(9) Make recommendations on the implementation of a cost-effective plan for prevention, early screening, diagnosis, and treatment of North Carolinians with substance abuse problems. In so doing, the Task Force shall identify any policy changes needed to implement the plan and develop cost estimates associated with different recommendations. The Task Force shall also examine existing public and private financing options and explore how existing funding could be used more effectively to pay for the recommended services.

SECTION 10.53A.(e) The North Carolina Institute of Medicine's Substance Abuse Services Task Force shall submit its interim report and recommendations to the 2008 General Assembly upon its convening and to the chairs of the Senate Health Committee, the House of Representatives Health Committee, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Governor. The final report shall be submitted no later than the

convening of the 2009 General Assembly. Upon submission of this report, the Task Force shall terminate.

DHHS BLOCK GRANTS

SECTION 10.55.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2008, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT

Local Program Expenditures

Division of Social Services		
01.	Work First Family Assistance (Cash Assistance)	$94,857,234
02.	Work First County Block Grants	94,653,315
03.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
04.	Work First – Boys and Girls Clubs	2,000,000
05.	Work First – After-School Services for At-Risk Children	2,249,642
06.	Work First – After-School Programs for At-Risk Youth in Middle Schools	500,000
07.	Work First – Connect, Inc.	550,000
08.	Adoption Services – Special Children's Adoption Fund	3,000,000
09.	Family Violence Prevention	2,200,000
Division of Child Development		
10.	Subsidized Child Care Program	48,563,266
DHHS Administration		
11.	Division of Social Services	762,626
12.	Office of the Secretary	65,836
13.	Office of the Secretary/DIRM – TANF Automation Projects	592,500
14.	Office of the Secretary/DIRM – NC FAST Implementation	1,800,000

Division of Public Health	
15. Teen Pregnancy Prevention Initiatives	450,000
Transfers to Other Block Grants	
Division of Child Development	
16. Transfer to the Child Care and Development Fund	81,292,880
Division of Social Services	
17. Transfer to Social Services Block Grant for Department of Juvenile Justice and Delinquency Prevention – Support Our Students	2,749,642
18. Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,550,000
19. Transfer to Social Services Block Grant for Maternity Homes	838,000
20. Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
21. Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
22. Transfer to Social Services Block Grant for Foster Care Services	1,181,907
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	$362,309,239
SOCIAL SERVICES BLOCK GRANT	
Local Program Expenditures	
Divisions of Social Services and Aging and Adult Services	
01. County Departments of Social Services (Transfer from TANF – $4,500,000)	$ 28,868,189
02. State In-Home Services Fund	2,101,113
03. State Adult Day Care Fund	2,155,301
04. Child Protective Services/CPS Investigative	

	Services-Child Medical Evaluation Program	238,321
05.	Foster Care Services (Transfer from TANF – $1,181,907)	2,649,662
06.	Foster Care Maintenance Payments	2,636,587
07.	Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	2,550,000
08.	Maternity Homes (Transfer from TANF)	838,000
	Division of Aging and Adult Services	
09.	Home and Community Care Block Grant (HCCBG)	1,834,077
	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
10.	Mental Health Services Program	422,003
11.	Developmental Disabilities Services Program	5,000,000
12.	Mental Health Services-Adult and Child/Developmental Disabilities Program/ Substance Abuse Services-Adult	3,234,601
	Division of Child Development	
13.	Subsidized Child Care Program	3,195,000
	Division of Vocational Rehabilitation	
14.	Vocational Rehabilitation Services – Easter Seal Society/UCP	188,263
	Office of the Secretary – Office of Economic Opportunity	
15.	Elderly Supplemental Grant Program	41,302
	Division of Public Health	
16.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
DHHS Program Expenditures		
	Division of Aging and Adult Services	

17. UNC-CARES Training Contract	247,920
Division of Services for the Blind	
18. Independent Living Program	3,480,133
Division of Facility Services	
19. Adult Care Licensure Program	411,897
20. Mental Health Licensure and Certification Program	205,668
DHHS Administration	
21. Division of Aging and Adult Services	658,674
22. Division of Social Services	869,058
23. Office of the Secretary/Controller's Office	126,155
24. Office of the Secretary/DIRM	82,009
25. Division of Child Development	15,000
26. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	28,860
27. Division of Facility Services	159,218
28. Office of the Secretary-NC Inter-Agency Council For Coordinating Homeless Programs	250,000
29. Office of the Secretary-Housing Coalition	100,000
30. Office of the Secretary	46,819
Transfers to Other State Agencies	
Department of Administration	
31. NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
Department of Juvenile Justice and Delinquency Prevention	
32. Support Our Students (Transfer from TANF)	2,749,642
Transfers to Other Block Grants	
Division of Public Health	

33. Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
TOTAL SOCIAL SERVICES BLOCK GRANT	$ 68,232,489
LOW-INCOME ENERGY BLOCK GRANT	
Local Program Expenditures	
Division of Social Services	
01. Low-Income Energy Assistance Program (LIHEAP)	$ 17,315,919
02. Crisis Intervention Program (CIP)	12,904,706
Office of the Secretary – Office of Economic Opportunity	
03. Weatherization Program	5,578,702
04. Heating Air Repair & Replacement Program (HARRP)	2,602,008
Local Administration	
Division of Social Services	
05. County DSS Administration	2,215,016
Office of the Secretary – Office of Economic Opportunity	
06. Local Residential Energy Efficiency Service Providers – Weatherization	262,837
07. Local Residential Energy Efficiency Service Providers – HARRP	122,591
DHHS Administration	
08. Division of Social Services	215,000
09. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	7,389
10. Office of the Secretary/DIRM	245,395
11. Office of the Secretary/Controller's Office	11,211
12. Office of the Secretary/Office of Economic Opportunity – Weatherization	262,837
13. Office of the Secretary/Office of Economic	

Opportunity – HARRP	122,591
Transfers to Other State Agencies	
14. Department of Administration – N.C. State Commission of Indian Affairs	59,740
TOTAL LOW-INCOME ENERGY BLOCK GRANT	$ 41,925,942
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
Local Program Expenditures	
Division of Child Development	
01. Subsidized Child Care Services	$163,231,913
02. Subsidized Child Care Services (TANF to CCDF)	81,292,880
DHHS Program Expenditures	
Division of Child Development	
03. Quality and Availability Initiatives	31,463,419
Local Administrations	
Division of Child Development	
04. Administrative Expenses (Nondirect Subsidy Services Support)	1,849,000
DHHS Administration	
05. DCD Administrative Expenses	6,028,354
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	$283,865,566
MENTAL HEALTH SERVICES BLOCK GRANT	
Local Program Expenditures	
01. Mental Health Services – Adult	$ 5,654,932
02. Mental Health Services – Child	3,921,991
03. Comprehensive Treatment Service Program	1,500,000

Local Administration	
04. Division of Mental Health	100,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	$ 11,176,923
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
Local Program Expenditures	
01. Substance Abuse Services – Adult	$ 20,287,390
02. Substance Abuse Treatment Alternative for Women	8,069,524
03. Substance Abuse – HIV and IV Drug	4,816,378
04. Substance Abuse Prevention – Child	5,835,701
05. Substance Abuse Services – Child	4,940,500
06. Substance Abuse Strengthening Families – Prevention	851,156
Division of Public Health	
07. Risk Reduction Projects	633,980
08. Aid-to-Counties	209,576
09. Maternal Health	37,779
DHHS Administration	
10. Division of Mental Health	500,000
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	$ 46,181,984
MATERNAL AND CHILD HEALTH BLOCK GRANT	
Local Program Expenditures	
Division of Public Health	
01. Children's Health Services	6,657,275
02. Family Planning	4,078,338
03. Maternal Health	3,441,129

04.	Teen Pregnancy Prevention Initiatives	85,710
05.	Oral Health	35,951
DHHS Program Expenditures		
Division of Public Health		
06.	Children's Health Services	2,444,445
07.	Maternal Health	106,927
08.	State Center for Health Statistics	33,134
09.	Local Technical Assistance & Training	17,318
10.	Injury and Violence Prevention	142,850
11.	Office of Minority Health	37,068
12.	Immunization Program – Vaccine Distribution	310,667
DHHS Administration		
13.	Division of Public Health Administration	600,586
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		$ 17,991,398
PREVENTIVE HEALTH SERVICES BLOCK GRANT		
Local Program Expenditures		
01.	NC Statewide Health Promotion	$1,755,653
02.	Services to Rape Victims	197,112
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819
DHHS Program Expenditures		
04.	NC Statewide Health Promotion	718,451
05.	Oral Health	70,000
DHHS Administration		
06.	Division of Public Health	163,806

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	$3,070,841

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity – Community Services Block Grant

01.	Community Action Agencies	$ 15,071,666
02.	Limited Purpose Agencies	823,136

DHHS Administration

03.	Office of Economic Opportunity	823,136

TOTAL COMMUNITY SERVICES BLOCK GRANT	$ 16,717,938

GENERAL PROVISIONS

SECTION 10.55.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

(1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.

(2) A delineation of the proposed State and local administrative expenditures.

(3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.

(4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.

(5) A projection of current year expenditures by program or activity.

(6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 10.55.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Department shall not propose funding for new programs or activities not appropriated in this section or increase State administrative expenditures.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall reduce State administration by at least the percentage of the reduction in federal funds. After determining the State administration, the remaining reductions shall be allocated proportionately across the program and activity appropriations identified for that Block Grant in this section. In allocating a decrease in federal fund availability, the

Department shall not eliminate the funding for a program or activity appropriated in this section unless it is related to the State administration.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.55.(d) All changes to the budgeted allocations to the Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and a report shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. All changes to the budgeted allocations to the Block Grant shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)

SECTION 10.55.(e) The sum of seven hundred sixty-two thousand six hundred twenty-six dollars ($762,626) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 10.55.(f) The sum of two million two hundred thousand dollars ($2,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars ($75,000) in TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2007. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars ($5,000); and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2007, and the county's proportion

of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2007. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

SECTION 10.55.(g) The sum of two million two hundred forty-nine thousand six hundred forty-two dollars ($2,249,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy, school dropout, and gang participation. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to fund one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration.

SECTION 10.55.(h) The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars ($14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2007-2008 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and postadoption services for eligible families.

SECTION 10.55.(i) The sum of three million dollars ($3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2007-2008 fiscal year shall be used in accordance with Section 10.31 of this act. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 10.55.(j) The sum of one million eight hundred thousand dollars ($1,800,000) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant for the 2007-2008 fiscal year shall be used to implement N.C. FAST (North Carolina Families Accessing Services through Technology). The N.C. FAST Program involves the entire automation initiative through which families access services and local departments of social services deliver benefits, supervised by the Department of Health and Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance, and Child Development. The statewide automated initiative shall be implemented in compliance with federal regulations in order to ensure federal financial participation in the project. The Department of Health and Human Services shall report on its compliance with this subsection to the House of Representatives Appropriations Subcommittee on Health and

Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2008.

SECTION 10.55.(k) The sum of five hundred thousand dollars ($500,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2007-2008 fiscal year shall be used to expand after-school programs for at-risk children attending middle school. The Department shall develop and implement a grant program to award funds to community-based programs demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and gang participation. These funds shall not be used for training or administration at the State level. All funds shall be distributed to community-based programs, focusing on those communities where similar programs do not exist in middle schools.

SECTION 10.55.(l) In implementing the TANF Block Grant, the Department of Health and Human Services shall review policies, programs, and initiatives to ensure that they support men in their role as fathers and strengthen fathers' involvement in their children's lives. The Department shall encourage county departments of social services to ensure their Work First programs emphasize responsible fatherhood and increased participation by noncustodial fathers.

SECTION 10.55.(m) The sum of five hundred fifty thousand dollars ($550,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for the 2007-2008 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the number of people served and the services received as a result of the receipt of funds. The report shall contain expenditure data, including the amount of funds used for administration and direct training. The report shall also include the number of people who have been employed as a direct result of services provided by Connect, Inc., including the length of employment in the new position. The Department of Health and Human Services shall evaluate the program and ensure that services provided are not duplicative of local employment security commissions in the nine counties served by Connect, Inc. The evaluation report shall be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2008.

SECTION 10.55.(n) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs for the 2007-2008 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

SECTION 10.55.(o) The Department of Health and Human Services, Division of Social Services, shall continue implementing county demonstration grants that began in the 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the county demonstration grants is to identify best practices that can be used by counties to improve the work participation rates. The Division of

Social Services is authorized to establish two time-limited positions to manage the grant award process and monitor the demonstration projects through fiscal year 2009-2010.

Funding provided under the county demonstration grants shall not be used to supplant local funds, and counties shall be required to maintain the current level of effort and funding for the Work First program.

The Department of Health and Human Services, Division of Social Services, shall report on the status of county demonstration grants implemented pursuant to this subsection to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than February 1, 2008.

SOCIAL SERVICES BLOCK GRANT

SECTION 10.55.(p) Social Services Block Grant funds appropriated to the North Carolina Inter-Agency Council for Coordinating Homeless Programs and the North Carolina Housing Coalition are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.55.(q) The sum of two million seven hundred forty-nine thousand six hundred forty-two dollars ($2,749,642) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2007-2008 fiscal year shall be used to support the existing Support Our Students Program, including gang prevention, and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

SECTION 10.55.(r) The sum of two million five hundred fifty thousand dollars ($2,550,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to support various child welfare training projects as follows:

(1) Provide a regional training center in southeastern North Carolina.
(2) Support the Master's Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
(3) Provide training for residential child caring facilities.
(4) Provide for various other child welfare training initiatives.

SECTION 10.55.(s) The sum of eight hundred thirty-eight thousand dollars ($838,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services for the 2007-2008 fiscal year shall be used to purchase services at maternity homes throughout the State.

SECTION 10.55.(t) The sum of two million six hundred forty-nine thousand six hundred sixty-two dollars ($2,649,662) appropriated in this section in the Social Services Block Grant for child caring agencies for the 2007-2008 fiscal year shall be allocated to the State Private Child Caring Agencies Fund.

SECTION 10.55.(u) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SECTION 10.55.(v) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without

prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 10.55.(w) The sum of no more than four hundred thousand dollars ($400,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant for the 2007-2008 fiscal year may be used for the operations of the Medical Child Care Pilot.

SECTION 10.55.(x) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.55.(y) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

MENTAL HEALTH BLOCK GRANT

SECTION 10.55.(z) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2007-2008 fiscal year and the sum of four hundred twenty-two thousand three dollars ($422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 10.10 of this act.

SECTION 10.55.(aa) The Department of Health and Human Services shall contract with the University of North Carolina at Chapel Hill for the purpose of providing psychology student stipends in the amount of fifty thousand dollars ($50,000) for the 2007-2008 fiscal year. Twenty-five thousand dollars ($25,000) of this contract shall be paid from the Mental Health Block Grant.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 10.55.(bb) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2007-2008 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 10.55.(cc) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SALE OF TIMBER

SECTION 11.1. G.S. 143-64.05(a) reads as rewritten:

"(a) The State agency for surplus property may assess and collect a service charge for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus property and for the transfer or sale of recyclable material. The service charge authorized by this subsection does not apply to the transfer or sale of timber on land owned by the Wildlife Resources ~~Commission.~~ Commission or the Department of Agriculture and Consumer Services."

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

COMMERCIAL AND NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK PROGRAM ADMINISTRATIVE COSTS

SECTION 12.1.(a) G.S. 143-215.94B is amended by adding a new subsection to read:

"(g) The Commercial Fund may be used to support the administrative functions of the program for underground storage tanks under this Part and Part 2B of this Article up to the amounts allowed by law, which amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease shall be correspondingly increased or decreased an amount equal to the legislated increase or decrease in salaries and benefits."

SECTION 12.1.(b) G.S. 143-215.94D is amended by adding a new subsection to read:

"(g) The Noncommercial Fund may be used to support the administrative functions of the program for underground storage tanks under this Part and Part 2B of this Article up to the amounts allowed by law, which amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease shall be correspondingly increased or decreased an amount equal to the legislated increase or decrease in salaries and benefits."

BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND

SECTION 12.2.(a) G.S. 87-98 reads as rewritten:

"**§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established ~~within~~ under the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other source and investment interest credited to the Fund.

(b) The Fund may be used to pay for notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well or improved spring that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business. The ~~funds~~ Fund may

also be used to ~~cover~~ pay the costs of testing by the Department of private drinking water wells and improved springs for suspected contamination up to once every three years upon request by a person who uses the well ~~for contamination~~ and for the temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The ~~funds~~ Fund shall not be used for remediation of groundwater contamination. Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination. The Fund shall not be used to provide alternative water supply to households with incomes greater than two hundred percent (200%) of the current poverty level. The Fund shall not be used to provide alternative drinking water supplies unless the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the Maximum Contaminant Level, or the federal drinking water action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July 2006) and 40 Code of Federal Regulations § 143.3 (1 July 2006). The Fund shall not be used to provide temporary water supplies in any calendar quarter until all needs for permanent replacement water supplies that have been identified in that calendar quarter have been met through hookups to public water supplies, repair, or replacement of contaminated wells. In disbursing monies from the Fund, preference shall be given to providing permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse ~~funds~~ monies from this Fund and may adopt any rules necessary to implement this section.

(e) The Department, in consultation with the Commission for Health Services and local health departments, shall report no later than 1 October of each year to the Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action."

SECTION 12.2.(b) The first report required by G.S. 87-98(e), as enacted by subsection (a) of this section, shall be submitted on or before 1 October 2008.

NEW LEASE PURCHASE/INSTALLMENT CONTRACTS FOR FORESTRY EQUIPMENT

SECTION 12.4. Prior to the Division of Forest Resources of the Department of Environment and Natural Resources entering into either a new lease purchase contract for the purchase of forestry equipment or a new installment contract for the purchase of forestry equipment, the Division of Forest Resources shall submit a detailed list of the forestry equipment to be purchased under the contract to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Prior to the Department of Administration entering into either a new lease purchase contract for the purchase of forestry equipment or a new installment contract for the purchase of forestry equipment on behalf of the Division of Forest Resources, the Department of

Administration shall submit a detailed list of the forestry equipment to be purchased under the contract to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. If a list is modified after it is submitted under this section, the modified list shall be submitted to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division prior to entering into the contract.

GRASSROOTS SCIENCE PROGRAM

SECTION 12.5.(a) Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million three hundred eighty-one thousand three hundred forty dollars ($3,381,340) for the 2007-2008 fiscal year and the sum of three million three hundred eighty-one thousand three hundred forty dollars ($3,381,340) for the 2008-2009 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2007-2008	2008-2009
Aurora Fossil Museum	$59,057	$59,057
Cape Fear Museum	$161,007	$161,007
Carolina Raptor Center	$112,174	$112,174
Catawba Science Center	$146,356	$146,356
Colburn Earth Science Museum, Inc.	$74,545	$74,545
Core Sound Waterfowl Museum	$50,000	$50,000
Discovery Place	$662,865	$662,865
Eastern NC Regional Science Center	$50,000	$50,000
Fascinate-U	$81,072	$81,072
Granville County Museum Commission, Inc.–Harris Gallery	$56,422	$56,422
Greensboro Children's Museum	$135,076	$135,076
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$155,611	$155,611
Highlands Nature Center	$79,268	$79,268
Imagination Station	$86,034	$86,034
The Iredell Museums, Inc.	$61,306	$61,306
Kidsenses	$81,282	$81,282
Museum of Coastal Carolina	$78,020	$78,020
The Natural Science Center of Greensboro, Inc.	$186,354	$186,354
North Carolina Museum of Life and Science	$379,826	$379,826
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	$50,000	$50,000
Rocky Mount Children's Museum	$72,254	$72,254
Schiele Museum of Natural History and Planetarium, Inc.	$229,547	$229,547
Sci Works Science Center and Environmental Park of Forsyth County	$146,499	$146,499
Western North Carolina Nature Center	$112,879	$112,879
Wilmington Children's Museum	$73,886	$73,886

Total	$3,381,340	$3,381,340

SECTION 12.5.(b) No later than March 1, 2008, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The operating budget for the 2006-2007 fiscal year.

(2) The operating budget for the 2007-2008 fiscal year.

(3) The total attendance at the museum during the 2007 calendar year.

SECTION 12.5.(c) No later than March 1, 2009, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The operating budget for the 2007-2008 fiscal year.

(2) The operating budget for the 2008-2009 fiscal year.

(3) The total attendance at the museum during the 2008 calendar year.

SECTION 12.5.(d) As a condition for qualifying to receive funding under this section, all of the following documentation shall be submitted for each museum under this section to the Department of Environment and Natural Resources for fiscal years ending between July 1, 2005, and June 30, 2006, and only those costs that are properly documented under this subsection are allowed by the Department in calculating the distribution of funds under this section:

(1) Each museum under this section shall submit its IRS (Internal Revenue Service) Form 990 to show its annual operating expenses, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report.

(2) Each friends association of a museum under this section shall submit its IRS Form 990 to show its reported expenses for the museum, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report, unless the association does not have both an IRS Form 990 and an annual report available, in which case, it shall submit either an IRS Form 990 or an annual report.

(3) The chief financial officer of each county or municipal government that provides funds for the benefit of the museum shall submit a detailed signed statement of documented costs spent for the benefit of the museum that includes documentation of the name, address, title, and telephone number of the person making the assertion that the museum receives funds from the county or municipality for the benefit of the museum.

(4) The chief financial officer of each county or municipal government or each friends association that provides indirect or allocable costs that are not directly charged to a museum under this section but that benefit the museum shall submit in the form of a detailed statement enumerating each cost by type and amount that is verified by the financial officer responsible for the completion of the documentation and that includes the name, address, title, and telephone number of the person making the assertion that the county, municipality, or association provides indirect or allocable costs to the museum.

SECTION 12.5.(e) As used in subsection (d) of this section, "friends association" means a nonprofit corporation established for the purpose of supporting and assisting a museum that receives funding under this section.

SECTION 12.5.(f) The Fiscal Research Division shall study the current formula used to calculate the allocations for members of the Grassroots collaborative

and shall report no later than January 15, 2008, its findings and any recommendations for revising this formula to be used for the 2008-2009 fiscal year to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives.

RETAIN EARNINGS OF PARKS AND RECREATION TRUST FUND

SECTION 12.8. G.S. 113-44.15(a) reads as rewritten:

"(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund."

PART XIII. DEPARTMENT OF COMMERCE

ONE NORTH CAROLINA FUND

SECTION 13.1. Of the funds appropriated in this act to the One North Carolina Fund, the Department of Commerce may use up to three hundred thousand dollars ($300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs in the 2007-2008 fiscal year.

NC GREEN BUSINESS FUND

SECTION 13.2.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2B. NC Green Business Fund.

"**§ 143B-437.4. NC Green Business Fund established as a special revenue fund.**

(a) Establishment. – The NC Green Business Fund is established as a special revenue fund in the Department of Commerce, and the Department shall be responsible for administering the Fund.

(b) Purposes. – Moneys in the NC Green Business Fund shall be allocated pursuant to this subsection. The Department of Commerce shall make grants from the Fund to private businesses with less than 100 employees, nonprofit organizations, local governments, and State agencies to encourage the expansion of small to medium size businesses with less than 100 employees to help grow a green economy in the State. Moneys in the NC Green Business Fund shall be used for projects that will focus on the following three priority areas:

(1) To encourage the development of the biofuels industry in the State. The Department of Commerce may make grants available to maximize development, production, distribution, retail infrastructure, and consumer purchase of biofuels in North Carolina, including grants to enhance biofuels workforce development.

(2) To encourage the development of the green building industry in the State. The Department of Commerce may make grants available to assist in the development and growth of a market for environmentally conscious and energy efficient green building processes. Grants may support the installation, certification, or distribution of green building materials; energy audits; and marketing and sales of green building technology in North Carolina, including grants to enhance workforce development for green building processes.

(3) To attract and leverage private-sector investments and entrepreneurial growth in environmentally conscious clean technology and renewable energy products and businesses, including grants to enhance workforce development in such businesses.

"**§ 143B-437.5. Green Business Fund Advisory Committee.**

The Department of Commerce may establish an advisory committee to assist in the development of the specific selection criteria and the grant-making process of the NC Green Business Fund.

"**§ 143B-437.6. Agreements required.**

Funds may be disbursed from the NC Green Business Fund only in accordance with agreements entered into between the Department of Commerce and an eligible grantee. Each agreement must contain the following provisions:

(1) A description of the acceptable uses of grant proceeds. The agreement may limit the use of funds to specific purposes or may allow the funds to be used for any lawful purposes.

(2) A provision allowing the Department of Commerce to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.

(3) A provision establishing the method for determining compliance with the agreement.

(4) A provision establishing a schedule for disbursement of funds under the agreement.

(5) A provision requiring recapture of grant funds if a grantee subsequently fails to comply with the terms of the agreement.

(6) Any other provision the State finds necessary to ensure the proper use of State funds.

"**§ 143B-437.7. Program guidelines.**

The Department of Commerce shall develop guidelines related to the administration of the NC Green Business Fund and to the selection of projects to receive allocations from the Fund, including project evaluation measures. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

"**§ 143B-437.8. Reports.**

Grants made to non-State entities through the NC Green Business Fund shall be subject to the oversight and reporting requirements of G.S. 143C-6-23. The Department of Commerce shall publish a report on the commitment, disbursement, and use of funds allocated from the NC Green Business Fund at the end of each fiscal year. The report is due no later than September 1 and must be submitted to the following:

(1) The Joint Legislative Commission on Governmental Operations.

(2) The chairs of the House of Representatives and Senate Finance Committees.

(3) The chairs of the House of Representatives and Senate Appropriations Committees.

(4) The Fiscal Research Division of the General Assembly.

"**§§ 143B-437.9 through 143B-437.11: Reserved for future codification purposes.**"

SECTION 13.2.(b) G.S. 147-68(d1) reads as rewritten:

"(d1) The Treasurer shall report to the Joint Legislative Commission on Governmental Operations, ~~to the Chairman, Appropriations Base Budget Committee and the Chairman, Appropriations Expansion Budget Committee of the House of Representatives, and to the Chairman, Committee on Appropriations and the Chairman, Committee on Base Budget of the Senate~~the chairs of the House of Representatives and Senate Appropriations Committees, the chairs of the House of Representatives and Senate Finance Committees, and the Fiscal Research Division of the General Assembly, on a quarterly basis, concerning all investments and deposits made by and through his office. The report shall include a listing of all investments with or on behalf of the State or any of its agencies or institutions and shall include the particular agency or institution, fund, rate of return, duration of the investment, and the amount of deposit on all noninterest bearing accounts. The first report is due 90 days after July 1, 1982, and shall include all investments and deposits made during the 1981-82 fiscal year and all investments made during the first quarter of the 1982-83 fiscal year; thereafter, reports shall be made on a quarterly basis including all investments and deposits made during that reporting period. The report shall include a specific listing of all investments made with certified green managers and companies and funds that support sustainable practices, including the names of the companies, managers, and funds, the amount invested, and the State's return on investment."

SECTION 13.2.(c) G.S. 150B-1(d) is amended by adding the following new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(17) The Department of Commerce in developing guidelines for the NC Green Business Fund under Part 2B of Article 10 of Chapter 143B of the General Statutes."

SECTION 13.2.(d) Of the funds appropriated in this act to the NC Green Business Fund, the Department of Commerce may use up to fifty thousand dollars ($50,000), if necessary, to cover the Department's expenses in administering the NC Green Business Fund.

EXECUTIVE AIRCRAFT/USES

SECTION 13.3. Part 2 of Article 10 of Chapter 143B is amended by adding a new section to read:

"**§ 143B-437.011. Executive aircraft used for economic development; other uses.**

The use of executive aircraft by the Department of Commerce for economic development purposes shall take precedence over all other uses. The Department of Commerce shall annually review the rates charged for the use of executive aircraft and shall adjust the rates, as necessary, to account for upgraded aircraft and inflationary increases in operating costs, including jet fuel prices. If an executive aircraft is not being used for economic development purposes, priority of use shall be given first to the Governor, second to the Council of State, and third to other State officials traveling on State business. If an executive aircraft is used to attend athletic events or for any other purpose related to collegiate athletics, the rate charged shall be equal to the direct cost

of operating the aircraft as established by the aircraft's manufacturer, adjusted for inflation."

WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

SECTION 13.3A.(a) Funds appropriated to the Department of Commerce for the 2006-2007 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

SECTION 13.3A.(b) Funds appropriated to the Department of Commerce for the 2006-2007 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for securing adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

SECTION 13.3A.(c) This section becomes effective June 30, 2007.

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION 13.4.(a) Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the 2007-2008 fiscal year shall not exceed two million five hundred thousand dollars ($2,500,000).

SECTION 13.4.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of seven million three hundred thousand dollars ($7,300,000) for the 2007-2008 fiscal year to be used for the following purposes:

(1) Seven million dollars ($7,000,000) for the operation and support of local offices.

(2) Two hundred thousand dollars ($200,000) for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs.

(3) One hundred thousand dollars ($100,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

SECTION 13.4.(c) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed two million five hundred thousand dollars ($2,500,000) for the

2007-2008 fiscal year to fund State initiatives not currently funded through federal grants.

SECTION 13.4.(d) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed three hundred fifty thousand dollars ($350,000) for the 2007-2008 fiscal year to allow the Commission to continue to work with Connect, Inc., to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.

SECTION 13.4.(e) This section becomes effective July 1, 2007.

INDUSTRIAL COMMISSION STRATEGIC PLAN/REPORT

SECTION 13.4A.(a) G.S. 97-78 is amended by adding two new subsections to read:

"(f) No later than September 1, 2007, the Commission shall prepare and implement a strategic plan for accomplishing all of the following:

(1) Tracking compliance with the provisions of G.S. 97-18(b), (c), and (d), and establishing a procedure to enforce compliance with the requirements of these subsections.

(2) Expeditiously resolving requests for, or disputes involving, medical compensation under G.S. 97-25, including selection of a physician, change of physician, the specific treatment involved, and the provider of such treatment.

(g) The Commission shall demonstrate its success in implementing its strategic plan under subsection (f) of this section by including all of the following in its annual report under subsection (e) of this section:

(1) The total number of claims made during the preceding calendar year, the total number of claims in which compliance was not timely made, and, for each claim, the date the claim was filed, the date by which compliance was required, the date of actual compliance, and any sanctions or other remedial action imposed by the Commission.

(2) The total number of requests for, and disputes involving, medical compensation under G.S. 97-25 in which final disposition was not made within 45 days of the filing of the motion with the Commission, and, for each such request or dispute, the date the motion or other initial pleading was filed, the date on which final disposition was made and, where reasonably ascertainable, the date on which any ordered medical treatment was actually provided."

SECTION 13.4A.(b) G.S. 97-78(e) reads as rewritten:

"(e) ~~The~~ No later than March 1 of each year, the Commission shall publish annually for free distribution a report of the administration of this Article, together with such recommendations as the Commission deems advisable. No later than March 1 of each year, the Commission shall submit this report to the Joint Legislative Commission on Governmental Operations."

COUNCIL OF GOVERNMENT FUNDS

SECTION 13.6.(a) Of the funds appropriated in this act to the Department of Commerce, seven hundred ninety thousand five hundred fifty-one dollars ($790,551) for the 2007-2008 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-six thousand five hundred three dollars ($46,503) for the 2007-2008 fiscal year.

SECTION 13.6.(b) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

SECTION 13.6.(c) Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2007, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2008, as specified in subdivision (e)(1) of this section.

SECTION 13.6.(d) Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

SECTION 13.6.(e) Each council of government or lead regional organization shall do the following:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
   b. State fiscal year 2006-2007 itemized expenditures and fund sources;
   c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
   d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
   b. State fiscal year 2007-2008 itemized expenditures and fund sources;
   c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
   d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 13.7.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development

Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

SECTION 13.7.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and

(2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of three hundred thirty thousand seven hundred fifty dollars ($330,750) in the 2007-2008 fiscal year, which sum represents: (i) the total interest earnings in the prior fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of three hundred thirty thousand seven hundred fifty dollars ($330,750) in the 2007-2008 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

SECTION 13.7.(c) Each regional economic development commission may use up to fifty percent (50%) of the funds allocated in this section for administrative purposes, including personal services; purchased services; supplies, except marketing brochures or other advertising related supplies; and equipment. The remaining fifty percent (50%) of the funds allocated in this section shall be used only for expenditures related to the following: (i) marketing efforts that are aligned with the State's overall economic development and marketing strategies; (ii) economic development grants to counties and municipalities that are located within the region served by the commission; and (iii) activities directly related to the implementation of the commission's vision plan.

SECTION 13.7.(d) No later than September 1, 2007, the Department of Commerce shall submit a report in writing on the implementation of the provisions of G.S. 158-8.6 to the chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, the Office of State Budget and Management, and the Fiscal Research Division. The Department shall include in the report a detailed plan to address any impediments to the development of uniform standards for the commissions.

SECTION 13.7.(e) G.S. 158-8.5 reads as rewritten:

"**§ 158-8.5. Annual reporting requirement.**

By February 15 of each year, the commissions created pursuant to G.S. 158-8.1, 158-8.2, 158-8.3, and 158-33 shall publish a report containing the information required by this section. As a condition on the receipt of State funds, the Charlotte Regional Partnership, Inc., the Piedmont Triad Regional Partnership, and the Research Triangle Regional Partnership shall, by February 15 of each year, publish a report containing the information required by this section. The commissions and partnerships shall also submit a copy of the report to the Department of Commerce, the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Economic Development Oversight Committee, and the Fiscal Research Division of the General Assembly. The report shall include all of the following:

(1) A summary of the preceding year's program activities, objectives, and accomplishments.

(2) The preceding fiscal year's itemized expenditures ~~of State funds.~~and fund sources. Itemized expenditures shall be reported separately for each fund source.

(3) A demonstration of how the commission's or partnership's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.

(4) A demonstration of how the commission's or partnership's involvement in promotion activities has generated leads.

(5) The most recent audited annual financial statement regarding State funds.

(6) A demonstration of the commission's efforts to obtain funds from local, private, and federal sources."

BIOTECHNOLOGY CENTER

SECTION 13.10.(a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

SECTION 13.10.(b) The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

SECTION 13.10.(c) The North Carolina Biotechnology Center shall:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;

b. State fiscal year 2006-2007 itemized expenditures and fund sources;

c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and

d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
b. State fiscal year 2007-2008 itemized expenditures and fund sources;
c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.10.(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

NONPROFIT REPORTING REQUIREMENTS

SECTION 13.11.(a) The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., Coalition of Farm and Rural Families, and Partnership for the Sounds, Inc., shall do the following:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
b. State fiscal year 2006-2007 itemized expenditures and fund sources;
c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments including actual results through December 31, 2007; and
d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
b. State fiscal year 2007-2008 itemized expenditures and fund sources;
c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments including actual results through December 31, 2008; and
d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.11.(b) No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2007. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2008, or January 15, 2009.

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.12.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million nine hundred thirteen thousand one hundred twelve dollars ($1,913,112) for the 2007-2008 fiscal year and the sum of one million nine hundred thirteen thousand one hundred twelve dollars ($1,913,112) for the 2008-2009 fiscal year shall be allocated as follows:

	2007-2008	2008-2009
Research and Demonstration Grants	$370,000	$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	604,298	604,298
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	87,137	87,137
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000
Institute for Rural Entrepreneurship	144,000	144,000.

SECTION 13.12.(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

SECTION 13.12.(c) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

SECTION 13.12.(d) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million four hundred fifteen

thousand nine hundred ten dollars ($2,415,910) for the 2007-2008 fiscal year and the sum of two million four hundred fifteen thousand nine hundred ten dollars ($2,415,910) for the 2008-2009 fiscal year shall be allocated as follows:

(1) $1,047,410 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any new or previously funded community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:
   a. $997,410 for direct grants to local community development corporations to support operations and project activities.
   b. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.

(2) $195,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and

(3) $983,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subsection. The Center shall allocate these funds as follows:
   a. $675,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
      1. Necessary economic development projects and activities in economically distressed areas;
      2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure-pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar-for-dollar basis in the amount of the grant awarded; or
      3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.
   b. $208,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.
   c. $100,000 in each fiscal year to support the update of the statewide water and sewer database and to support the development of a statewide water management plan.

(4) $190,500 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:

a. $75,000 in each fiscal year for operating expenses associated with the Consortium; and
b. $115,500 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.

SECTION 13.12.(e) The Rural Economic Development Center, Inc., shall:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
b. State fiscal year 2006-2007 itemized expenditures and fund sources;
c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
b. State fiscal year 2007-2008 itemized expenditures and fund sources;
c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.12.(f) No funds appropriated in this act shall be released to a community development corporation, as defined in this section, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

SECTION 13.13.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of nineteen million five hundred thousand dollars ($19,500,000) for the 2007-2008 fiscal year and the sum of nineteen million five hundred thousand dollars ($19,500,000) for the 2008-2009 fiscal year shall be allocated as follows:

(1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least fifteen million dollars ($15,000,000) of the funds appropriated in this act for each year of the biennium must be used to provide grants under this Program.

(2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.

(3) To provide economic development research and demonstration grants.

SECTION 13.13.(b) The Rural Economic Development Center, Inc., may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

SECTION 13.13.(c) During each year of the 2007-2009 biennium, the Rural Economic Development Center, Inc., may use up to two percent (2%) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

SECTION 13.13.(d) No later than January 15 of each year, the Rural Economic Development Center, Inc., shall submit an annual report to the Joint Legislative Commission on Governmental Operations concerning the progress of the North Carolina Economic Infrastructure Program.

RURAL ECONOMIC DEVELOPMENT CENTER FUNDS

SECTION 13.14.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million dollars ($19,000,000) for the 2007-2008 fiscal year shall be used to expand the North Carolina Rural Economic Infrastructure Fund with targeted priority to severely distressed rural areas.

SECTION 13.14.(b) The Rural Center shall use the funds appropriated in this act to establish and implement the Rural Economic Transition Program. This program shall provide grants and equity investments to carry out transformative economic development and agricultural enhancement projects that will generate jobs and expand business activity.

SECTION 13.14.(c) Units of local government and nonprofit organizations in rural areas are eligible for grants, with priority to applicants in development tier one areas as defined in G.S. 143B-437.08.

SECTION 13.14.(d) Priority for grant funds shall be given to economic development projects that satisfy one or more of the following criteria:

(1) It is located in a county or census area with a persistently high poverty rate of at least one hundred fifty percent (150%) of the State's poverty rate according to the most recent decennial census.

(2) It is located in a community that has experienced a sudden and severe economic downturn as reflected in numbers of business closings, layoffs, and unemployment rate during the previous 12 months.

(3) It is located in a small town with a population under 10,000, an agrarian growth zone as defined in G.S. 143B-437.10, or an urban progress zone as defined in G.S. 143B-437.09.

(4) It is identified in community-based strategic planning efforts and coordinated with other economic development and community-building initiatives, such as the North Carolina Rural Economic Development Center Small Town Economic Prosperity Program, the North Carolina Department of Commerce 21st Century Communities Program, the North Carolina Department of Commerce Main Street Program, and federally funded Comprehensive Economic Development Strategies.

(5) It is supportive of strategies to expand entrepreneurial small business activity based on the natural, cultural, or historical assets of the community.

(6) It has the ability to demonstrate benefits to small farm business diversifying into value-added production and marketing, and it increases opportunities in food and beverage manufacturing and distribution for small farm entrepreneurs.

SECTION 13.14.(e) Eligible units of local government and nonprofit organizations are not required to match grants received under this section, but shall demonstrate the commitment of other funds to the project.

SECTION 13.14.(f) Up to twenty percent (20%) of the funds appropriated in this section may be used for equity investments and loans through the Rural Venture Fund to private business ventures that will substantially transform and improve the economic status of rural areas, with priority to businesses locating or expanding in development tier one areas as defined in G.S. 143B-437.08.

SECTION 13.14.(g) The Rural Center may use a portion of the funds appropriated under this section, not to exceed four percent (4%), for administration of the programs created by this section.

SECTION 13.14.(h) The Rural Center may contract with other State agencies and branches of The University of North Carolina for certain aspects of the programs created under this section, including the design of program guidelines and evaluation of program results.

SECTION 13.14.(i) The Rural Center shall report to the Joint Legislative Commission on Governmental Operations on a quarterly basis concerning the progress of the programs created under this section. The first report is due no later than February 15, 2008.

SECTION 13.14.(j) This section becomes effective July 1, 2007.

STUDY EQUINE INDUSTRY IN NORTH CAROLINA

SECTION 13.14A.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five hundred thousand dollars ($500,000) for the 2007-2008 fiscal year shall be allocated to the Agricultural Advancement Consortium for the purpose of assessing the numbers, composition, and value of the equine industry in North Carolina, analyzing the direct and indirect impact of the industry on the State's economy, and developing a comprehensive plan to maximize the economic opportunities presented by the industry.

SECTION 13.14A.(b) The assessment of the equine industry shall provide data on both a statewide and countywide basis. The assessment shall include the following:

(1) A census of equines in the State, including numbers, breeds, and disciplines.
(2) The value of equines in the State.
(3) The number of equine owners.
(4) The number of equine operations.
(5) The size of equine operations.
(6) The total acreage devoted to equine operations.
(7) The value of equine-related assets.
(8) The number of equines and owners participating in various activities within the State.
(9) An analysis of the economic impact of the existing exhibition facilities including the Hunt Horse Complex, the Senator Bob Martin Horse Complex, the WNC Agricultural Center, and the Carolina Horse Park.
(10) An analysis of the programs, contributions, and industry support provided by the North Carolina State University College of Veterinary Medicine and other equine programs, at both private and public education institutions including the College of Agriculture and Life Sciences at North Carolina State University, Martin Community College, and St. Andrews College.
(11) An analysis of the economic impact of breeding, training, and other horse operations.
(12) An analysis of the economic impact of services provided to the equine industry including farrier, veterinary, design and planning, farm management and consulting, show management, and other services related to equines and equine operations.
(13) An analysis of the economic impact, including manufacturing, agricultural production and employment, and wholesale and retail sales, of the purchase of equines, feed and grain, hay, tack and other horse equipment, riding clothes, insurance, vehicles and trailers, farm and pasture inputs, capital improvements such as barns, sheds, and fencing, and real estate, including planned equestrian communities.
(14) An analysis of the economic impact of other recreational uses of equines, including trail riding, camping with horses, therapeutic riding programs, other recreational activities, and equine-related agritourism.
(15) An analysis of the impact of the equine industry on State and local governments including the generation of tax revenues.

SECTION 13.14A.(c) The Agricultural Advancement Consortium, in developing a plan to maximize the economic impact of the equine industry, shall:

(1) Evaluate existing equine-related facilities, programs, and services in the State and make recommendations for enhancing those facilities, programs, and services so as to maximize their economic impact on the State.
(2) Identify opportunities for the growth of the equine industry, including the production of feed crops, improved pasture, and high quality horse hays, attracting industry engaged in the production of horse-related products, equipment, and pharmaceuticals, the addition of exhibition and show facilities, including the development of a world-class equestrian park, and other horse-related programs, activities, and facilities, and evaluate the potential economic contribution to the State's economy of each of these potential undertakings.

(3) Evaluate the need to create an equine industry board tasked with the market development, education, publicity, research, and promotion of the North Carolina equine industry and other such measures it deems appropriate to promote the objectives, findings, and recommendations of the equine industry survey and analysis.

(4) Evaluate the laws, rules, and policies that impact equine owners and persons engaged in equine activities, including land-use policies, preservation of trails, use of State recreational facilities, and tax credits and make recommendations directed toward making North Carolina more attractive to equine operations and activities.

SECTION 13.14A.(d) The Agricultural Advancement Consortium may contract with other agencies of State government, any of the constituent institutions of The University of North Carolina, and private consultants as it deems necessary and advisable in its conduct of the assessment and plan development. The Agricultural Advancement Consortium shall complete its work within 12 months of the funds becoming available and shall file a report containing the results of the assessment of the equine industry and its plan for maximizing the economic impact of the equine industry with the Chairs of the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Committees.

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 13.15.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred sixty-one thousand dollars ($361,000) for the 2007-2008 fiscal year and the sum of three hundred sixty-one thousand dollars ($361,000) for the 2008-2009 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers for ongoing job training programs.

SECTION 13.15.(b) For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
   b. State fiscal year 2006-2007 itemized expenditures and fund sources;
   c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
   d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
   b. State fiscal year 2007-2008 itemized expenditures and fund sources;

c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and

d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.

(3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.

(4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

SECTION 13.15.(c) No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section if the Center has any overdue tax debts, as that term is defined in G.S. 105-243.1, at the federal or State level.

E-NC AUTHORITY CONTRACTS/ REPORTING REQUIREMENTS

SECTION 13.16.(a) The e-NC Authority may contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.

SECTION 13.16.(b) The e-NC Authority shall report to the 2008 General Assembly on the following:

(1) The activities necessary to be undertaken in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access high-speed Internet.

(2) An implementation plan for the training of citizens and businesses in distressed urban areas.

(3) The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority shall, by September 30, 2007, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

NER BLOCK GRANTS

SECTION 13.18.(a) Appropriations from federal block grant funds are made for fiscal year ending June 30, 2008, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	$	1,000,000
02. Urgent Needs and Contingency		1,000,000
03. Scattered Site Housing		13,200,000

04.	Economic Development	7,710,000
05.	Small Business/Entrepreneurship	1,000,000
06.	Community Revitalization	13,500,000
07.	State Technical Assistance	450,000
08.	Housing Development	2,000,000
09.	Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2008 Program Year		$ 45,000,000

SECTION 13.18.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 13.18.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 13.18.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars ($1,000,000) may be used for State Administration; not less than one million dollars ($1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars ($13,200,000) may be used for Scattered Site Housing; seven million seven hundred ten thousand dollars ($7,710,000) may be used for Economic Development; up to one million dollars ($1,000,000) may be used for Small Business/Entrepreneurship; not less than thirteen million five hundred thousand dollars ($13,500,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars ($450,000) may be used for State Technical Assistance; up to two million dollars ($2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars ($5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 13.18.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

SECTION 13.18.(f) The Department of Commerce will operate a small business/entrepreneurship program in coordination with micro-lending programs and other small business assistance groups in the State. The Department of Commerce shall award up to one million dollars ($1,000,000) in grants to local governments to provide assistance to low-to-moderate income individuals for small business and

entrepreneurship development as a means of achieving economic independence during these times of structural change in North Carolina's economy.

SECTION 13.18.(g) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made. The Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

PART XIV. JUDICIAL DEPARTMENT

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

SECTION 14.1. Funds appropriated to the Judicial Department in the 2007-2009 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

GRANT FUNDS

SECTION 14.2. Notwithstanding G.S. 143C-6-9, the Judicial Department may use up to the sum of one million five hundred thousand dollars ($1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

NORTH CAROLINA STATE BAR FUNDS

SECTION 14.3. Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 2007-2009 biennium, the North Carolina State Bar may in its discretion use up to the sum of five hundred one thousand five hundred dollars ($501,500) for the 2007-2008 fiscal year and up to the sum of five hundred one thousand five hundred dollars ($501,500) for the 2008-2009 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1, 2008, to the Chairs

of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the activities funded by the grant-in-aid authorized by this section.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS/ESTABLISHMENT OF ADDITIONAL PUBLIC DEFENDER OFFICES

SECTION 14.4.(a) The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred ninety-two thousand three hundred fifty dollars ($2,192,350) in appropriated funds during the 2007-2008 fiscal year and up to the sum of two million eighty-two thousand five hundred ten dollars ($2,082,510) in appropriated funds during the 2008-2009 fiscal year for the expansion of existing or new public defender offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to 20 new attorney positions and 10 new support staff positions. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

SECTION 14.4.(b) Notwithstanding the provisions of G.S. 7A-498.7(a), the Indigent Defense Services Commission may establish additional district public defender offices during the 2007-2009 fiscal biennium. Of the funds appropriated in this act to the Office of Indigent Defense Services, the Office may use up to the sum of one million five hundred seventy thousand fifty-seven dollars ($1,570,057) during the 2008-2009 fiscal year to establish these offices. These funds may be used for recurring and nonrecurring personnel and operating costs in the new offices. No more than the sum of two hundred twenty-five thousand dollars ($225,000) may be used for positions in the Office of Indigent Defense Services directly related to facilitating the establishment of these offices.

The Office of Indigent Defense Services shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division no later than October 1, 2007, on the location and establishment of the new public defender offices.

SECTION 14.4.(c) In addition to the new public defender offices established pursuant to subsection (b) of this section, the Office of Indigent Defense Services shall use funds from the Indigent Persons Attorney Fee Fund as follows:

(1) Up to the sum of one million three hundred thirty-five thousand five hundred forty-three dollars ($1,335,543) for the 2007-2008 fiscal year and up to the sum of one million two hundred sixty-four thousand six hundred seventy-nine dollars ($1,264,679) for the 2008-2009 fiscal year to establish Public Defender District 5 as provided for in subsection (d) of this section.

(2) Up to the sum of seven hundred eighty-eight thousand two hundred sixty-four dollars ($788,264) for the 2007-2008 fiscal year and up to the sum of seven hundred forty-two thousand four hundred seventy-seven dollars ($742,477) for the 2008-2009 fiscal year to establish Public Defender District 29B as provided for in subsection (d) of this section.

SECTION 14.4.(d) G.S. 7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
5	New Hanover
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe
29B	Henderson, Polk, Transylvania

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 14.5. The Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year;

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices; and

(5) The changes in operations implemented in response to the following findings and recommendations contained in the March 2007 State Audit Report:

a. Attorney fee payment process lacks adequate controls. Measures should be implemented to ensure that attorneys are paid the correct amount and to minimize the incidence of overpayment resulting from accident, fraud, or other cause.

b. Attorney fee payment process is inefficient and labor-intensive.
c. The Office should automate the attorney fee payment process and require attorneys to register for electronic fund transfer.

INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 14.6. Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars ($50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

REPORT ON BUSINESS COURTS

SECTION 14.7. The Administrative Office of the Courts shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases; average age of pending cases, and annual expenditures for the prior fiscal year.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 14.8. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2007, for the purchase or repair of office or information technology equipment during the 2007-2008 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

DISPUTE RESOLUTION FEES

SECTION 14.9. Notwithstanding the provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute Resolution Commission are non-reverting and are only to be used at the direction of the Commission.

REIMBURSEMENT FOR USE OF PERSONAL VEHICLES

SECTION 14.10. Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial Department, during the 2007-2009 fiscal biennium, may elect to establish a per-mile reimbursement rate for transportation by privately owned vehicles at a rate less than the business standard mileage rate set by the Internal Revenue Service.

DRUG TREATMENT COURT FUNDS

SECTION 14.11. Except as otherwise provided in this act, funds appropriated to the Judicial Department in this act for the Drug Treatment Court program shall be used only to provide treatment and case coordination to offenders sentenced to intermediate punishment and to offenders sentenced to community punishment who are at risk of revocation.

DRUG TREATMENT FUNDS NEED NOT BE GRANTED

SECTION 14.12. Notwithstanding the provisions of G.S. 7A-794 and G.S. 7A-798, funds appropriated to the Judicial Department for the 2007-2009 fiscal biennium for drug treatment courts need not be granted but may be budgeted to support existing and new drug treatment courts in a manner similar to other specialty courts operating within the Judicial Department.

STATE FUNDS NOT TO BE USED FOR TELEPHONE SERVICE

SECTION 14.16.(a) G.S. 7A-302 reads as rewritten:

"**§ 7A-302. Counties and municipalities responsible for physical facilities.**

In each county in which a district court has been established, courtrooms, office space for juvenile court counselors and support staff as assigned by the Department of Juvenile Justice and Delinquency Prevention, and related judicial facilities (including ~~furniture~~ furniture, properly functioning telephones, and the equipment and infrastructure necessary to support those telephones), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the Administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the "facilities fee," collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities."

SECTION 14.16.(b) This section becomes effective July 1, 2008.

OFFICE OF INDIGENT DEFENSE SERVICES/ELECTRONIC FEE SUBMISSION

SECTION 14.17. The Office of Indigent Defense Services, in consultation with the Administrative Office of the Courts, shall study the potential for a statewide system of electronic fee submission and develop a proposal for statewide implementation of such a system. A report on this proposal shall be included as part of the report required under Section 14.5 of this act.

REPORT ON COURT SYSTEM PERFORMANCE MEASURES

SECTION 14.18. The Administrative Office of the Courts shall develop and implement a system to measure the impact of the funding provided in this act on the operation of the courts. The system shall include uniform performance measures and standards for caseload management and resource allocation, including funding, personnel, technology, and equipment at district and county levels. The Administrative Office of the Courts shall submit an interim status report on the development and implementation of the performance measurement system to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House Appropriations Committees no later than December 31, 2007, and shall submit a final report no later than May 1, 2008.

THE OFFICE OF INDIGENT DEFENSE SERVICES MAY COMPENSATE ATTORNEYS FOR CERTAIN FILINGS

SECTION 14.19.(a) G.S. 7A-451(b) reads as rewritten:

"(b) In each of the actions and proceedings enumerated in subsection (a) of this section, entitlement to the services of counsel begins as soon as feasible after the indigent is taken into custody or service is made upon him of the charge, petition, notice or other initiating process. Entitlement continues through any critical stage of the action or proceeding, including, if applicable:

(1) An in-custody interrogation;
(2) A pretrial identification procedure which occurs after formal charges have been preferred and at which the presence of the indigent is required;
(3) A hearing for the reduction of bail, or to fix bail if bail has been earlier denied;
(4) A probable cause hearing;
(5) Trial and sentencing; ~~and~~
(6) Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), 7A-30(2), and Subchapter XIV of Chapter 15A of the General ~~Statutes.~~ Statutes;
(7) In a capital case in which a defendant is under a sentence of death, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by the Supreme Court of North Carolina pursuant to the certiorari jurisdiction of the United States Supreme Court; and
(8) In a noncapital case, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by a court of the North Carolina Appellate Division pursuant to the certiorari jurisdiction of the United States Supreme Court, when the judgment or decree:
a. Decides an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court, a federal Court of Appeals, or the court of last resort of another state;
b. Decides an important question of federal law that has not been, but should be, settled by the United States Supreme Court; or
c. Decides a question of federal law in the indigent's favor and the judgment or decree is challenged by opposing counsel through an attempt to invoke the certiorari jurisdiction of the United States Supreme Court."

SECTION 14.19.(b) G.S. 7A-498.8(b) reads as rewritten:

"(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including:

(1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense Services may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, assign appeals, or authorize the appellate defender to assign appeals, to a local public defender's office or to private assigned counsel.
(2) Maintaining a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.
(3) Providing continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.
(4) Providing consulting services to attorneys representing defendants in capital cases.

(5) Recruiting qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.

(6) In the appellate defender's discretion, serving as counsel of record for indigent defendants in capital cases in State court.

(6a) In the appellate defender's discretion, serving as counsel of record for indigent defendants in the United States Supreme Court pursuant to a petition for writ of certiorari of the decision on direct appeal by a court of the North Carolina Appellate Division.

(7) Undertaking other direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded."

ALLOW JURORS TO WAIVE PAYMENT OF PER DIEM FEES AND ALLOW THOSE FUNDS TO BE USED TO PROVIDE HUMAN SERVICES WITHIN THAT DISTRICT

SECTION 14.20.(a) G.S. 7A-312 reads as rewritten:

"**§ 7A-312. Uniform fees for jurors; meals.**

(a) A juror in the General Court of Justice including a petit juror, or a coroner's juror, but excluding a grand juror, shall receive twelve dollars ($12.00) for the first day of service and twenty dollars ($20.00) per day afterwards, except that if any person serves as a juror for more than five days in any 24-month period, the juror shall receive forty dollars ($40.00) per day for each day of service in excess of five days. A grand juror shall receive twenty dollars ($20.00) per day. A juror required to remain overnight at the site of the trial shall be furnished adequate accommodations and subsistence. If required by the presiding judge to remain in a body during the trial of a case, meals shall be furnished the jurors during the period of sequestration. Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as State employees.

(b) Notwithstanding subsection (a) of this section, a juror may waive payment of the per diem fees provided for in that subsection. A juror waiving the fee may designate that the fee be used for any of the following services, if such services are provided in the district: (i) client treatment and service programs associated with a drug treatment or DWI treatment court program; (ii) courthouse self-help centers; (iii) courthouse child care centers; (iv) legal aid programs operated by a nonprofit corporation operating within the district; and (v) the Crime Victims Compensation Fund. If no such services are provided within the district, then waived fees are transferred to the Crime Victims Compensation Fund."

SECTION 14.20.(b) This section becomes effective July 1, 2007, and applies to jury service that begins on or after that date.

AUTHORIZE A TRAVEL ALLOWANCE FOR APPELLATE JUDGES WHO RESIDE FIFTY MILES OR MORE FROM RALEIGH

SECTION 14.21.(a) G.S. 7A-10(b) reads as rewritten:

"(b) The Chief Justice and each of the associate justices shall receive the annual salary provided in the Current Operations Appropriations Act. Each justice is entitled to reimbursement for travel and subsistence expenses at the rate allowed State employees ~~generally.~~ generally, except that each justice whose permanent residence is at least 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week the justice travels to the City of Raleigh from the justice's home for business of the court. The allowance shall be calculated for each justice by multiplying the actual

round-trip mileage from that justice's home to the City of Raleigh by the rate-per-mile which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993."

SECTION 14.21.(b) G.S. 7A-18(a) reads as rewritten:

"(a) The Chief Judge and each associate judge of the Court of Appeals shall receive the annual salary provided in the Current Operations Appropriations Act. Each judge is entitled to reimbursement for travel and subsistence expenses at the rate allowed State employees ~~generally.~~ generally, except that each judge whose permanent residence is at least 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week the judge travels to the City of Raleigh from the judge's home for business of the court. The allowance shall be calculated for each judge by multiplying the actual round-trip mileage from that judge's home to the City of Raleigh by the rate-per-mile which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993."

APPORTIONING OF COURT SYSTEM PERSONNEL THROUGH A WORKLOAD FORMULA

SECTION 14.22.(a) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys as prescribed in a workload formula set forth and adopted by the Conference of District Attorneys and recommended to the Administrative Officer of the Courts and minimally set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	7
3A	Pitt	11
3B	Carteret, Craven, Pamlico	11
4	Duplin, Jones, Onslow, Sampson	16
5	New Hanover, Pender	16
6A	Halifax	5
6B	Bertie, Hertford, Northampton	5
7	Edgecombe, Nash, Wilson	18
8	Greene, Lenoir, Wayne	13
9	Franklin, Granville, Vance, Warren	12
9A	Person, Caswell	5
10	Wake	38
11	Harnett, Johnston, Lee	16
12	Cumberland	21
13	Bladen, Brunswick, Columbus	12
14	Durham	15
15A	Alamance	10
15B	Orange, Chatham	9

16A	Scotland, Hoke	6
16B	Robeson	13
17A	Rockingham	6
17B	Stokes, Surry	7
18	Guilford	30
19A	Cabarrus	8
19B	Montgomery, Randolph	8
19C	Rowan	7
19D	Moore	4
20A	Anson, Richmond, Stanly	10
20B	Union	8
21	Forsyth	20
22	Alexander, Davidson, Davie, Iredell	20
23	Alleghany, Ashe, Wilkes, Yadkin	7
24	Avery, Madison, Mitchell, Watauga, Yancey	6
25	Burke, Caldwell, Catawba	18
26	Mecklenburg	49
27A	Gaston	14
27B	Cleveland, Lincoln	10
28	Buncombe	13
29A	McDowell, Rutherford	6
29B	Henderson, Polk, Transylvania	7
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	11

SECTION 14.22.(b) G.S. 7A-102(a) reads as rewritten:

"(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by a workload formula adopted by the Conference of Clerks of Superior Court and recommended to the Administrative Officer of the Courts and after consultation with the clerk concerned. The allocation of deputy and assistant clerks on January 1, 2007, shall not be reduced without prior consent of the clerk concerned. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly."

SECTION 14.22.(c) G.S. 7A-132 reads as rewritten:

"**§ 7A-132. Judges, district attorneys, full-time assistant district attorneys and magistrates for district court districts.**

Each district court district shall have one or more judges and one district attorney. Each county within each district shall have at least one magistrate.

For each district the General Assembly ~~shall prescribe~~ determines that the numbers of district ~~judges, and the numbers of full-time assistant district attorneys. For each county within each district the General Assembly shall prescribe a minimum number of magistrates.~~ judges shall be set by a workload formula adopted by the Board of Governors of the Association of District Court Judges and recommended to the Administrative Officer of the Courts. The General Assembly shall prescribe by law the procedures for the initial election of district court judges established under that formula."

SECTION 14.22.(d) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the minimum numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	6	Craven
		Pamlico
		Carteret
4	8	Sampson
		Duplin
		Jones
		Onslow
5	8	New Hanover
		Pender
6A	3	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell

9B	2	Warren
		(part of Vance
		see subsection (b))
10	16	Wake
11	9	Harnett
		Johnston
		Lee
12	9	Cumberland
13	6	Bladen
		Brunswick
		Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes
		Surry
18	13	Guilford
19A	4	Cabarrus
19B	7	Montgomery
		Moore
		Randolph
19C	5	Rowan
20A	4	Stanly
		Anson
		Richmond
20B	1	(part of Union
		see subsection (b))
20C	2	(part of Union
		see subsection (b))
21	9	Forsyth
22	9	Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	9	Burke
		Caldwell
		Catawba

26	18	Mecklenburg
27A	7	Gaston
27B	5	Cleveland
		Lincoln
28	7	Buncombe
29A	3	McDowell
		Rutherford
29B	4	Henderson
		Polk
		Transylvania
30	6	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

SECTION 14.22.(e) G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates determined by a workload formula adopted by the North Carolina Magistrates' Association and recommended to the Administrative Officer of the Courts and additional seats of district court, as set forth in the following table:

County	Magistrates Min.	Additional Seats of Court
Camden	3	
Chowan	3	
Currituck	4	
Dare	6	
Gates	2	
Pasquotank	5	
Perquimans	3	
Martin	4	
Beaufort	5.05	
Tyrrell	3	
Hyde	3.5	
Washington	4	
Pitt	10.5	Farmville
		Ayden
Craven	10	Havelock
Pamlico	3	
Carteret	9	
Sampson	7	
Duplin	8	
Jones	2	
Onslow	11	
New Hanover	11	
Pender	4.8	
Halifax	12	Roanoke Rapids, Scotland Neck

Northampton	5.25	
Bertie	5	
Hertford	6	
Nash	9	Rocky Mount
Edgecombe	7	Rocky Mount
Wilson	7	
Wayne	9	Mount Olive
Greene	4	
Lenoir	7	La Grange
Granville	7	
Vance	6	
Warren	3.5	
Franklin	7	
Person	4	
Caswell	4	
Wake	18.5	Apex, Wendell, Fuquay-Varina, Wake Forest
Harnett	10	Dunn
Johnston	11	Benson, Clayton, Selma
Lee	5.5	
Cumberland	19	
Bladen	5	
Brunswick	9	
Columbus	9.5	Tabor City
Durham	13	
Alamance	12	Burlington
Orange	9	Chapel Hill
Chatham	6	Siler City
Scotland	5	
Hoke	5	
Robeson	15	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	9	Reidsville, Eden, Madison
Stokes	5	
Surry	9	Mt. Airy
Guilford	24.4	High Point
Cabarrus	9	Kannapolis
Montgomery	5	
Randolph	10	Liberty
Rowan	9	
Stanly	6	

Union	7	
Anson	5	
Richmond	6	Hamlet
Moore	6.5	Southern Pines
Forsyth	15	Kernersville
Alexander	4	
Davidson	10	Thomasville
Davie	4	
Iredell	9	Mooresville
Alleghany	2	
Ashe	4	
Wilkes	6	
Yadkin	4	
Avery	4	
Madison	4	
Mitchell	4	
Watauga	5	
Yancey	3	
Burke	6.75	
Caldwell	7	
Catawba	10	Hickory
Mecklenburg	26.50	
Gaston	17	
Cleveland	8	
Lincoln	6	
Buncombe	15	
Henderson	6.5	
McDowell	4.5	
Polk	4	
Rutherford	7	
Transylvania	4	
Cherokee	4	
Clay	2	
Graham	2	
Haywood	6.75	Canton
Jackson	5	
Macon	3.5	
Swain	3.75"	

SECTION 14.22.(f) G.S. 7B-1200 reads as rewritten:

"**§ 7B-1200. Office of Guardian ad Litem Services established.**

There is established within the Administrative Office of the Courts an Office of Guardian ad Litem Services to provide services in accordance with G.S. 7B-601 to abused, neglected, or dependent juveniles involved in judicial proceedings and to assure that all participants in these proceedings are adequately trained to carry out their responsibilities. Each local program shall consist of volunteer guardians ad litem, at least one program attorney, ~~a program coordinator who is a paid State employee,~~ program coordinators who are paid State employees in numbers determined by a workload formula adopted by the Administrative Office of the Courts, and any clerical staff as the Administrative Office of the Courts in consultation with the local program

deems necessary. The Administrative Office of the Courts shall adopt rules and regulations necessary and appropriate for the administration of the program."

EXPAND COURT-FUNDED INTERPRETER AUTHORITY

SECTION 14.23. G.S. 7A-314(f) reads as rewritten:

"(f) In any case in which the Judicial Department is bearing the costs of representation for a party and that party or a witness for that party does not speak or understand the English language, and the court appoints a foreign language interpreter to assist that party or witness, the reasonable fee for the interpreter's services is payable from funds appropriated to the Administrative Office of the Courts. The court may also appoint an interpreter, payable from funds appropriated to the Administrative Office of the Courts, in cases in which an interpreter is necessary to assist the court in the efficient transaction of business. The appointment and payment shall be made in accordance with G.S. 7A-343(9c)."

ADD THREE SPECIAL SUPERIOR COURT JUDGES

SECTION 14.24. G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a7) Effective January 1, 2008, the Governor may appoint three special superior court judges to serve terms expiring five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

PART XV. DEPARTMENT OF JUSTICE

STATEWIDE AUTOMATED FINGERPRINT SYSTEM REPLACEMENT (SAFIS) REPORTS

SECTION 15.1. The Department of Justice shall provide two status reports on the implementation of Phase II of SAFIS to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations. The first report shall be provided no later than February 1, 2008, and the second report shall be provided no later than May 1, 2008. Each report shall include all of the following:

(1) A description of the system.
(2) A summary of work done with prior year appropriations.
(3) A list of all sites that are scheduled to receive new equipment.
(4) A list of sites that have already received new equipment.
(5) A time line for completion of the project.
(6) Expenditures for the year to date.

PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

SECTION 15.2. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 15.3.(a) Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2007-2009 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 15.3.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 15.3.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

SECTION 15.4. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

SECTION 15.5. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS DISBURSED

SECTION 15.6. The North Carolina Legal Education Assistance Foundation shall report by March 1 of each year to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds, the purpose of the expenditures, the number of attorneys receiving funds, the average award amount, the average student loan amount, the number of attorneys on the waiting list, and the average number of years for which attorneys receive loan assistance.

HIRING OF SWORN STAFF POSITIONS FOR THE STATE BUREAU OF INVESTIGATION

SECTION 15.7. The Department of Justice may hire sworn personnel to fill vacant positions in the State Bureau of Investigation only in the following circumstances: (i) the position's regular responsibilities involve warrant executions, property searches, criminal investigations, or arrest activities that are consistent in frequency with the responsibilities of other sworn agents; (ii) the position is a promotion

for a sworn agent who was employed at the State Bureau of Investigation prior to July 1, 2007; (iii) the position is a forensic drug chemist position which requires "responding to clandestine methamphetamine laboratories" as a primary duty; (iv) the position is a forensic impressions analyst position which requires "responding to clandestine methamphetamine laboratories" as a primary duty; or (v) the position primarily involves supervising sworn personnel.

ACTIONS TO REDUCE MEDICAID FRAUD

SECTION 15.8.(a) G.S. 108A-70.11(5) reads as rewritten:

"(5) "Medical Assistance Program" means the Medical Assistance Program established pursuant to G.S. 108A-54 and includes the North Carolina Division of Medical Assistance ~~and~~ or its fiscal agent."

SECTION 15.8.(b) G.S. 108A-70.12(a) reads as rewritten:

"**§ 108A-70.12. Liability for certain acts; damages; effect of repayment.**

(a) Liability for Certain Acts. – It shall be unlawful for any provider of medical assistance under the Medical Assistance Program to:

(1) Knowingly present, or cause to be presented to the Medical Assistance Program a false or fraudulent claim for payment or approval; ~~or~~

(2) Knowingly make, use, or cause to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the Medical Assistance ~~Program.~~Program;

(3) Conspire to defraud the Medical Assistance Program by getting a false or fraudulent claim allowed or paid; or

(4) Knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Medical Assistance Program.

Each claim presented or caused to be presented in violation of this section is a separate violation."

SECTION 15.8.(c) G.S. 108A-70.12(b)(1) reads as rewritten:

"(b) Damages. –

(1) Except as provided in subdivision (2) of this subsection, a court shall assess against any provider of medical assistance under the Medical Assistance Program who violates this section a civil penalty of not less than five thousand five hundred dollars ~~($5,000)~~ ($5,500) and not more than ~~ten thousand dollars ($10,000)~~ eleven thousand dollars ($11,000) plus three times the amount of damages which the ~~Medicaid~~ Medical Assistance Program sustained because of the act of the provider.

..."

SECTION 15.8.(d) Article 2 of Chapter 108A of the General Statutes is amended by adding the following new Part to read:

"Part 7A. Civil Action by Private Persons for Provider False Claims.

"**§ 108A-70.17. Civil action filed by private persons.**

(a) A person may bring a civil action for a violation of G.S. 108A-70.12 on behalf of the person and the State. The action shall be brought in the name of the State. The action may be dismissed only if the court and the Attorney General have given written consent to the dismissal and their reasons for consenting.

(b) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the State. The complaint shall be filed in camera, shall remain under seal for at least 120 days, and shall not be served on the defendant until the court so orders. The State may elect to

intervene and proceed with the action within 120 days after it receives both the complaint and the material evidence and information.

(c) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal. Any of these motions may be supported by affidavits or other submission in camera. The defendant shall not be required to respond to any complaint filed under this section until 21 days after the complaint is unsealed and served upon the defendant.

(d) Before the expiration of the 120-day period or any extensions obtained under subsection (c) of this section, the State shall proceed with the action, in which case the action shall be conducted by the State, or notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to prosecute the action.

(e) When a person brings an action under this section, no person other than the State may intervene or bring a related action based on the facts underlying the pending action.

"**§ 108A-70.17A. Rights of private plaintiff and State.**

(a) If the State proceeds with the action, it shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the person bringing the action. The person bringing the action shall have the right to continue as a party to the action, subject to the limitations of this section.

(b) The State may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the State of the filing of the motion, and the court has provided the person with an opportunity for a hearing on the motion.

(c) The State may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera. The State may, for good cause shown, move the court for a partial lifting of the seal to facilitate the investigative process or settlement.

(d) Upon a showing by the State that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the State's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as (i) limiting the number of witnesses the person may call; (ii) limiting the length of the testimony of such witnesses; (iii) limiting the person's cross-examination of witnesses; and (iv) otherwise limiting the participation by the person in the litigation.

(e) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(f) If the State elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the State's expense. When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the State to intervene at a later date upon a showing of good cause.

(g) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the person initiating the action would interfere

with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than 60 days. The showing by the State shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence, and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(h) Notwithstanding G.S. 108A-70.17(b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. If an alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in the alternate proceeding as the person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the alternate proceeding that has become final shall be conclusive on all parties to an action under this Part. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to a court of competent jurisdiction of the State, if the time for filing an appeal with respect to the finding or conclusion has expired, or if the finding or conclusions are not subject to judicial review.

"§ 108A-70.17B. Award to qui tam plaintiff.

(a) Except as otherwise provided in this section, if the State proceeds with an action brought by a person under G.S. 108A-70.17, the person shall receive at least fifteen percent (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. The plaintiff's share in the proceeds of the action or settlement is administrative costs of the action. Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information proved by the person bringing the action, relating to allegations or transaction in a criminal, civil, or administrative hearing, in a legislative, administrative, or State Auditor's report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent (10%) of the proceeds of the action, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. A share of the proceeds of an action or settlement of the claim shall not be awarded to the person bringing the action in State court under this Part if the person has received or may receive a share of the proceeds or settlement of an action or claim on the same facts brought in federal court.

(b) If the State does not proceed with an action, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and shall be paid out of the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(c) Whether or not the State proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of G.S. 108A-70.12 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the

person would otherwise receive under subsection (a) or (b) of this section, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of G.S. 108A-70.12, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. The dismissal shall not prejudice the right of the State to continue the action.

(d) If the State does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and if the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

"**§ 108A-70.17C. Certain actions barred.**

(a) No court shall have jurisdiction over an action brought under this Part based on information discovered by a present or former employee of the State during the course of the present or former employee's employment unless that employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels, and unless the State failed to act on the information provided within a reasonable period of time.

(b) In no event may a person bring an action under this Part that is based upon allegations or transactions that are the subject of a civil suit or an administrative proceeding in which the State is already a party.

(c) No court shall have jurisdiction over an action under this Part based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or State Auditor's report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General, or the person bringing the action is an original source of the information. For purposes of this section, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the State before filing an action under this Part that is based on the information.

(d) The State is not liable for expenses a person incurs in bringing an action under this Part.

(e) G.S. 108A-70.14 and G.S. 108A-70.15 apply to this Part.

"**§ 108A-70.17D. Procedure; statute of limitations.**

A civil action under this Part may not be brought (i) more than six years after the date on which the violation is committed, or (ii) more than three years after the date when facts material to the right of the action are known or reasonably should have been known by the official of the State charged with responsibility to act in the circumstances, but in that event no more than 10 years after the date on which the violation is committed, whichever occurs last."

SECTION 15.8.(e) G.S. 108A-70.15 reads as rewritten:

"**§ 108A-70.15. Employee remedies.**

(a) In the absence of fraud or malice, no person who furnishes information to officials of the State responsible for investigating false claims violations shall be liable for damages in a civil action for any oral or written statement made or any other action that is necessary to supply information required pursuant to this ~~Part.~~ Part or Part 7A of this Article.

(b) Any employee of a provider who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by the employee's employer because of lawful acts done by

the employee on behalf of the employee or others in furtherance of an action under G.S. ~~108A-70.12,~~ 108A-70.12, or Part 7A of this Article, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under G.S. ~~108A-70.12,~~ 108A-70.12, or Part 7A of this Article, shall be entitled to all relief necessary to make the employee whole. Relief shall include reinstatement with the same seniority status as the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate court for the relief provided in this section."

SECTION 15.8.(f) Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-63.1. Authorized investigative demand procedures.**

(a) In any investigation relating to any act or activity involving a violation of G.S. 108A-64, 108A-60, 14-32.1, or 14-32.2, the Attorney General may issue in writing and cause to be served a subpoena:

(1) Requiring the production of any records, books, papers, documents, electronic media, or other objects or tangible things, which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control; or

(2) Requiring a custodian of records to give testimony concerning the production and authentication of the records.

(b) A subpoena under this section shall describe the objects required to be produced and shall also prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

(c) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the State.

(d) A subpoena issued under this section may be served in the manner provided in Rule 45(b) of the Rules of Civil Procedure, G.S. 1A-1, except that subdivision (2) of subsection (b) of Rule 45(b) does not apply to subpoenas issued under this section.

(e) In the case of failure by any person without adequate excuse to obey a subpoena served upon the person, the Attorney General may invoke the aide of any court of this State. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony concerning the production and authentication of the records. Failure to obey the order of the court may be punished by the court as contempt thereof.

(f) Notwithstanding any other State law to the contrary, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of this State to any customer or other person for the production or for nondisclosure of the production to the customer.

(g) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

(1) In assessing good cause under this subsection, the court shall weigh the public interest and the need for disclosure against the injury to the

patient, to the physician-patient relationship, and to the treatment services.

(2) Upon the granting of an order to disclose, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure."

SECTION 15.8.(g) G.S. 108A-63 reads as rewritten:

"**§ 108A-63. Medical assistance provider fraud.**

(a) It shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully make or cause to be made any false statement or representation of a material fact:

(1) In any application for payment under this Part, or for use in determining entitlement to such payment; or

(2) With respect to the conditions or operation of a provider or facility in order that such provider or facility may qualify or remain qualified to provide assistance under this Part.

(b) It shall be unlawful for any provider of medical assistance to knowingly and willfully conceal or fail to disclose any fact or event affecting:

(1) His initial or continued entitlement to payment under this Part; or

(2) The amount of payment to which such person is or may be entitled.

(c) ~~Any~~ Except as otherwise provided in subsection (e) of this section, any person who violates a provision of this section shall be guilty of a Class I felony.

(d) "Provider" shall include any person who provides goods or services under this Part and any other person acting as an employee, representative or agent of such person.

(e) It shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully execute, or attempt to execute, a scheme or artifice to:

(1) Defraud the Medical Assistance Program; or

(2) Obtain, by means of false or fraudulent pretenses, representations or promises, any of the money or property owned by, or under the custody or control of, the Medical Assistance Program,

in connection with the delivery of or payment for health care benefits, items, or services. If the value of the health care benefits, items, or services is one hundred thousand dollars ($100,000) or more, a violation of this subsection is a Class C felony. If the value of the health care benefits, items, or services is less than one hundred thousand dollars ($100,000), a violation of this subsection is a Class H felony.

(f) It shall be unlawful for any person to knowingly and willfully solicit or receive any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind:

(1) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part, or

(2) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.

(g) It shall be unlawful for any person to knowingly and willfully offer or pay any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:

(1) To refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part, or

(2) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.

(h) Subsections (f) and (g) of this section shall not apply to:

(1) Contracts between the State and a public or private agency where part of the agency's responsibility is referral of a person to a provider; and

(2) Any conduct or activity that does not violate 42 U.S.C. § 1320a-7b(b), and amendments thereto, or is protected by 42 C.F.R. § 1001.952, and amendments thereto."

SECTION 15.8.(h) This section becomes effective December 1, 2007.

PART XVI. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM

SECTION 16.1. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year of the biennium on the operations and effectiveness of the National Guard Tarheel Challenge Program. In particular, the Department shall evaluate and report on the Program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent and on the Program's role in improving individual skills and employment potential for participants. The report shall also include all of the following:

(1) The source of referrals for individuals participating in the Program.

(2) The summary of types of actions or offenses committed by the participants of the Program.

(3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants.

(4) The number of individuals who successfully complete the Program.

(5) The number of participants who commit offenses after completing the Program.

NEW ALE NON-SWORN JOB CLASSIFICATION

SECTION 16.2.(a) As recommended by the Fiscal Research Division of the General Assembly in the February 2007 Justification Review, the State Personnel Commission shall develop for review a new non-sworn position classification for the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety that would supplement the agents that are employed by the Division.

SECTION 16.2.(b) Prior to the action taken pursuant to subsection (a) of this section, the Office of State Personnel shall review all of the following:

(1) The Justification Review report.

(2) Current position descriptions and job classifications.

(3) Tasks currently performed by ALE field agents in order to determine tasks that could be performed by non-sworn or noncertified personnel.

(4) Information on other states that use non-sworn staff for inspection, compliance, and education efforts currently performed by North Carolina ALE agents.

SECTION 16.2.(c) The Office of State Personnel shall report the results of its review in writing to the Joint Legislative Corrections, Crime Control, and Juvenile

Justice Oversight Committee and to the State Personnel Commission by February 1, 2008. The Office of State Personnel report shall include (i) a detailed description of the new ALE civilian position, including the job classification, a description of all of the duties assigned to the position, and the salary grade for the position, (ii) the estimated number of positions that should be established, and (iii) a time line for further review of the job classification by the State Personnel Commission.

ALTERNATIVE FUNDING SOURCE STUDY FOR THE GEOSPATIAL AND TECHNOLOGY MANAGEMENT PROGRAM

SECTION 16.3. The Department of Crime Control and Public Safety shall study alternative funding sources for the Geospatial and Technology Management Program. By March 1, 2008, the Department shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety. This report shall include information about possible federal grant sources and receipt-based funding options from federal, State, and local agencies as well as private industry.

USE OF GANG PREVENTION FUNDS

SECTION 16.5.(a) Of the funds appropriated in this act to the Department of Crime Control and Public Safety, Governor's Crime Commission, the sum of three million dollars ($3,000,000) for the 2007-2008 fiscal year shall be used to provide grants for street gang violence prevention, intervention, and suppression programs.

SECTION 16.5.(b) The Governor's Crime Commission shall develop the criteria for eligibility for these funds. The criteria shall include a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and presentation of a written plan for the services to be provided by the funds. Funds shall be available to public and private entities or agencies for juvenile or adult programs that meet the criteria established by the Governor's Crime Commission.

SECTION 16.5.(c) The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 2008, on this program. The report shall include all of the following:

(1) The grant award process.
(2) A description of each grant awarded.
(3) The performance criteria for evaluating grant programs.
(4) A list of State grants awarded in the 2007 grant cycle.

REPORTS ON THE EXPANSION OF THE ALCOHOL LAW ENFORCEMENT DIVISION'S AUTOMATED SYSTEMS

SECTION 16.6. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by February 1 and May 1, 2008, on the status of the expansion of the Alcohol Law Enforcement Division's automated systems for administrative and field processes. Each report shall include all of the following:

(1) A description of the Division's automated systems.
(2) A list of prior and ongoing automation projects.
(3) A summary of work done with funds received.

(4) A time line for completion of new and ongoing projects.
(5) A list of expenditures to date.
(6) Program performance/efficiencies achieved with expanded automation.

STUDY CONSOLIDATION OF GIS MAPPING PROGRAMS

SECTION 16.7.(a) The Office of State Budget and Management shall study the feasibility and desirability of consolidating GIS mapping programs that are currently located in separate State agencies into a single, unified program. Specifically, the study shall do all of the following:

(1) Identify every State agency that has a GIS mapping program.
(2) Determine how each agency that has a GIS mapping program uses the maps it develops.
(3) Determine the format in which each State agency that has a GIS mapping program stores data and the manner in which that data is accessed.
(4) Determine the feasibility and desirability of consolidating GIS mapping programs into a single, unified program.

SECTION 16.7.(b) The Office of State Budget and Management shall submit a written report of its findings and recommendations to the House of Representatives and Senate Appropriations Committees and to the Joint Legislative Commission on Governmental Operations by March 1, 2008.

STUDY GANG ACTIVITY

SECTION 16.8.(a) The Governor's Crime Commission shall study gang activity in North Carolina. In its study, the Governor's Crime Commission shall do all of the following:

(1) Assess gang activity in communities known to have gangs.
(2) Consult with the Department of Correction to assess gang activity in the State's prisons.
(3) Consult with the Department of Public Instruction, Department of Justice, and the Department of Correction on any gang prevention initiatives they have in place or administered in the past.
(4) Summarize significant gang prevention, intervention, and suppression programs that have been administered by local law enforcement, State agencies, local governments, and community-based organizations, and evaluate those programs for effectiveness.
(5) Review accepted best practices in gang prevention and evaluate whether or not increasing penalties will mitigate gang activity.
(6) Project the growth of gang activity over the next five years and identify the locations where that growth is expected to occur.
(7) Provide recommendations on ways of using State and local resources to improve the effectiveness of future gang prevention initiatives.

SECTION 16.8.(b) The Governor's Crime Commission shall report on the study's findings and recommendations by March 15, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

PART XVII. DEPARTMENT OF CORRECTION

MUTUAL AGREEMENT PAROLE PROGRAM

SECTION 17.1. The Department of Correction and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the number of inmates enrolled in the program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

INMATE ROAD SQUADS AND LITTER CREWS

SECTION 17.2. Of the funds appropriated to the Department of Transportation in this act, the sum of eleven million three hundred thousand dollars ($11,300,000) per year shall be transferred by the Department to the Department of Correction during the 2007-2008 and 2008-2009 fiscal years for the cost of operating medium custody inmate road squads, as authorized by G.S. 148-26.5, and minimum custody inmate litter crews. This transfer shall be made quarterly in the amount of two million eight hundred twenty-five thousand dollars ($2,825,000). The Department of Transportation may use funds appropriated in this act to pay an additional amount exceeding the eleven million three hundred thousand dollars ($11,300,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

The Office of State Budget and Management shall conduct a study, in consultation with the Department of Correction and the Department of Transportation, to determine the actual cost and cost/benefit of operating medium custody road squads and minimum custody litter crews. The Office of State Budget and Management shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Joint Legislative Transportation Oversight Committee by March 1, 2008. The study shall include a recommendation on whether or not the amount transferred from the Department of Transportation to the Department of Correction should be increased or decreased.

ALCOHOL AND CHEMICAL DEPENDENCY PROGRAM REPORT

SECTION 17.3.(a) G.S. 143B-262.3 reads as rewritten:

"**§ 143B-262.3. Reports to the General Assembly.**

(a) The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees in Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

(1) Details of any new initiatives and expansions or reduction of programs;

(2) Details on any treatment efforts conducted in conjunction with other departments;

(3) Utilization of the DART/DWI ~~program, including its aftercare~~ program;

~~(4) Progress in the development on an offender and inmate tracking and program evaluation system; and~~

~~(5) A report on the number of current inmates with substance abuse problems, the numbers currently receiving treatment, and the numbers~~

~~who have completed treatment. As an offender and inmate tracking system becomes operational, this report shall also include information on the recidivism of inmates who have previously completed substance abuse treatment and been released from prison.~~

(6) Statistical information on the number of current inmates with substance abuse problems that require treatment, the number of treatment slots, the number who have completed treatment, and a comparison of available treatment slots to actual utilization rates. The report shall include this information for each DOC funded program; and

(7) Evaluation of each substance abuse treatment program funded by the Department of Correction. Evaluation measures shall include reduction in alcohol and drug dependency, improvements in discliplinary and infraction rates, recidivism (defined as return-to-prison rates), and other measures of the programs' success.

~~(b) The Department shall also report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals).~~"

SECTION 17.3.(b) During the 2007-2009 fiscal biennium, the Department of Correction evaluation effort shall focus mainly on evaluation of the long-term residential programs operated by the Department of Correction through private contract and those operated directly by the Department of Correction. The evaluation component of the March 1, 2008, annual report shall be primarily a status report and provide only preliminary information on the evaluation of the residential program. The final evaluation report shall be included in the March 1, 2009, annual report.

INMATE CONSTRUCTION PROGRAM

SECTION 17.4. Funding authorized in this act is intended to increase participation in the Inmate Construction Program in order to improve inmate job skills and reduce recidivism. By April 1, 2008, the Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the House and Senate Appropriations Subcommittees on Justice and Public Safety on the Inmate Construction Program. The report shall summarize the 2007-2008 Inmate Construction Program projects, including a description of each project, the number of inmate workers, and the estimated total cost of the project compared to the cost if the project was conducted without inmate workers. The report shall also estimate the number of inmate workers that will be used in the program during the 2008-2009 fiscal year.

FEDERAL GRANT REPORTING

SECTION 17.5. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice

and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 17.6. Notwithstanding G.S. 143C-6-9, the Department of Correction may use funds available to the Department for the 2007-2009 biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

USE OF CLOSED PRISON FACILITIES

SECTION 17.7. In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and

Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

LIMIT USE OF OPERATIONAL FUNDS

SECTION 17.8. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except that the Department may establish critical positions prior to 120 days of completion representing no more than twenty percent (20%) of the total estimated number of positions.

ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT

SECTION 17.9. The Department of Correction may continue to contract with Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2007-2009 biennium. Energy Committed To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction.

INMATE MEDICAL COSTS

SECTION 17.10. Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use funds available during the 2007-2009 biennium for the inmate medical program if expenditures are projected to exceed the Department's inmate medical continuation budget. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

PAROLE ELIGIBILITY REPORT

SECTION 17.11.(a) The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Correction, analyze the amount of time each inmate who is eligible for parole on or before July 1, 2008, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 17.11.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

(1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.

(2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under

subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).

(3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 17.11.(c) The Commission shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2008. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

FEDERAL GRANT MATCHING FUNDS

SECTION 17.12. Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million two hundred thousand dollars ($1,200,000) during the 2007-2008 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

REPORTS ON NONPROFIT PROGRAMS

SECTION 17.13.(a) Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property to serve women released from prison with children in their custody. Harriet's House shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who successfully complete the Harriet's House program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.13.(b) Summit House shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of

clients who successfully complete the program while housed at Summit House, Inc., and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.13.(c) Women at Risk shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who have successfully completed the program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.13.(d) Our Children's Place shall report by February 1, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the status of the planning, design, and construction of Our Children's Place, the proposed program components and evaluation measures, and on the projected number of inmates and their children to be served. The report shall also provide financial data, including the expenditure of State funds and all funding sources and amounts.

REPORT ON ELECTRONIC MONITORING PROGRAM/USE OF GLOBAL POSITIONING SYSTEMS FOR SEX OFFENDERS

SECTION 17.14. The Department of Correction shall report by March 1 of each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

(1) The number of sex offenders enrolled on active and passive GPS monitoring.
(2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
(3) The number of violations.
(4) The number of absconders.
(5) The projected number of offenders to be enrolled by the end of the 2007-2008 fiscal year and the end of the 2008-2009 fiscal year.
(6) The total cost of the program, including a per-offender cost.

CRIMINAL JUSTICE PARTNERSHIP

SECTION 17.15.(a) Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

SECTION 17.15.(b) The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

SECTION 17.15.(c) The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year;
(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
(3) Any counties the Department anticipates will submit requests for new implementation grants;
(4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
(5) An analysis of offender participation data received, including data on each program's utilization and capacity;
(6) An analysis of comparable programs prepared by the Division of Research and Planning, Department of Correction, including a comparison of programs in each program type on selected outcome measures developed by the Division of Community Corrections in consultation with the Fiscal Research Division and the Division of Research and Planning, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards;
(7) A review of whether each sentenced offender program is meeting established program goals developed by the Division of Community Corrections in consultation with the Division of Research and Planning and the State Criminal Justice Partnership Advisory Board;
(8) The number of community offenders and intermediate offenders served by each county program;
(9) The amount of Criminal Justice Partnership funds spent on community offenders and intermediate offenders; and
(10) A short description of the services and programs provided by each partnership, including who the service providers are and the amount of funds each service provider receives.

SECTION 17.15.(d) The Research and Planning Division of the Department of Correction shall review national best practice programs for community corrections and recommend whether the types of programs currently being funded should continue to be funded, and whether alternative programs should be funded if a county wants to expand sanction options. The Division shall report on its review by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 17.16.(a) The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations

Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;
(2) An analysis of the optimal caseloads for these officer classifications;
(3) An assessment of the role of surveillance officers;
(4) The number and role of paraprofessionals in supervising low-risk caseloads;
(5) An update on the Department's implementation of the recommendations contained in the National Institute of Correction study conducted on the Division of Community Corrections in 2004;
(6) The selection of a risk assessment and the resulting distribution of offenders among risk levels; and
(7) Any position reallocations in the previous 12 months, and the reasons for and fiscal impact of those reallocations.

SECTION 17.16.(b) The Department of Correction shall conduct a study of probation/parole officer workload at least biannually. The study shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

SECTION 17.16.(c) The Department of Correction shall report the results of the study and recommendations for any adjustments to caseload goals to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by January 1, 2009.

COMMUNITY SERVICE WORK PROGRAM

SECTION 17.17. The Department of Correction shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year on the integration of the Community Service Work Program into the Division of Community Corrections, including the Department's ability to monitor the collection of offender payments from unsupervised offenders sentenced to community service. The Department shall also report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals).

PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SUPPORT OUR STUDENTS ADMINISTRATIVE COST LIMITS

SECTION 18.1. Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than five hundred thousand dollars ($500,000) for the 2007-2008 fiscal year and not more than five hundred thousand dollars ($500,000) for the 2008-2009 fiscal year may be used to administer the

Support Our Students (S.O.S.) Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

JCPC GRANT REPORTING AND CERTIFICATION

SECTION 18.2.(a) On or before April 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

SECTION 18.2.(b) Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

SECTION 18.2.(c) G.S. 143B-519 reads as rewritten:

"**§ 143B-519. Annual report.**

(a) On or before April 1 each year, beginning with the year 2001, the Department shall report to the General Assembly on the effectiveness and cost benefit of every program operated and contracted by the Department and a summary of the local programs that receive State funding. The report shall include the most current institutional populations of juveniles being served by the Department, a comparison of the costs of the services, and a ranking of all programs that provide services to juveniles. The Department shall submit the report to the various State agencies providing services to juveniles.

(b) On or before April 1 each year, the Department shall report to the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Fiscal Research Division on the following:

(1) The effectiveness of programs that receive Juvenile Crime Prevention Council grant funds and that serve juveniles who have been adjudicated delinquent or who have been diverted for delinquent offenses. The standards used to evaluate these programs shall include methods for measuring success factors following intervention and shall include those factors that:

a. Reduce the use of alcohol or controlled substances.

b. Reduce subsequent complaints.

c. Reduce violations of terms of community supervision.

d. Reduce convictions for subsequent offenses.

e. Fulfill restitution to victims.

f. Increase parental accountability.

(2) The number of diverted and adjudicated juveniles served.

(3) The specific methods used by the Juvenile Crime Prevention Councils to determine services, programs, and intervention strategies most likely to change behaviors of juvenile offenders.
(4) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.
(5) An assessment of the extent to which programs funded by Juvenile Crime Prevention Council grants:
a. Are compatible with research that shows prevention and early intervention strategies that are effective with juvenile offenders.
b. Are outcome-based in that the grantee describes what outcomes will be achieved or what outcomes have already been achieved.
c. Include an evaluation component.
d. Have a demonstrable impact on success factors.
e. Detect gang participation and divert individuals from gang participation."

SECTION 18.2.(d) The Department shall withhold the fourth quarter payment for local Juvenile Crime Prevention Council grants pending receipt of the annual effectiveness report required by subsection (c) of this section.

REPORTS ON CERTAIN PROGRAMS

SECTION 18.3.(a) Project Challenge North Carolina, Inc., shall report to the Department of Juvenile Justice and Delinquency Prevention and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on:

(1) The source of referrals for juveniles.
(2) The types of offenses committed by juveniles participating in the program.
(3) The amount of time those juveniles spend in the program.
(4) The number of juveniles who successfully complete the program.
(5) The number of juveniles who commit additional offenses after completing the program.
(6) The program's budget and expenditures, including all funding sources.

SECTION 18.3.(b) The Juvenile Assessment Center shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the effectiveness of the Center by April 1 each year. The report shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans. In addition, the report shall include information on the Center's budget and expenditures, including all funding sources.

ANNUAL EVALUATION OF COMMUNITY PROGRAMS

SECTION 18.4. The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Support Our Students Program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses

considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

(1) The expenditure of State appropriations on the program;
(2) The operations and the effectiveness of the program; and
(3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees on Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 18.5. Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2007-2008 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the House of Representatives and Senate and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2007-2008 fiscal year, the amount of funds anticipated for the 2008-2009 fiscal year, and the allocation of funds by program and purpose.

REPORTING ON TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT CENTERS

SECTION 18.6.(a) The Department of Juvenile Justice and Delinquency Prevention shall continue quarterly reporting during the 2007-2008 fiscal year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the implementation of the treatment staffing model at Samarkand and Stonewall Jackson Youth Development Centers, including the latest results of the evaluation of the pilot treatment staffing models at the Centers and the progress in implementing the model at other youth development centers.

SECTION 18.6.(b) The Department shall implement the staffing treatment model presented to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee as part of the Department's November 14, 2006, report regarding the joint use with the Department of Correction of the Swannanoa Youth Development Center campus.

The staffing levels of the new youth development centers shall be capped at 66 staff for a 32-bed facility and 198 staff for the 96-bed facility for the 2007-2009 fiscal biennium. Staffing ratios shall be no more than 2.1 staff per every juvenile committed at every other existing youth development center.

SECTION 18.6.(c) In the April 1, 2008, report, the Department shall include a recommendation on whether the staffing and budget for youth development centers should be modified to reflect the results of the pilot treatment programs.

PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL PROJECTS

SECTION 18.7. The Department of Juvenile Justice and Delinquency Prevention shall report quarterly during the 2007-2009 fiscal biennium, beginning October 1, 2007, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the Department's progress in the planning, design, and construction of new youth development centers. The report shall include:

(1) An overall project schedule for each new youth development center showing the original estimated date for construction completion and the original estimated date for occupancy by juvenile offenders, compared to the latest projected dates.

(2) An explanation of significant delays in the schedule or any potential cost increase.

The Office of State Construction and the Capital Improvement Section of the Office of State Budget and Management shall assist the Department of Juvenile Justice and Delinquency Prevention in the preparation of the report required by this section.

STUDY OF STATE DETENTION CENTERS

SECTION 18.8. The Department of Juvenile Justice and Delinquency Prevention shall study the nine juvenile detention centers that are operated by the State. For each of the facilities, the review shall include:

(1) Recent admission trends and projections of future population.

(2) The offense history and assessed needs of the population.

(3) Whether staffing levels are appropriate for the number and types of offenders housed in the facility.

(4) Whether the center has adequate housing capacity.

(5) Determine the repair and renovation needs and estimate the cost of any repairs or renovations.

(6) The estimated cost to plan, design, and construct new detention centers, if appropriate.

(7) Information on security and control of the facility, including assaults, escapes, and infractions.

The Department shall report its findings to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2008.

YOUTH DEVELOPMENT CENTER SCHOLARSHIPS

SECTION 18.9. Funds appropriated to the North Carolina Community College Foundation during the 2003-2004 fiscal year in S.L. 2003-284 for community college scholarships for students who have completed their commitment to a Youth Development Center and who have obtained a high school diploma or its equivalent are hereby transferred to the Department of Juvenile Justice and Delinquency Prevention. The Department of Juvenile Justice and Delinquency Prevention shall administer the community college scholarship program described in this section.

REPORT ON ECKERD FAMILY FOCUS ON REHABILITATIVE TREATMENT (EFFORT) PROJECT

SECTION 18.10. The Department and Eckerd Family Youth Alternatives, Inc., shall report by April 1, 2008, and quarterly thereafter to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the progress of the Eckerd Family Focus on Rehabilitative Treatment (EFFORT) project. The report shall include lessons learned from the EFFORT project, staff assignments by shift, and implementation of the therapeutic model.

PROGRESS REPORT ON JOINT USE BY THE DEPARTMENT OF CORRECTION AND THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION OF THE SWANNANOA VALLEY YOUTH DEVELOPMENT CENTER

SECTION 18.11. The Department of Juvenile Justice and Delinquency Prevention and the Department of Correction shall report quarterly during the 2007-2009 fiscal biennium, beginning October 1, 2007, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the joint use by both departments of the Swannanoa Valley Youth Development Center. The report shall include an explanation of significant delays in converting the Swannanoa Valley Youth Development Center into a facility that functions as an adult female correctional center as well as a youth development center and any cost increase related to that conversion.

PART XIX. DEPARTMENT OF ADMINISTRATION

REDESIGNATION OF THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES

SECTION 19.1.(a) Part 14A of Article 9 of Chapter 143B of the General Statutes is repealed.

SECTION 19.1.(b) Pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, the Governor shall redesignate the operation and function of the Governor's Advocacy Council for Persons with Disabilities from the Department of Administration to a nongovernmental entity. The Governor shall follow the federal statutory procedure for redesignation found at 45 C.F.R. § 1386.20, with a target transfer date of July 1, 2007.

SECTION 19.1.(c) G.S. 120-123(3) is repealed.

SECTION 19.1.(d) G.S. 122A-5.11(a)(5) reads as rewritten:

"(a) The Housing Coordination and Policy Council shall consist of 15 representatives, as follows:

...

(5) One member of the ~~Governor's Advocacy Council for Persons with Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, who is familiar with the housing needs of the disabled.

...."

SECTION 19.1.(e) G.S. 122C-31(b) reads as rewritten:

"(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Secretary shall notify the ~~Governor's Advocacy Council for Persons~~

~~With Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Secretary shall provide the ~~Council~~ agency access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council~~ agency shall use the information in accordance with its powers and duties under ~~G.S. 143B-403.1 and~~ applicable State and federal law and regulations."

SECTION 19.1.(f) G.S. 122C-31(e) reads as rewritten:

"(e) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary or the ~~Council.~~ agency. In carrying out the requirements of this section, the Secretary and the ~~Council~~ agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

SECTION 19.1.(g) G.S. 131D-10.6B(b) reads as rewritten:

"(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Department shall notify the ~~Governor's Advocacy Council for Persons With Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Department shall provide the ~~Council~~ agency access to the information about each death reported to the ~~Council~~ agency pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department, and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council~~ agency shall use the information in accordance with its powers and duties under ~~G.S. 143B-403.1 and~~ applicable State and federal law and regulations."

SECTION 19.1.(h) G.S. 131D-10.6B(d) reads as rewritten:

"(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the ~~Council.~~ agency. In carrying out the requirements of this section, the Department and the ~~Council~~ agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

SECTION 19.1.(i) G.S. 131D-34.1(b) reads as rewritten:

"(b) Upon receipt of notification from an adult care home in accordance with subsection (a) of this section, the Department of Health and Human Services shall notify the ~~Governor's Advocacy Council for Persons With Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Department shall provide the ~~Council~~ agency access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council~~ agency shall use

the information in accordance with its powers and duties under ~~G.S. 143B-403.1 and~~ applicable State and federal law and regulations."

SECTION 19.1.(j) G.S. 131D-34.1(d) reads as rewritten:

"(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the ~~Council.~~ agency. In carrying out the requirements of this section, the Department and the ~~Council~~ agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

SECTION 19.1.(k) Not later than May 1, 2008, the Department of Administration and the Office of State Personnel shall report to the House Appropriations Subcommittee on General Government and the Senate Appropriations Subcommittee on General Government on the placement or compensation of all State employees affected by the redesignation of the Governor's Advocacy Council for Persons with Disabilities.

SECTION 19.1.(l) This section is effective on the effective date of the redesignation and transfer of the operation and function of the Governor's Advocacy Council for Persons with Disabilities from the Department of Administration to a nongovernmental entity under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402. Any funds appropriated to the Governor's Advocacy Council for Persons with Disabilities revert to the General Fund on that date.

SEXUAL ASSAULT/RAPE CRISIS CENTER FUNDING

SECTION 19.2.(a) The Department of Administration, the Council for Women, and the Domestic Violence Commission shall distribute funds to the North Carolina Coalition Against Sexual Assault and to rape crisis centers. To receive funds, rape crisis centers shall meet the following criteria:

(1) Operate as a private, nonprofit organization or a local unit of government applying for a rape crisis center that has provided basic services, as defined by the Council for Women and the Domestic Violence Commission, for a one-year period before the date of application;

(2) Have a mission statement that clearly specifies rape crisis services are provided;

(3) Act in support of victims of rape or sexual assault by providing assistance to ensure victims' interests are represented in law enforcement and legal proceedings and support and referral services are provided in medical and community settings; and

(4) Provide a 24-hour crisis hotline.

SECTION 19.2.(b) Grant funds allocated from the General Fund to the Department of Administration, the Council for Women and the Domestic Violence Commission for rape crisis shall be distributed in two equal shares. The North Carolina Coalition Against Sexual Assault and rape crisis centers whose services are confined to rape crisis and sexual assault services shall be allocated the sum of fifty thousand dollars ($50,000) in each year of the 2007-2009 biennium. Organizations that contain rape crisis services in addition to domestic violence services or other support services shall receive an equal share of remaining funds in each year of the 2007-2009 biennium.

TRANSFER OF STATE ENERGY OFFICE AND ENERGY GRANT PROGRAM

SECTION 19.3.(a) The State Energy Office is transferred to the State Construction Office in the Department of Administration, except for the administration of the energy grant program. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The energy grant program of the State Energy Office is transferred to the Department of Environment and Natural Resources as provided in this section. The Department of Environment and Natural Resources, Office of the Secretary, shall administer the energy grant program and the supporting positions for the grant program. Six positions shall be eliminated as a result of the transfer of the State Energy Office to the State Construction Office and the administration of the energy grant program by the Department of Environment and Natural Resources.

SECTION 19.3.(b) G.S. 143-58.4(b) reads as rewritten:

"(b) Establish Program. – The State ~~Energy~~ Construction Office of the Department, in cooperation with State departments, institutions, and agencies, shall establish and administer an energy credit banking and selling program to allow State departments, institutions, and agencies to use moneys generated by the sale of EPAct credits to purchase alternative fuel, develop alternative fuel refueling infrastructure, and purchase AFVs for use by State departments, institutions, and agencies. Each State department, institution, and agency shall provide the State ~~Energy~~ Construction Office with all vehicle fleet information necessary to determine the number of EPAct credits generated annually by the State. The State ~~Energy~~ Construction Office may sell credits in any manner that is in accordance with the provisions of the Energy Policy Act."

SECTION 19.3.(c) G.S. 143-64.11 reads as rewritten:

"**§ 143-64.11. Definitions.**

For purposes of this Article:

...

~~(2a) "Energy Office" means the State Energy Office of the Department of Administration.~~

...

(8a) "State Construction Office" means the State Construction Office of the Department of Administration."

SECTION 19.3.(d) G.S. 143-64.17F reads as rewritten:

"**§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

(a) State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical.

(b) The Department of Administration, through the State ~~Energy~~ Construction Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer.

(c) The Department of Administration, through the State ~~Energy~~ Construction Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

SECTION 19.3.(e) G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the State ~~Energy~~ Construction Office of the Department of Administration within 30 days of the date the contract is entered into. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State ~~Energy~~ Construction Office, including any details required by the State ~~Energy~~ Construction Office. The State ~~Energy~~ Construction Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State ~~Energy~~ Construction Office shall include information on the energy savings expected to be realized from a contract and shall evaluate whether expected savings have in fact been realized."

SECTION 19.3.(f) G.S. 113B-6(5) is repealed.

SECTION 19.3.(g) Part 3 of Article 36 of Chapter 143 of the General Statutes is recodified as Article 29 of Subchapter VII of Chapter 113 and reads as rewritten:

"**Subchapter VII. Energy.**

"~~Part 3.~~ Article 29.

"Energy Improvement Loan Program.

"**§ ~~143-345.16.~~113-425. Short title.**

This ~~Part~~ Article shall be known as the Energy Improvement Loan Program.

"**§ ~~143-345.17.~~113-426. Legislative findings and purpose.**

The General Assembly finds and declares that it is in the best interest of the citizens of North Carolina to promote and encourage energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State.

"**§ ~~143-345.18.~~113-427. Lead agency; powers and duties.**

(a) For the purposes of this ~~Part,~~Article, the Department of ~~Administration, State Energy Office,~~Environment and Natural Resources is designated as the lead State agency in matters pertaining to ~~energy efficiency.~~the Energy Improvement Loan Program.

(b) The Department shall have the following powers and duties with respect to this Part:

(1) To provide industrial and commercial concerns doing business in North Carolina, local governmental units, and nonprofit organizations operating in North Carolina with information and assistance in undertaking energy conserving capital improvement projects to enhance efficiency.

(2) To ~~establish~~ maintain a revolving ~~fund within~~fund, located in the Department of Administration, for the purpose of providing secured loans in amounts not greater than five hundred thousand dollars ($500,000) per entity to install energy-efficient capital improvements (i) within businesses or nonprofit organizations located within or translocating to North Carolina, and (ii) within local governmental units. In providing these loans, priority shall be given to entities already located in the State.

(2a) To develop and adopt rules to allow State-regulated financial institutions to provide secured loans to corporate entities, nonprofit

organizations, and local governmental units in accordance with terms and criteria established by the Department.

(3) To work with appropriate State and federal agencies to develop and implement rules and regulations to facilitate this program.

(c) The annual interest rate charged for the use of the funds from the revolving fund established pursuant to subdivision (b)(2) of this section shall be three percent (3%) per annum, excluding other fees required for loan application review and origination. The term of any loan originated under this section may not be greater than 10 years.

(c1) Notwithstanding subsection (c) of this section, the Department shall adopt rules to allow loans to be made from the revolving loan fund and by State-regulated financial institutions at interest rates as low as one percent (1%) per annum for certain energy efficient and conservation projects such as recycling and renewable energy to encourage their development and use.

(d) In accordance with the terms of the Stripper Well Settlement, administrative expenses for activities under this section shall be limited to five percent (5%) of funds appropriated for this purpose.

(e) For purposes of this section:

(1) "Local governmental unit" means any board or governing body of a political subdivision of the State, including any board of a community college, any school board, or an agency, commission, or authority of a political subdivision of the State.

(2) "Nonprofit organization" means an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code."

SECTION 19.3.(h) The Department of Environment and Natural Resources may adopt rules pursuant to G.S. 113-427(b)(3) that are substantively identical to the rules adopted by the Department of Administration, State Energy Office, regarding the Energy Improvement Loan Program.

SECTION 19.3.(i) Subchapter VII of Chapter 113 of the General Statutes, as enacted in this section, is amended by adding a new Article to read:

"Article 30.

"Energy Improvement Grants.

"**§ 113-430. Awarding grants; Energy Policy Council approval required.**

(a) The Department of Environment and Natural Resources shall administer all continuing grants awarded prior to July 1, 2007, by the Department of Administration, State Energy Office, except grants for the State Energy Savings Program, the State Utility Savings Initiative, or grants to update the State Energy Plan and shall administer and shall adopt rules and procedures for awarding future grants for energy conservation, research, or efficiency. Prior to awarding any grant under this Article, the Department of Administration must verify sufficient funds are available. The Energy Policy Council shall approve all grants awarded under this Article and shall direct the Department of Administration to issue funds for the grants.

(b) The Department may apply for and accept grants of money from any federal agency or any public or private sources to carry out the purposes of this Article.

(c) Existing grant funds and new grant funds shall be administered by the Department, but all funds shall be located in and distributed by the Department of Administration."

SECTION 19.3.(j) G.S. 113B-11 reads as rewritten:

"**§ 113B-11. Powers and authority.**

...

(c) The Council shall have authority to ~~apply for and~~ utilize ~~grants, contributions~~contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of Administration.

...

(e1) The Council shall review applications for grants for energy conservation, research, or efficiency, under Article 30 of Chapter 113 of the General Statutes, and shall approve, approve in part, or disapprove the applications."

SECTION 19.3.(k) The Department shall develop a Strategic Plan for Energy Grants to set forth the proposed criteria and guidelines to award and administer future grants. The plan shall include the proposed distribution of grant funds for energy purposes, which may include energy efficiency, renewable energy, alternative fuels, and energy conservation. The Department shall submit the plan to the Energy Policy Council and to the Chairs of the House Appropriations Committee and the Chairs of the Senate Appropriations Committee no later than November 1, 2007. After consultation with the House and Senate Appropriation Chairs, the Energy Policy Council shall approve the plan no later than March 1, 2008. The plan shall be approved prior to any new grants being awarded.

STATE EMPLOYEE PARKING CHANGES

SECTION 19.4.(a) Section 4 of S.L. 2006-231 is repealed.

SECTION 19.4.(b) The Department of Administration shall immediately cease the construction of a new parking facility in the City of Raleigh that had been authorized by Section 4 of S.L. 2006-231.

SECTION 19.4.(c) The Department of Administration shall no longer provide reserved spaces for State employee parking in the City of Raleigh Downtown Complex except for parking decks located belowground and parking lots with fewer than 30 employee spaces. The Department shall overbook parking decks or parking lots by no more than fifteen percent (15%). State employees who work in the City of Raleigh Downtown Complex shall be given priority over State employees whose offices are located outside of this complex and those who use service vehicles.

SECTION 19.4.(d) The Department may use funds from parking revenues that are in excess of parking system expense requirements to subsidize up to half the cost of vanpools and shall provide preferred parking to vanpools.

SECTION 19.4.(e) The Office of State Budget and Management, in consultation with the Department of Administration, shall study the overall plan for State employee parking in the City of Raleigh. As part of the study, the Office of State Budget and Management shall consider the use of alternative transportation to increase car pools, vanpools, use of park and ride lots, and city and county transit options. The Office of State Budget and Management shall report its findings and recommendations to the Senate Appropriations Committee on General Government and the House of Representatives Appropriations Subcommittee on General Government and Information Technology by May 1, 2008.

PART XX. OFFICE OF THE STATE CONTROLLER

OVERPAYMENTS AUDIT

SECTION 20.1.(a) During the 2007-2009 biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed

refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

SECTION 20.1.(b) For the 2007-2009 biennium, five hundred thousand dollars ($500,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

SECTION 20.1.(c) All funds available in the Special Reserve Account 24172 on July 1 of each year of the 2007-2009 biennium are transferred to the General Fund on that date.

SECTION 20.1.(d) Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2008 Regular Session of the 2007 General Assembly.

SECTION 20.1.(e) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account 24172 and the disbursement of that revenue.

PART XXI. DEPARTMENT OF CULTURAL RESOURCES

GRASSROOTS ARTS PROGRAM FUNDING

SECTION 21.1.(a) G.S. 143B-122 reads as rewritten:

"**§ 143B-122. Distribution of funds.**

~~Funds~~ Of the funds available under the Grassroots Arts ~~Program~~ Program, twenty percent (20%) of the total shall be distributed among the counties equally, and the remaining eighty percent (80%) shall be distributed among the counties on a per capita basis."

SECTION 21.1.(b) Any funds distributed by the Department of Cultural Resources under the Grassroots Arts Program for the 2000-2001 through 2006-2007 fiscal years are hereby ratified, validated, and confirmed.

PART XXII. OFFICE OF THE GOVERNOR

HOUSING FINANCE AGENCY SHALL CONTINUE AND EXPAND THE NORTH CAROLINA HOME PROTECTION PILOT PROGRAM AND LOAN FUND

SECTION 22.1.(a) The North Carolina Housing Finance Agency shall continue, develop, implement, and administer a pilot program to assist North Carolina workers who have lost jobs as a result of changing economic conditions in North Carolina when the workers are in need of assistance to avoid losing their homes to foreclosure. The Agency shall do all of the following:

(1) Develop and administer the North Carolina Home Protection Pilot Program and Loan Fund to ensure that workers in the counties selected for the Pilot have assistance to avoid losing their homes to foreclosure. The Program shall include all counties that had greater than seven percent (7%) average unemployment in the 2004-2005 fiscal year.

(2) Make loans secured by liens on residential real property located in North Carolina to property owners who are eligible for those loans.

(3) Develop and administer procedures by which property owners at risk of being foreclosed upon may qualify for assistance.

(4) Designate, approve, and fund nonprofit counseling agencies in counties participating in the Program to be available to assist the Agency in implementing the provisions of this section, provide services such as direct mortgagee negotiations on behalf of unemployed workers, and process loan applications for the Agency.

(5) Develop and fund enhanced methods by which workers may be notified of foreclosure mitigation services, may easily contact local nonprofit counseling agencies, and may apply for loans from the Agency.

(6) No later than April 1, 2008, report to the Chairs of the Appropriations Committees of the Senate and the House of Representatives on the effectiveness of the Program in accomplishing its purposes and provide any other information the Agency determines is pertinent or that the General Assembly requests.

SECTION 22.1.(b) As used in this section, the following definitions apply:

(1) Agency. – The North Carolina Housing Finance Agency.

(2) Counseling agency. – A nonprofit counseling agency located in North Carolina that is approved by the North Carolina Housing Finance Agency.

(3) Mortgage. – An obligation evidenced by a security document and secured by a lien upon real property located within North Carolina, including a deed of trust and land sale agreement. Mortgage also means an obligation evidenced by a security lien on real property upon which an owner-occupied mobile home is located.

(4) Mortgagee. – The owner of a beneficial interest in a mortgage loan, the servicer for the owner of a beneficial interest in a mortgage loan, or the trustee for a securitized trust that holds title to a beneficial interest in a mortgage loan.

SECTION 22.1.(c) Notwithstanding Chapters 23, 24, and 45 of the General Statutes or any other provision of law, upon the proper filing of an application for loan assistance by a mortgagor under this section, a mortgagee shall not do the following:

(1) Accelerate the maturity of any mortgage obligation covered under this section.

(2) Commence or continue any legal action, including mortgage foreclosure pursuant to Chapter 45 of the General Statutes, to recover the mortgage obligation.

(3) Take possession of any security of the mortgagor for the mortgage obligation.

(4) Procure or receive a deed in lieu of foreclosure.

(5) Enter judgment by confession pursuant to a note accompanying a mortgage.

(6) Proceed to enforce the mortgage obligation pursuant to applicable rules of civil procedure for a period of 120 days following the date of the mortgagor's properly filed application.

The provisions of this section shall not apply if the mortgagee receives notice from the Agency that the mortgagor's application has been denied.

If a mortgagee acts as proscribed in subdivisions (1) through (6) of this subsection, a mortgagor shall be entitled to injunctive relief without the necessity of providing a bond. This relief shall be in addition to any defenses available under G.S. 45-21.16(d) and any other remedies at law or equity.

Upon the Agency's receipt of a properly filed mortgagor's application for loan assistance, the Agency shall mail notice of the application to the mortgagor's mortgagee within five business days of the Agency's receipt of the application. The Agency shall also mail notice of the acceptance or denial of the mortgagor's application to the mortgagee within five days of the Agency's determination. Notice shall be deemed sufficient if sent to the last known address of the mortgagee.

SECTION 22.1.(d) Rule Making. – Solely with respect to the adoption of procedures for the pilot program by which property owners at risk of being foreclosed upon may qualify for assistance, the Agency is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of procedures, the Agency shall:

(1) Publish the proposed procedures in the North Carolina Register at least 30 days prior to the adoption of the final procedures.

(2) Accept oral and written comments on the proposed procedures.

(3) Hold at least one public hearing on the proposed procedures.

SECTION 22.1.(e) Funds appropriated under this act to the Agency that are unexpended and unencumbered shall not revert but shall remain available to be used for the expansion of the program to additional counties as provided by this section.

SECTION 22.1.(f) This section applies only to the 2007-2008 fiscal year.

PART XXIII. OFFICE OF STATE BUDGET AND MANAGEMENT

MILITARY MORALE, RECREATION, AND WELFARE FUNDS

SECTION 23.1. Funds appropriated in this act to the Office of State Budget and Management to the Reserve for the Military Morale, Recreation, and Welfare Fund and distributed to each military installation on a per capita basis shall be deposited in the Military Morale, Recreation, and Welfare Fund for each installation and used only for community services and other expenditures to improve quality of life programs for military members and their families in North Carolina.

LICENSING BOARD REPORTING REQUIREMENT

SECTION 23.2. G.S. 93B-2(b) reads as rewritten:

"(b) Each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous 12-month period."

STUDY OF THE WORKERS' COMPENSATION PROGRAM IN STATE AGENCIES

SECTION 23.3. The Office of State Budget and Management, in consultation with the Office of State Personnel and the Office of State Controller, shall conduct a study of the Workers' Compensation Program in State agencies and institutions to determine if the third-party administration of the program continues to be the most effective mode of administration; to determine if the current method of funding is still the most effective method; to determine whether excess coverage policies are needed; and to identify any other operational inefficiencies in program operations that might exist. The Office of State Budget and Management shall submit a final report outlining the related findings and recommendations for improvements to the Joint

Legislative Commission on Governmental Operations and the Fiscal Research Division by March 1, 2008.

MODIFY STATE FIRE PROTECTION GRANT FUND

SECTION 23.4.(a) Effective July 1, 2007, G.S. 58-85A-1(c) reads as rewritten:

"(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund ~~at least three million eighty thousand dollars ($3,080,000)~~ up to four million three hundred thirty thousand dollars ($4,330,000) from the General Fund, ~~one hundred fifty thousand dollars ($150,000)~~ one hundred fifty-eight thousand dollars ($158,000) from the Highway Fund, and ~~nine hundred seventy thousand dollars ($970,000)~~ one million three hundred forty-five thousand dollars ($1,345,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

SECTION 23.4.(b) Effective July 1, 2008, G.S. 58-85A-1(c), as amended by subsection (a) of this section, reads as rewritten:

"(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund up to ~~four million three hundred thirty thousand dollars ($4,330,000)~~three million eight hundred eighty thousand dollars ($3,880,000) from the General Fund, one hundred fifty-eight thousand dollars ($158,000) from the Highway Fund, and one million three hundred forty-five thousand dollars ($1,345,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

PART XXIV. DEPARTMENT OF REVENUE

WHITE GOODS DISPOSAL TAX PROGRAM

SECTION 24.1. G.S. 105-187.24 reads as rewritten:

"**§ 105-187.24 Use of tax proceeds.**

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed ~~two hundred twenty-five thousand dollars ($225,000)~~ four hundred twenty-five thousand dollars ($425,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of

Environment and Natural Resources under G.S. 130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

SCRAP TIRE DISPOSAL TAX PROGRAM

SECTION 24.2. G.S. 105-187.19(a) reads as rewritten:

"(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed ~~two hundred twenty-five thousand dollars ($225,000)~~ four hundred twenty-five thousand dollars ($425,000) a year, as reimbursement to the Department."

EITC REQUIREMENTS

SECTION 24.3.(a) The Department of Revenue shall include language in its printed booklets for the individual income tax return that identifies the availability of the earned income tax credit.

SECTION 24.3.(b) In order to better ensure taxpayers receive the tax benefits for which they qualify, software companies producing computer programs for tax calculation should design all tax calculation software, other than forms library products, to automatically compute an individual's eligibility for the earned income tax credit when (i) the taxpayer is a North Carolina resident and (ii) the taxpayer is preparing both the federal and North Carolina individual income tax returns with the tax calculation software.

SECTION 24.3.(c) This section is effective for taxable years beginning on or after January 1, 2007.

TRANSFER REVENUE HEARINGS TO OAH

SECTION 24.4. The positions of one Assistant Secretary and one associated support position, presently assigned to the Department of Revenue for the purpose of hearing appeals on the cases, are transferred to the Office of Administrative Hearings by a Type II transfer as defined by G.S. 143A-6. The Chief Administrative Law Judge shall be responsible for the hiring of these positions.

PART XXV. STATE BOARD OF ELECTIONS

STATE BOARD OF ELECTIONS MOE AND HAVA FUND USE

SECTION 25.1.(a) The State Board of Elections shall use funds in the Maintenance of Effort Reserve as follows:

(1) $1,440,000 nonrecurring in fiscal year 2007-2008 for ballot printing for the 2008 first primary.

(2) $840,000 nonrecurring in fiscal year 2007-2008 for ballot printing for the 2008 second primary if a federal election is on the ballot.

(3) $1,260,000 nonrecurring in fiscal year 2008-2009 for ballot printing for the 2008 general election.

(4) $1,500,000 nonrecurring in fiscal year 2007-2008 and $500,000 nonrecurring in fiscal year 2008-2009 to rebuild the State Elections Information Management System (SEIMS).

(5) $100,000 recurring in fiscal year 2007-2008 for the required training for all county boards of elections staff on voting equipment operating procedures.

(6) $427,500 recurring in fiscal year 2007-2008 to centralize ballot coding in North Carolina to provide oversight, ensure accuracy of election preparation, and reduce errors with ballot styles.

(7) $150,000 recurring in fiscal year 2007-2008 to hire 20 additional election technicians across the State to deal with technical problems that arise on a 2008 Election Day in which a federal election is on the ballot.

SECTION 25.1.(b) The State Board of Elections shall use funds in the Election Fund under G.S. 163-82.28 (HAVA funds) as follows:

(1) $2,525,000 nonrecurring in fiscal year 2007-2008 and $2,525,000 nonrecurring in fiscal year 2008-2009 for maintenance performed on voting equipment.

(2) $750,000 nonrecurring in fiscal year 2007-2008 and $1,750,000 nonrecurring in fiscal year 2008-2009 provided for additional one-stop absentee voting (early voting) sites for the 2008 first primary and general election if a federal election is on the ballot.

PART XXVI. DEPARTMENT OF THE STATE TREASURER

FUNDS FOR AUDITING STATE EMPLOYEE SERVICE RECORDS; REPORTING REQUIREMENTS

SECTION 26.1.(a) Of the funds appropriated in this act to the Department of State Treasurer, Retirement Systems Division, the sum of one million two hundred thousand dollars ($1,200,000) for the 2007-2008 fiscal year shall be used to contract for the auditing of State employee service records. The Retirement Systems Division shall submit an interim report on the number of State employee service records verified to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division no later than April 30, 2008.

SECTION 26.1.(b) The Department of State Treasurer, Retirement Systems Division, shall report quarterly beginning October 31, 2007, on all contracts by funding sources and on the use of lapsed salary savings to the Joint Legislative Commission on Governmental Operations, the Chairs of the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology and to the Fiscal Research Division.

PART XXVII. DEPARTMENT OF TRANSPORTATION

ONE-STOP SHOPS FOR DRIVERS LICENSES AND REGISTRATION PLATES

SECTION 27.1. The Department of Transportation, Division of Motor Vehicles, is prohibited from opening drivers license issuance and vehicle registration issuance and renewal One-Stop Shops until the General Assembly has considered and appropriated funds for the purpose of One-Stop Shops.

The Department of Transportation shall develop a business plan that thoroughly outlines the operational plans of a combined function center, a detailed

budget for each proposed location, and any identified savings gleaned from the combined services. In addition, the Division of Motor Vehicles shall conduct an analysis on the anticipated number of transactions and the impact to independent tag agents in those areas. The report is due to the Joint Legislative Transportation Oversight Committee, the Joint Appropriations Subcommittee for Transportation, and the Fiscal Research Division by March 15, 2008.

CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 27.2.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2009-2010	$1,846.0 million
For Fiscal Year 2010-2011	$1,857.9 million
For Fiscal Year 2011-2012	$1,869.0 million
For Fiscal Year 2012-2013	$1,873.9 million

SECTION 27.2.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2009-2010	$1,174.4 million
For Fiscal Year 2010-2011	$1,204.9 million
For Fiscal Year 2011-2012	$1,236.4 million
For Fiscal Year 2012-2013	$1,276.1 million

FUNDS FOR ECONOMIC DEVELOPMENT, SPOT SAFETY, AND TRANSPORTATION IMPROVEMENT PROGRAM PROJECTS

SECTION 27.3. Of the funds appropriated by this act to the Department of Transportation in fiscal year 2007-2008, nine million three hundred thirty-eight thousand four hundred four dollars ($9,338,404) shall be used for economic development transportation projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. These funds, in addition to any remaining funds which were appropriated to the Department pursuant to Section 28.27 of S.L. 2005-276, shall be allocated equally among the 14 Divisions. Funds in each Division not needed for economic development projects shall be used on spot safety needs to enhance safety, reduce congestion, improve traffic flow, reduce accidents, and for system preservation. Funds not identified for economic development and spot safety projects prior to December 31, 2007, shall be used on Transportation Improvement Program projects. The Secretary of Transportation shall not prevent or delay the implementation of any projects approved by the Board of Transportation pursuant to this section.

CONSOLIDATION OF RURAL FUNDING PROGRAMS BY THE DEPARTMENT OF TRANSPORTATION'S PUBLIC TRANSPORTATION DIVISION

SECTION 27.4. The Department of Transportation, Public Transportation Division, may consolidate its rural funding programs for vehicles, technology, and facilities into one large capital program. The Division shall have the flexibility to transfer funding from the consolidated capital program to the operating programs, based on the ability to leverage additional federal funds to meet the capital needs of rural transportation systems. The Department shall report on the use of funds and effectiveness of the provisions of this section to the Joint Appropriations Subcommittee on Transportation and the Fiscal Research Division by March 15, 2008.

SMALL CONSTRUCTION AND CONTINGENCY FUNDS

SECTION 27.5. Of the funds appropriated in this act to the Department of Transportation:

(1) Twenty-one million dollars ($21,000,000) shall be allocated in each fiscal year for small construction projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.

(2) Fifteen million dollars ($15,000,000) in fiscal year 2007-2008 and fifteen million dollars ($15,000,000) in fiscal year 2008-2009 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

FUNDS FOR UNSAFE OR OBSOLETE FIELD FACILITIES

SECTION 27.6. Of the funds appropriated in this act to the Department of Transportation, the Department may use funds not to exceed seventy-five hundredths of one percent (.75%) for maintenance and construction programs for major repair, renovation, or replacement of its field facilities that fail to meet safety standards or that are obsolete for current or future use. Prior to expending these funds, the Department shall submit its proposed budget for these expenditures to the Senate Appropriations Subcommittee on Transportation, the House of Representatives Appropriations Subcommittee on Transportation, and the Joint Legislative Transportation Oversight Committee each year.

MODIFY GLOBAL TRANSPARK DEBT

SECTION 27.7. G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144, Section 2 of S.L. 2005-201, and Section 28.17 of S.L. 2005-276 reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

...

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars ($25,000,000), that have a final maturity not later than October 1, ~~2007.~~2009. The obligations

shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

..."

DIVISION OF MOTOR VEHICLES REPORT ON REAL ID ACT COMPLIANCE

SECTION 27.8. The Department of Transportation shall report on the expenditure plan for the use of the reserved funds appropriated for the Secure ID and Card Production System. The plan shall include the projected costs associated with the federal government's requirements for complying with P.L. 109-13, the REAL ID Act of 2005. The Department shall report to the Joint Legislative Transportation Oversight Committee and the Joint Appropriations Subcommittee for Transportation by May 1, 2008.

DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT PROGRAMS

SECTION 27.9.(a) The Department of Transportation may continue the productivity pilot programs in the road oil, bridge inspection and pavement markings units implemented under Section 29.3 of S.L. 2003-284 and Section 28.9 of S.L. 2005-276. The Department of Transportation may expend up to one-half of one percent (0.50%) of the budget allocation for these programs for employee incentive payments to maintain the increased efficiency and productivity under these programs.

SECTION 27.9.(b) The Department of Transportation may establish up to two additional pilot programs to test incentive pay for employees as a means of increasing and maintaining efficiency and productivity.

These programs may be selected by the Department of Transportation. Up to one-half of one percent (0.50%) of the budget allocation for these programs may be used to provide employee incentive payments.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs. Pilot programs implemented under this subsection shall last no more than two years.

SECTION 27.9.(c) The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs developed under this section at least 30 days prior to their implementation.

DIVISION OF MOTOR VEHICLES LICENSE PLATE RECALL PROGRAM

SECTION 27.11.(a) Of the funds appropriated from the Highway Fund to the Department of Transportation under this act, the Division of Motor Vehicles may expend the sum of one hundred eighty-three thousand one hundred ninety-nine dollars ($183,199) for fiscal year 2007-2008 and the sum of ninety-nine thousand dollars ($99,000) for fiscal year 2008-2009 to recall vehicle license plates. The Division shall

develop a schedule by which approximately 94,000 of the oldest license plates are recalled annually for the next five years. Each fiscal year after 2008-2009, the General Assembly intends to appropriate from the Highway Fund to the Department of Transportation the sum of ninety-nine thousand dollars ($99,000) in recurring funds for the Division to implement a continuous license plate recall program.

SECTION 27.11.(b) The Division shall report to the Joint Appropriations Subcommittee on Transportation and the Fiscal Research Division no later than May 1, 2008, on the progress of the vehicle license plate recall schedule and the implementation of the continuous license plate recall program.

BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 27.13. Of funds available to the Department of Transportation for maintenance, the sum of three hundred thirty thousand dollars ($330,000) for the 2007-2008 fiscal year and the sum of three hundred thirty thousand dollars ($330,000) for the 2008-2009 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars ($25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED CONTRACTS

SECTION 27.14. The Department of Transportation may implement up to two performance-based contracts for routine maintenance and operations, exclusive of resurfacing. Selection of firms to perform this work shall be made using a best-value procurement process. Prior to any advertisement for a proposed project, the Department shall report to the Joint Legislative Transportation Oversight Committee on the contractor selection criteria to be used.

ENSURE PROPERTY AND FUNDS GO TO STATE HIGHWAY FUND

SECTION 27.15. G.S. 136-16 reads as rewritten:

"**§ 136-16. Funds and property converted to State Highway Fund.**

Except as otherwise provided, all funds and property collected by the Department of ~~Transportation~~ Transportation, including the proceeds from the sale of real property originally purchased with funds from the State Highway Fund, shall be paid or converted into the State Highway Fund."

DIVISION OF MOTOR VEHICLES TO REPORT CLOSINGS OF DRIVERS LICENSE OFFICES

SECTION 27.16. The Division of Motor Vehicles shall report the closing of any drivers license office to the Joint Legislative Transportation Oversight Committee at least 60 days before the closure. The report shall contain the location of the office by city and county, the number of customers served in that office in the preceding 12 months, the cost of operating the office to be closed, the reasons for the closure, where the customers will be directed for service after the closure, and the Division's intent to provide displaced customers with future service.

PART XXVIII SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 28.1.(a) Effective July 1, 2007, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirty thousand six hundred twenty-nine dollars ($130,629)~~ one hundred thirty-five thousand eight hundred fifty-four dollars ($135,854) annually, payable monthly."

SECTION 28.1.(b) Effective July 1, 2007, the annual salaries for the members of the Council of State, payable monthly, for the 2007-2008 and 2008-2009 fiscal years are:

Council of State	Annual Salary
Lieutenant Governor	$119,901
Attorney General	119,901
Secretary of State	119,901
State Treasurer	119,901
State Auditor	119,901
Superintendent of Public Instruction	119,901
Agriculture Commissioner	119,901
Insurance Commissioner	119,901
Labor Commissioner	119,901

NONELECTED DEPARTMENT HEAD/SALARY INCREASES

SECTION 28.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2007-2008 and 2008-2009 fiscal years are:

Nonelected Department Heads	Annual Salary
Secretary of Administration	$117,142
Secretary of Correction	117,142
Secretary of Crime Control and Public Safety	117,142
Secretary of Cultural Resources	117,142
Secretary of Commerce	117,142
Secretary of Environment, Health, and Natural Resources	117,142
Secretary of Health and Human Services	117,142
Secretary of Juvenile Justice and Delinquency Prevention	117,142
Secretary of Revenue	117,142
Secretary of Transportation	117,142

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 28.3. The annual salaries, payable monthly, for the 2007-2008 and 2008-2009 fiscal years for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$ 106,621
State Controller	149,216
Commissioner of Motor Vehicles	106,621
Commissioner of Banks	119,901
Chairman, Employment Security Commission	133,161
State Personnel Director	117,142
Chairman, Parole Commission	97,358
Members of the Parole Commission	44,942
Chairman, Utilities Commission	133,531
Members of the Utilities Commission	119,901
Executive Director, Agency for Public Telecommunications	89,884

Director, Museum of Art	109,252
Executive Director, North Carolina Agricultural Finance Authority	103,781
State Chief Information Officer	149,126

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 28.4.(a) The annual salaries, payable monthly, for specified judicial branch officials for the 2007-2008 and 2008-2009 fiscal years are:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	$ 137,160
Associate Justice, Supreme Court	133,576
Chief Judge, Court of Appeals	130,236
Judge, Court of Appeals	128,011
Judge, Senior Regular Resident Superior Court	124,532
Judge, Superior Court	121,053
Chief Judge, District Court	109,923
Judge, District Court	106,445
District Attorney	116,112
Administrative Officer of the Courts	123,346
Assistant Administrative Officer of the Courts	112,665
Public Defender	116,112

SECTION 28.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed sixty-nine thousand forty-seven dollars ($69,047), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-six thousand eighty-two dollars ($36,082) effective July 1, 2007.

SECTION 28.4.(c) Effective July 1, 2007, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%).

SECTION 28.4.(d) Effective July 1, 2007, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%).

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 28.5. Effective July 1, 2007, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	~~$77,112~~ $80,196
100,000 to 149,999	~~86,532~~ 89,993
150,000 to 249,999	~~95,954~~ 99,792
250,000 and above	~~105,378.~~109,593.

~~The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:~~

~~Population~~	~~Annual Salary~~

~~Less than 100,000~~	~~73%~~
~~100,000 to 149,999~~	~~82%~~
~~150,000 to 249,999~~	~~91%~~
~~250,000 and above~~	~~100%.~~

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

SECTION 28.6. Effective July 1, 2007, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	~~$29,925~~ $31,122
Maximum	~~51,251~~ 53,301

Deputy Clerks	Annual Salary
Minimum	~~$25,758~~ $26,788
Maximum	~~39,862.~~ 41,456."

MAGISTRATES' SALARY INCREASES

SECTION 28.7.(a) Effective July 1, 2007, G.S. 7A-171.1(a) reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	~~$30,320~~$31,533
Step 1	~~33,101~~ 34,425
Step 2	~~36,126~~ 37,571
Step 3	~~39,429~~ 41,006
Step 4	~~43,046~~ 44,768
Step 5	~~47,122~~ 49,007
Step 6	~~51,692.~~ 53,760.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4."

SECTION 28.7.(b) Effective July 1, 2007, G.S. 7A-171.1(a1)(1) reads as rewritten:

"(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	~~$24,450~~ $25,428
1 or more but less than 3 years of service	~~25,572~~ 26,595
3 or more but less than 5 years of service	~~27,831.~~ 28,944.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

SECTION 28.8. Effective July 1, 2007, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~ninety-seven thousand four hundred two dollars ($97,402)~~ one hundred one thousand two hundred ninety-eight dollars ($101,298) payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES

SECTION 28.9. Effective July 1, 2007, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~three hundred forty-five dollars ($345.00)~~ three hundred fifty-nine dollars

($359.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

LEGISLATIVE EMPLOYEES/SALARY INCREASES

SECTION 28.10. Effective July 1, 2007, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2006-2007 by four percent (4.0%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

SECTION 28.11.(a) The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of four percent (4.0%) including funds for the employer's retirement and social security contributions, commencing July 1, 2007, for all community college employees supported by State funds.

SECTION 28.11.(b) The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an additional annual salary increase of one percent (1.0%) for Community College faculty and professional staff, including funds for the employer's retirement and social security contributions, supported by State funds.

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

SECTION 28.12.(a) Effective July 1, 2007, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of five percent (5%) for faculty. The percentage annual salary increase of five percent (5%), authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors may use a portion of the annual salary increase provided by this section to improve competitive national peer rankings for faculty.

SECTION 28.12.(b) Effective July 1, 2007, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of four percent (4.0%) for non-faculty. The percentage

annual salary increase of four percent (4.0%) authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 28.12.(c) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, to provide an average annual salary increase of five percent (5%) but at least an annual increase of one thousand two hundred forty dollars ($1,240), including funds for the employer's retirement and social security contributions, commencing July 1, 2007, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

STATE AGENCY TEACHERS' COMPENSATION

SECTION 28.13. Funds in the Reserve for Compensation Increases shall be used for experience step increases for employees of schools operated by the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.

MOST STATE EMPLOYEES/SALARY INCREASES

SECTION 28.14.(a) The salaries in effect June 30, 2007, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund, shall be increased, on or after July 1, 2007, unless otherwise provided by this act, by four percent (4.0%).

SECTION 28.14.(b) Except as otherwise provided in this act, the fiscal year 2007-2008 salaries for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by four percent (4.0%), commencing July 1, 2007.

SECTION 28.14.(c) The salaries in effect for fiscal year 2007-2008 for all permanent part-time State employees shall be increased on and after July 1, 2007, by the four percent (4.0%) salary increase provided for permanent full-time employees covered under this part.

SECTION 28.14.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase, on and after July 1, 2007, in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

SECTION 28.14.(e) Within regular State Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the four percent

(4.0%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2007.

ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

SECTION 28.15.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

SECTION 28.15.(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

SECTION 28.15.(c) The salary increases provided in this act are to be effective July 1, 2007, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2007.

Payroll checks issued to employees after July 1, 2007, which represent payment of services provided prior to July 1, 2007, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

SECTION 28.15.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2007-2008 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

SECTION 28.15.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

SECTION 28.15.(f) Permanent full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the four percent (4.0%) annual increase provided by this act.

CERTAIN SALARIES SET BY GENERAL ASSEMBLY

SECTION 28.15A. G.S. 7A-65(a) reads as rewritten:

"(a) The annual salary of:

(1) District attorneys shall be ~~the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district court judge, as provided by law;~~as provided in the Current Operations Appropriations Act.

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARIES

SECTION 28.15B. For the 2007-2008 and 2008-2009 fiscal years, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources

Fund to fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

SALARY ADJUSTMENT FUND

SECTION 28.18.(a) Any remaining appropriations in the General Fund Reserve for Compensation Increases authorized for employee salary increases not required for that purpose may be used to supplement the General Fund Salary Adjustment Fund to support salary adjustments for positions supported by the General Fund. Any remaining appropriations in the Highway Fund Reserves and Transfers authorized for employee salary increases not required for that purpose may be used to supplement the Highway Fund Salary Adjustment Fund to support salary adjustments for positions supported by the Highway Fund.

SECTION 28.18.(b) Funds appropriated or otherwise transferred to the General Fund Salary Adjustment Fund or to the Highway Fund Salary Adjustment Fund by this act or any other provision of law shall be used to fund agency requests for the following purposes:

(1) Salary range revisions, special minimum rates, grade to band transfers and geographic site differential adjustments to provide competitive salary rates for affected job classifications/groups in response to changes in labor market rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

(2) Reallocation of positions to higher level job classifications to compensate employees for more difficult duties at competitive salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

The terms 'salary range revision' and 'reallocation' as used in this section shall conform to the definitions of those terms as previously contained in the State Personnel Manual and adopted by the State Personnel Commission effective immediately prior to November 1, 2005. Funds shall only be used for salary adjustments that are in compliance with State Personnel Commission policies. Funding shall first be provided to the earliest actions approved on or before July 1, 2007, by the State Personnel Commission or the Office of State Personnel and shall not be used for other purposes including, but not limited to, in-range adjustments, career progression adjustments, or other adjustments as these terms may be defined by State personnel policy.

SECTION 28.18.(c) The Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations prior to transferring any salary adjustment funds for any State agency.

SECTION 28.18.(d) The Director of the Budget may:

(1) Transfer to General Fund budget codes from the General Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section with the oldest of the pending adjustments to be funded first.

(2) Transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section.

SECTION 28.18.(e) The Judicial Department is eligible for the funding authorized in subsection (a) of this section.

SECTION 28.18.(f) Employees subject to the State Personnel Act in The University of North Carolina System are eligible for funding authorized in subsection (a) of this section and for the purposes outlined in subsection (b) of this section.

JUDICIAL BRANCH LONGEVITY

SECTION 28.18A.(a) G.S. 7A-10(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, the Chief Justice and each of the Associate Justices shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(b) G.S. 7A-18(b) reads as rewritten:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the Court of Appeals shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(c) G.S. 7A-44(b) reads as rewritten:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the superior court, regular or special, shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission or as director or assistant director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(d) G.S. 7A-65 reads as rewritten:

"**§ 7A-65. Compensation and allowances of district attorneys and assistant district attorneys.**

(a) The annual salary of:

(1) District attorneys shall be the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district court judge, as provided by law,

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally.

(b) Repealed by Session Laws 1985, c. 689, s. 2.

(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as a deputy or acting district attorney. Service shall also mean service as a justice or judge of the General Court of Justice, clerk of superior court, assistant district attorney, public defender, appellate defender, or assistant public or appellate defender.

(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. "Service" means service as an assistant district attorney, district attorney, resource prosecutor, public defender, appellate defender, assistant public or appellate defender, justice or judge of the General Court of Justice, or clerk of superior court. For purposes of this subsection, "resource prosecutor" means a former assistant district attorney who has left the employment of the district attorney's office to serve in a specific, time-limited position with the Conference of District Attorneys."

SECTION 28.18A.(e) G.S. 7A-101(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the clerk's annual salary payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. Service shall mean service in the elective position of clerk of superior court, as an assistant clerk of court and as a supervisor of clerks of superior court with the Administrative Office of the Courts and shall not include service as a deputy or acting clerk. Service shall also mean service as a justice, judge, or magistrate of the General Court of Justice or as a district attorney."

SECTION 28.18A.(f) G.S. 7A-144(b) reads as rewritten:

"(b) Notwithstanding merit, longevity and other increment raises paid to regular State employees, a judge of the district court shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission or as director or assistant director of the Administrative Office of

the Courts. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(g) G.S. 7A-498.7 reads as rewritten:

"**§ 7A-498.7. Public Defender Offices.**

(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office.

(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-44.1 that includes the county or counties of the defender district for which the public defender is being appointed.

(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. "Service" means service as a public defender, appellate defender, assistant

public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(d) Subject to standards adopted by the Commission, the day-to-day operation and administration of public defender offices shall be the responsibility of the public defender in charge of the office. The public defender shall keep appropriate records and make periodic reports, as requested, to the Director of the Office of Indigent Defense Services on matters related to the operation of the office.

(e) The Office of Indigent Defense Services shall procure office equipment and supplies for the public defender, and provide secretarial and library support from State funds appropriated to the public defender's office for this purpose.

(f) Each public defender is entitled to assistant public defenders, investigators, and other staff, full-time or part-time, as may be authorized by the Commission. Assistants, investigators, and other staff are appointed by the public defender and serve at the pleasure of the public defender. Average and minimum compensation of assistants shall be as provided in the biennial Current Operations Appropriations Act. The actual salaries of assistants shall be set by the public defender in charge of the office, subject to approval by the Commission. The Commission shall fix the compensation of investigators. Assistants and investigators shall perform such duties as may be assigned by the public defender.

(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, twenty-four percent (24%) after 25 years of service, and twenty-eight and eight-tenths percent (28.8%) after 30 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(h) The term of office of public defender appointed under this section is four years. A public defender or assistant public defender may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district attorney.

(i) A public defender may apply to the Director of the Office of Indigent Defense Services to enter into contracts with local governments for the provision by the State of services of temporary assistant public defenders pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(j) The Director of the Office of Indigent Defense Services may provide assistance requested pursuant to subsection (i) of this section only upon a showing by the requesting public defender, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(k) The terms of any contract entered into with local governments pursuant to subsection (i) of this section shall be fixed by the Director of the Office of Indigent Defense Services in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Office of Indigent Defense Services to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the

Office of Indigent Defense Services to maintain positions or services initially provided for under this section."

CAREER BANDING/CONTINUATION

SECTION 28.18B. Notwithstanding any other provision of law, the State Personnel Commission, the Office of State Personnel, The University of North Carolina as to its employees subject to the State Personnel Act, and State agencies as to their defined critical occupational groups such as nursing, engineering, library, fiscal, and pharmacy positions, and other similar occupational groups, shall begin or continue the development and implementation of career banding, effective July 1, 2007.

The Office of State Personnel shall provide quarterly updates on career banding to the Joint Legislative Commission on Governmental Operations.

The Office of State Personnel shall consult with the Joint Legislative Commission on Governmental Operations prior to the State Personnel Commission's review and approval of career banding for major occupational groups with significant labor market changes.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 28.19.(a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

Notwithstanding any other provision of law, an employer who hires or has hired a retiree as an employee shall enroll the retiree in the active group and pay the cost for the hospital-medical benefits if that retiree is employed in a position that would require the employer to pay hospital-medical benefits if the individual had not been retired.

SECTION 28.19.(b) Effective July 1, 2007, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2007-2008 fiscal year are: (i) seven and ninety-six hundredths percent (7.96%) – Teachers and State Employees; (ii) twelve and ninety-six hundredths percent (12.96%) – State Law Enforcement Officers; (iii) eleven and sixty-six hundredths percent (11.66%) – University Employees' Optional Retirement System; (iv) eleven and sixty-six hundredths percent (11.66%) – Community College Optional Retirement Program; (v) seventeen and fifty-one hundredths percent (17.51%) – Consolidated Judicial Retirement System; and (vi) four and thirty hundredths percent (4.30%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and thirty hundredths percent (4.30%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers

include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 28.19.(c) Effective July 1, 2008, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2007-2008 fiscal year are: (i) seven and ninety-six hundredths percent (7.96%) – Teachers and State Employees; (ii) twelve and ninety-six hundredths percent (12.96%) – State Law Enforcement Officers; (iii) eleven and sixty-six hundredths percent (11.66%) – University Employees' Optional Retirement System; (iv) eleven and sixty-six hundredths percent (11.66%) – Community College Optional Retirement Program; (v) seventeen and fifty-one hundredths percent (17.51%) – Consolidated Judicial Retirement System; and (vi) four and thirty hundredths percent (4.30%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and thirty hundredths percent (4.30%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 28.19.(d) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan's Indemnity Plan are: (i) Medicare-eligible employees and retirees – three thousand two hundred twenty-six dollars ($3,226) and (ii) non-Medicare-eligible employees and retirees – four thousand two hundred thirty-eight dollars ($4,238).

SECTION 28.19.(f) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan's Preferred Provider Options Program are: (i) Medicare-eligible employees and retirees – three thousand ninety-one dollars ($3,091) and (ii) non-Medicare-eligible employees and retirees – four thousand sixty-one dollars ($4,061).

SECTION 28.19.(g) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2008-2009 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan's Preferred Provider Options Program are: (i) Medicare-eligible employees and retirees – three thousand one hundred seventy-three dollars ($3,173) and (ii) non-Medicare-eligible employees and retirees – four thousand one hundred sixty-eight dollars ($4,168).

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

SECTION 28.20.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(qqq) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two percent (2%) of the allowance payable on June 1, 2007, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2007, the retirement allowance to or

on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

SECTION 28.20.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(bb) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two percent (2%) of the allowance payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

SECTION 28.20.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(v) In accordance with subsection (a) of this section, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2007, shall be increased by two percent (2%) of the allowance payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2007, but before June 30, 2007, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2007, and June 30, 2007."

SECTION 28.20.(d) G.S. 128-27 is amended by adding a new subsection to read:

"(hhh) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

SECTION 28.21. G.S. 58-86-55 reads as rewritten:

"**§ 58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an "eligible fireman" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred sixty-five dollars ($165.00)~~ one hundred sixty-seven dollars ($167.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2006,~~ July 1, 2007, receive a pension of ~~one hundred sixty-five dollars ($165.00)~~ one hundred sixty-seven dollars ($167.00) per month.

Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad

member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred sixty-five dollars ($165.00)~~ one hundred sixty-seven dollars ($167.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of ~~Article 4~~ Article 4A of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of ~~Article 4~~ Article 4A of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a fireman or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

ENHANCE BENEFITS PAYABLE THROUGH THE NATIONAL GUARD PENSION FUND

SECTION 28.21A. G.S. 127A-40(a) reads as rewritten:

"(a) Every member and former member of the North Carolina national guard who meets the requirements hereinafter set forth shall receive, commencing at age 60, a pension of ~~eighty dollars ($80.00)~~ ninety-five dollars ($95.00) per month for 20 years' creditable military service with an additional ~~eight dollars ($8.00)~~ nine dollars fifty cents ($9.50) per month for each additional year of such service; provided, however, that the total pension shall not exceed ~~one hundred sixty dollars ($160.00)~~ one hundred

ninety dollars ($190.00) per month. The requirements for such pension are that each member shall:

(1) Have served and qualified for at least 20 years' creditable military service, including national guard, reserve and active duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.

(2) Have at least 15 years of the aforementioned service as a member of the North Carolina national guard.

(3) Have received an honorable discharge from the North Carolina national guard."

INCLUDE PUBLIC DEFENDERS AS MEMBERS OF THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM

SECTION 28.21B.(a) G.S. 135-50(b) reads as rewritten:

"(b) The purpose of this Article is to improve the administration of justice by attracting and retaining the most highly qualified talent available within the State to the positions of justice and judge, district attorney and solicitor, public defender, and clerk of superior court, within the General Court of Justice."

SECTION 28.21B.(b) G.S. 135-51 reads as rewritten:

"**§ 135-51. Scope.**

(a) This Article provides consolidated retirement benefits for all justices and judges, district attorneys, and solicitors who are serving on January 1, 1974, and who become such thereafter; and for all clerks of superior court who are so serving on January 1, 1975, and who become such ~~thereafter.~~ after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that date.

(b) For justices and judges of the appellate and superior court divisions of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

For district attorneys and judges of the district court of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

For clerks of superior court of the General Court of Justice who so served prior to January 1, 1975, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge, district attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after January 1, 1975, or public defender on or after July 1, 2007, shall be determined solely in accordance with the provisions of this Article."

SECTION 28.21B.(c) G.S. 135-53 reads as rewritten:

"**§ 135-53. Definitions.**

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions" with respect to any member shall mean the sum of all the amounts deducted from the compensation of the member pursuant to G.S. 135-68 since he last became a member and credited to his account in the annuity savings fund, plus any amount standing to his credit pursuant to G.S. 135-67(c) as a result of a prior period of membership, plus any amounts credited to his account

pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular interest on all such amounts computed as provided in G.S. 135-7(b).

(2) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the bases of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.

(2a) "Average final compensation" shall mean the average annual compensation of a member during the 48 consecutive calendar months of membership service producing the highest such average.

(3) "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided in this Article.

(4) "Board of Trustees" shall mean the Board of Trustees established by G.S. 135-6.

(4a) "Clerk of superior court" shall mean the clerk of superior court provided for in G.S. 7A-100(a).

(5) "Compensation" shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge, or district attorney, or clerk of superior ~~court.~~ court, or public defender.

(6) "Creditable service" shall mean for any member the total of his prior service plus his membership service.

(6a) "District attorney" shall mean the district attorney or solicitor provided for in G.S. 7A-60.

(7) "Filing" when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.

(8) "Final compensation" shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.

(9) "Judge" shall mean any justice or judge of the General Court of Justice and the administrative officer of the courts.

(10) "Medical board" shall mean the board of physicians provided for in G.S. 135-6.

(11) "Member" shall mean any person included in the membership of the Retirement System as provided in this Article.

(12) "Membership service" shall mean service as a judge, district attorney, ~~or~~ clerk of superior ~~court~~ court, or public defender rendered while a member of the Retirement System.

(13) "Previous system" shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such Article or Articles were formerly applicable to the member, and in the case of judges of the district court division, ~~and~~ district attorney, public defender, and clerk of superior court of the General Court of Justice, the Teachers' and State Employees' Retirement System.

(14) "Prior service" shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-56.

(14a) "Public defender" means a public defender provided for in G.S. 7A-498.7, the appellate defender provided for in G.S. 7A-498.8, the capital defender, and the juvenile defender.

(15) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).
(16) "Retirement" shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.
(17) "Retirement allowance" shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.
(18) "Retirement System" shall mean the "Consolidated Judicial Retirement System" of North Carolina, as established in this Article.
(19) "Year" as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees."

SECTION 28.21B.(d) G.S. 135-54 reads as rewritten:

"**§ 135-54. Name and date of establishment.**

A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for justices and judges, district attorneys, public defenders, and clerks of superior court of the General Court of Justice of North Carolina, and their survivors. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the "Consolidated Judicial Retirement System of North Carolina," and by such name all of its business shall be transacted."

SECTION 28.21B.(e) G.S. 135-55 reads as rewritten:

"**§ 135-55. Membership.**

(a) The membership of the Retirement System shall consist of:
(1) All judges and district attorneys in office on January 1, 1974;
(2) All persons who become judges and district attorneys or reenter service as judges and district attorneys after January 1, 1974;
(3) All clerks of superior court in office on January 1, 1975; ~~and~~
(4) All persons who become clerks of superior court or reenter service as clerks of superior court after January 1, ~~1975.~~ 1975;
(5) All public defenders in office on July 1, 2007; and
(6) All persons who become public defenders or reenter service as public defenders after July 1, 2007.

(b) The membership of any person in the Retirement System shall cease upon:
(1) The withdrawal of his accumulated contributions after he is no longer a judge, district ~~attorney~~ attorney, public defender, or clerk of superior court, or
(2) His retirement under the provisions of the Retirement System, or
(3) His death."

SECTION 28.21B.(f) G.S. 135-58(a4) reads as rewritten:

"(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, but before July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2),

(3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 28.21B.(g) G.S. 135-58 is amended by adding a new subsection to read:

"(a5) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service

rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, clerk of superior court, or public defender;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 28.21B.(h) G.S. 135-56 is amended by adding a new subsection to read:

"(g) On and after July 1, 2007, the creditable service of a member who was a public defender and a member of the Teachers' and State Employees' Retirement System at the time of transfer of membership from the previous system to this System shall include service as a public defender that was creditable in the previous system immediately prior to July 1, 2007. The accumulated contributions, creditable service, and reserves, if any, of a member as a public defender shall be transferred from the previous system to this System in the same manner as prescribed under G.S. 135-28.1 as it pertained to judges of the district court division of the General Court of Justice."

STATE HEALTH PLAN CHANGES EFFECTIVE FOR FISCAL YEAR 2007-2008

SECTION 28.22.(a) The Teachers' and State Employees' Comprehensive Major Medical Plan (Plan) shall provide for an annual open enrollment period in the Indemnity Plan and Optional PPO program for the July 1, 2007, to June 30, 2008, Plan year. Plan member changes to coverage type or selection of benefit coverage under the Indemnity Plan or Optional PPO program during open enrollment shall become effective October 1, 2007. At least 45 days prior to October 1, 2007, the Plan shall provide to all plan members sufficient information on premiums, cost-sharing, and benefits to enable the plan member or other eligible participant to make an enrollment election effective October 1, 2007. As used in this subsection, the term "plan member" includes active employees, retired employees, and other eligible participants with respect to the Indemnity Plan and the optional PPO program.

SECTION 28.22.(b) G.S. 135-40.1(2) reads as rewritten:

"(2) Deductible. – Deductible shall mean an amount of covered expenses during a fiscal year which must be incurred after which benefits (subject to the deductible) becomes payable. The deductible for an employee, retired employee and/or his or her dependents shall be ~~three hundred fifty dollars ($350.00)~~four hundred fifty dollars ($450.00) for each fiscal year.

The deductible applies separately to each covered individual in each fiscal year, subject to an aggregate maximum of ~~one thousand fifty dollars ($1,050)~~one thousand three hundred fifty dollars ($1,350) per employee and child(ren) or employee and family coverage contract in any fiscal year.

If two or more family members are injured in the same accident only one deductible is required for charges related to that accident during the benefit period."

SECTION 28.22.(c) G.S. 135-40.4 reads as rewritten:

"**§ 135-40.4. Benefits in general.**

(a) In the event a covered person, as a result of accidental bodily injury, disease or pregnancy, incurs covered expenses, the Plan will pay benefits up to the amounts described in G.S. 135-40.5 through G.S. 135-40.9.

The Plan is divided into two parts. The first part includes certain benefits which are not subject to a deductible or coinsurance. The second part is a comprehensive plan and includes those benefits which are subject to both a ~~three hundred fifty dollar ($350.00)~~ four hundred fifty dollar ($450.00) deductible for each covered individual to an aggregate maximum of ~~one thousand fifty dollars ($1,050)~~one thousand three hundred fifty dollars ($1,350) per employee and child(ren) or employee and family coverage contract and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the second part.

Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may contract with providers of institutional and professional medical care and services to established preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors or other medical providers, an optional program contract authorized under G.S. 135-39.5B(b), or a pharmacy benefit manager and the Plan shall not be a public record under Chapter 132 of the General Statutes for a period of thirty months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and implementation of the preferred provider contracts and networks are not subject to the requirements of Chapter 143 of the General Statutes, provided that for any hospital preferred provider network all hospitals will have an opportunity to contract with the Plan if they meet the contract requirements. The Executive Administrator and Board of Trustees shall, under the provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely basis and shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating the preferred provider contracts. The Executive Administrator and Board of Trustees shall implement a refined diagnostic-related grouping or

diagnostic-related grouping-based reimbursement system for hospitals as soon as practicable, but no later than January 1, 1995.

(b) As used in this section the term "preferred provider contracts or networks" includes, but is not limited to, a refined diagnostic-related grouping or diagnostic-related grouping-based system of reimbursement for hospitals."

SECTION 28.22.(d) Effective July 1, 2007, G.S. 135-40.5(g) reads as rewritten:

"(g) Prescription Drugs. – The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility are to be determined by the Plan's Executive Administrator and Board of Trustees. The ~~Plan~~ Plan's indemnity plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ~~ten dollars ($10.00)~~fifteen dollars ($15.00) for each generic prescription, ~~twenty-five dollars ($25.00)~~ thirty dollars ($30.00) for each preferred branded prescription, and ~~forty dollars ($40.00)~~forty-five dollars ($45.00) for each preferred branded prescription with a generic equivalent drug, and ~~fifty dollars ($50.00)~~fifty-five dollars ($55.00) for each nonpreferred branded or generic prescription. The Plan's optional PPO program will pay allowable charges for each outpatient prescription drug less a co-payment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars ($10.00) for each generic prescription, twenty-five dollars ($25.00) for each preferred branded prescription, forty dollars ($40.00) for each preferred branded prescription with a generic equivalent drug, and fifty dollars ($50.00) for each nonpreferred branded or generic prescription.

Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for erectile dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member. The Plan and its pharmacy benefit manager shall not provide coverage for growth hormone and weight loss drugs and antifungal drugs for the treatment of nail fungus and botulinium toxin without approval in advance by the pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator and pharmacy benefit manager shall be an open formulary. Plan members shall not be assessed more than two thousand five hundred dollars ($2,500) per person per fiscal year in copayments required by this subsection."

SECTION 28.22.(e) The first paragraph of G.S. 135-40.6 reads as rewritten:

"The benefits provided in this section are subject to a deductible of ~~three hundred fifty dollars ($350.00)~~ four hundred fifty dollars ($450.00) per covered individual to an aggregate maximum of ~~one thousand fifty dollars ($1,050)~~ one thousand three hundred fifty dollars ($1,350) per employee and child(ren) or employee and family coverage contract per fiscal year and are payable on the basis of eighty percent (80%) by the Plan and twenty percent (20%) by the covered individual up to a maximum of two thousand

dollars ($2,000) out-of-pocket per fiscal year. The aggregate maximum out-of-pocket required of individuals covered by this section shall not be more than six thousand dollars ($6,000) per employee and child(ren) or employee and family coverage contract per fiscal year."

SECTION 28.22.(f) G.S. 135-40.8(c3) reads as rewritten:

"(c3) Notwithstanding any other provision of this Article, the Plan does not pay for the first ~~fifteen dollars ($15.00)~~ twenty-five dollars ($25.00) of allowable charges for each home, office, or skilled nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b., G.S. 135-40.6(4), G.S. 135-40.6(8)i., j., k., n., r., and s., and G.S. 135-40.5(e). The co-payment assessed by this subsection shall be assessed only once per person per provider per day and shall not apply to laboratory, pathology, and radiology services, or to charges for injected medications. The exclusion made under this subsection shall not count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs."

SECTION 28.22.(g) G.S. 135-39.5B is amended by adding the following new subsections to read:

"**§ 135-39.5B. Optional plans.**

...

(c) Chemical dependency and mental health benefits under G.S. 135-40.7B apply to the optional program adopted under subsection (b) of this section.

(d) The optional program adopted under subsection (b) of this section shall not limit the number of visits for physical therapy, occupational therapy, and speech therapy."

STATE HEALTH PLAN CHANGES EFFECTIVE BEGINNING WITH THE 2008-2009 FISCAL YEAR

SECTION 28.22A.(a) Effective July 1, 2008, G.S. 135-39.5B, 135-40, 135-40.4, 135-40.5(g), 135-40.6, 135-40.8, and 135-40.9 are repealed.

SECTION 28.22A.(b) Effective July 1, 2008, G.S. 135-39(a) and (a1) read as rewritten:

"(a) There is hereby established the Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~State Health Plan for Teachers and State Employees.

(a1) The Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan~~ State Health Plan for Teachers and State Employees shall consist of nine members."

SECTION 28.22A.(c) Effective July 1, 2008, G.S. 135-37 reads as rewritten:

"**§ 135-37. Confidentiality.**

Any information as herein described in this section which is in the possession of the Executive Administrator and the Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan~~ State Health Plan for Teachers and State Employees ("Plan") or its Claims Processor under the ~~Teachers' and State Employees' Comprehensive Major Medical Plan~~ Plan or the Predecessor Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. This section shall apply to all information concerning individuals, including the fact of coverage or noncoverage, whether or not a claim has been filed, medical information, whether or not a claim has been paid, and any other information or materials concerning a plan participant. Provided, however, such information may be released to the State Auditor, or to the Attorney General, or to

the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and responsibilities, or to such persons or organizations as may be designated and approved by the Executive Administrator and Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan,~~ Plan but any information so released shall remain confidential as stated above and any party obtaining such information shall assume the same level of responsibility for maintaining such confidentiality as that of the Executive Administrator and Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~State Health Plan for Teachers and State Employees."

SECTION 28.22A.(d) Effective July 1, 2008, G.S. 135-39.10 reads as rewritten:

"**§ 135-39.10. Meaning of "Executive Administrator and Board of Trustees".**

Whenever in this Article the words "Executive Administrator and Board of Trustees" appear, they mean that the Executive Administrator shall have the power, duty, right, responsibility, privilege or other function mentioned, after consulting with the Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~North Carolina State Health Plan for Teachers and State Employees."

SECTION 28.22A.(e) Effective July 1, 2008, the title of Part 3 of Article 3 of Chapter 135 of the General Statutes reads as rewritten:

"Part 3. ~~Comprehensive Major Medical Plan.~~ State Health Plan for Teachers and State Employees."

SECTION 28.22A.(f) Effective July 1, 2008, G.S. 135-40(a) and (a1) read as rewritten:

"**§ 135-40. Undertaking.**

(a) The State of North Carolina undertakes to make available a ~~Comprehensive Major Medical~~ State Health Plan (hereinafter called the "Plan") exclusively for the benefit of its employees, retired employees and certain of their dependents which will pay benefits in accordance with the terms hereof. The Plan shall have all the powers and privileges of a corporation and shall be known as the ~~North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.~~ North Carolina State Health Plan for Teachers and State Employees. The Executive Administrator and Board of Trustees shall carry out their duties and responsibilities as fiduciaries for the Plan. The Plan may be a PPO or other type of benefit plan. The Executive Administrator and Board of Trustees may set premium rates for coverage under the Plan on a partially contributory basis, provided that the amounts of State funds contributed for coverage on a partially contributory basis shall not be more than the Plan's total noncontributory premium for Employee Only coverage, with the person selecting the coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed shall not exceed the Plan's cost for Employee Only coverage. Contracts to provide benefits under the Plan are not subject to Article 3 of Chapter 143 of the General Statutes.

(a1) The State of North Carolina deems it to be in the public interest for North Carolina firemen, rescue squad workers, and members of the national guard, and certain of their dependents, who are not eligible for any other type of comprehensive group health insurance or other comprehensive group health benefits, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months, to be given the opportunity to participate in the benefits provided by the ~~North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.~~North Carolina State Health Plan for Teachers and State Employees. Coverage under the Plan shall be voluntary for eligible firemen, rescue squad workers,

and members of the national guard who elect participation in the Plan for themselves and their eligible dependents."

SECTION 28.22A.(g) Effective July 1, 2008, the lead paragraph and subdivisions (8), (13a), and (14) of G.S. 135-40.1 read as rewritten:

"**§ 135-40.1. General definitions.**

As used in Parts 2 and 3 of this Article, and as applicable under the policies, benefits, and limitations on coverage under the optional program offered pursuant to G.S. 135-40.6A, the following terms have the meaning specified as follows:

...

(8) Health Benefits Representative. – The employee designated by the employing unit to administer the ~~Comprehensive Major Medical Plan~~ State Health Plan for Teachers and State Employees for the unit and its employees. The HBR is responsible for enrolling new employees, reporting changes, explaining benefits, reconciling group statements and remitting group fees. The State Retirement System is the Health Benefits Representative for retired members.

(13a) Plan. – The ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~ State Health Plan for Teachers and State Employees.

(14) Predecessor Plan. – The Hospital and Medical Benefits for the Teachers' and State Employees' Retirement System of the State of North ~~Carolina.~~ Carolina, or the North Carolina Teachers' and State Employees Comprehensive Major Medical Plan, as applicable."

SECTION 28.22A.(h) Effective July 1, 2008, G.S. 135-40.3(d) reads as rewritten:

"(d) Types of Coverage Available. – There are three types of coverage which an employee or retiree may elect.

(1) Employee Only. – Covers enrolled employees only. Maternity benefits are provided to employee only.

(2) Employee and Child(ren). – Covers enrolled employee and all eligible dependent children. Maternity benefits are provided to the employee only.

(3) Employee and Family. – Covers employee and spouse, and all eligible dependent children. Maternity benefits are provided to employee or enrolled spouse.

(4), (5) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 5(b).

(4a) Employee and spouse. – Covers employee and spouse only. Maternity benefits are provided to the employee only."

SECTION 28.22A.(i) Effective July 1, 2008, G.S. 135-40.5 is amended by adding the following new subsection to read:

"(g1) Prescription Drugs. – The Plan will pay allowable charges for each outpatient prescription drug less a co-payment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars ($10.00) for each generic prescription, twenty-five dollars ($25.00) for each preferred branded prescription, forty dollars ($40.00) for each preferred branded prescription with a generic equivalent drug, and fifty dollars ($50.00) for each nonpreferred branded or generic prescription.

Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the co-payments paid by each covered individual. By accepting the cop-ayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by

the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for erectile dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member. The Plan and its pharmacy benefit manager shall not provide coverage for growth hormone and weight loss drugs and antifungal drugs for the treatment of nail fungus and botulinium toxin without approval in advance by the pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator and pharmacy benefit manager shall be an open formulary. Plan members shall not be assessed more than two thousand five hundred dollars ($2,500) per person per fiscal year in co-payments required by this subsection."

SECTION 28.22A.(j) Effective July 1, 2008, the Revisor of Statutes shall delete all statutory references to "Teachers' and State Employees' Comprehensive Major Medical Plan" and substitute therefor "State Health Plan for Teachers and State Employees."

STATE HEALTH PLAN WELLNESS PILOT

SECTION 28.22B.(a) The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may use funds available in an amount not to exceed two hundred thousand dollars ($200,000) for the 2007-2008 fiscal year to establish and implement one or more wellness pilot programs for State employees. The purpose of the pilot programs is to reduce health care costs and improve worker productivity through improved health status of the employee. The pilot programs shall be designed to encourage State employee enrollment in a structured fitness program that includes measurable benchmarks. The Executive Administrator shall select one or more pilot sites that represent different geographic regions of the State, taking into consideration sites that have the highest density of State employees.

SECTION 28.22B.(b) Not later than May 1, 2008, the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan shall report to the Committee on Employee Hospital and Medical Benefits on State employee participation levels in the wellness pilot programs and health outcomes resulting from the participation. The Executive Administrator shall also recommend in its report whether the pilot programs should be continued and expanded in other areas of the State in the 2008-2009 fiscal year.

RETIREE HEALTH BENEFIT FUND

SECTION 28.23. G.S. 135-7(f) reads as rewritten:

"(f) Retiree Health Benefit Fund. – The Retiree Health Benefit Fund is established as a fund in which accumulated contributions from employers and any earnings on those contributions shall be used to provide health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter. The Retiree Health Benefit Fund shall be administered in accordance with the provisions of subsection (a) of this section. Employer contributions to the Fund are irrevocable. The assets of the Fund are dedicated to providing health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter and are not subject to the

claims of creditors of the employers making contributions to the Fund. However, Fund assets may be used for reasonable expenses to administer the Fund, including costs to conduct required actuarial valuations of State-supported retired employees' health benefits under other post-employment benefit accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation."

PART XXIX. CAPITAL APPROPRIATIONS.

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 29.1. The appropriations made by the 2007 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 29.2. There is appropriated from the General Fund for the 2007-2008 fiscal year the following amount for capital improvements:

Capital Improvements – General Fund	**2007-2008**
Department of Administration	
Deerfield Cottage Renovation	$3,556,000
Department of Crime Control and Public Safety	
Voice Interoperability Plan for Emergency Responders Phase 1	13,250,000
Department of Natural and Environmental Resources	
Water Resources Development Projects	20,000,000
Information Technology Services	
Secondary Data Center Equipment	9,000,000
University of North Carolina System	
Reserve for Fire Suppression in Dormitories Phase 1	9,000,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	**$54,806,000**

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 29.3.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

	Name of Project	**2007-2008**
(1)	Wilmington Harbor Deepening	$ 4,333,000
(2)	Manteo (Shallowbag) Bay	350,000
(3)	Wilmington Harbor Maintenance	2,000,000
(4)	Bogue Banks Shore Protection Study	125,000
(5)	B. Everett Jordan Lake Water Supply Storage	100,000
(6)	Princeville Flood Control	98,000

(7)	Aquatic Plant Control, Statewide and Lake Gaston	200,000
(8)	Belhaven Harbor Feasibility	120,000
(9)	John H. Kerr Dam & Reservoir	520,000
(10)	Currituck Sound Environmental Restoration Study	350,000
(11)	Neuse River Basin Study	554,000
(12)	Surf City/North Topsail Beach Study	50,000
(13)	West Onslow Beach (Topsail Beach) Study	43,000
(14)	Dare County Beaches (Bodie Island)	500,000
(15)	North Carolina Beach and Inlet Management Plan	250,000
(16)	Dredging Contingency Fund	4,037,000
(17)	State – Local Projects	2,400,000
(18)	Western N.C. Hurricane Damage Stream Restoration	1,200,000
(19)	Planning Assistance to Communities	75,000
(20)	Concord Stream Restoration – Cabarrus County	170,000
(21)	Southern Shores Canal Dredging Phase 2	800,000
(22)	Ararat River Restoration	550,000
(23)	Town of Williamston Drainage Improvement	600,000
(24)	Little Sugar Creek Stream Restoration Phase 7	575,000
TOTALS		**$20,000,000**

SECTION 29.3.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2007-2008 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) U.S. Army Corps of Engineers project feasibility studies.
(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2007-2008.
(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2008-2009 fiscal year.

SECTION 29.3.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 29.4. The appropriations made by the 2007 General Assembly for capital improvements shall be disbursed for the purposes provided by this act.

Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2007 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2007 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 29.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2007-2008 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

SECTION 29.5.(b) The Office of State Budget and Management and the University of North Carolina General Administration shall jointly study the allocation of funds in the Reserve for Repairs and Renovations set forth in subsection (a) of this section and shall recommend to the General Assembly changes to the current allocation if any are deemed necessary. The study shall include the following:

(1) A review of the Department of Administration's Facilities Condition and Assessment Program.

(2) A review and identification of State-owned buildings supported by the General Fund.
(3) A review of the actual expenditures for repairs and renovations from allocated reserve funds.

The Office of State Budget and Management and the University of North Carolina General Administration shall submit a joint report to the Senate Appropriations and Base Budget Committee, the House Appropriations Committee, the House Appropriations Subcommittee on Capital, the Senate Finance Subcommittee on Capital and Infrastructure Financing, the Joint Legislative Oversight Committee on Capital Improvements, and the Fiscal Research Division. The report shall include the study findings and recommendations and shall be submitted no later than April 1, 2008.

SECTION 29.5.(c) Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section, the sum of five hundred thirty-four thousand dollars ($534,000) shall be allocated to the Department of Juvenile Justice and Delinquency Prevention to renovate two cottages at the Samarkand Youth Development Center to use for the Eckerd Family Focus on Rehabilitative Treatment (EFFORT) project, which would supplement the traditional youth development centers pursuant to G.S. 143C-4-3.

PLANT CONSERVATION PROGRAM FUNDS

SECTION 29.6. From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars ($30,000) for the 2007-2008 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, environmental studies, and for the management of the plant conservation program preserves owned by the Department.

EASTERN NORTH CAROLINA AGRICULTURAL CENTER FUNDS

SECTION 29.8.(a) Timber sales receipts received for the sale of timber harvested on the property on which the Eastern North Carolina Agricultural Center at Williamston is located shall be transferred from the Department of Agriculture and Consumer Services' timber sales capital improvement account in the Department of Agriculture and Consumer Services as such funds become available and shall be used for the 2007-2008 fiscal year by the Department for capital improvements to the grounds and facilities at the Eastern North Carolina Agricultural Center.

SECTION 29.8.(b) Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

TIME WARNER CABLE LEASE PROCEEDS

SECTION 29.9. The sum of two hundred twenty-five thousand dollars ($225,000) in net proceeds received from Time Warner, Inc., by the Department of Environment and Natural Resources, Division of Forest Resources, for the lease of property located at 2600 Howard Road in Raleigh shall be transferred to the Department for deposit into a capital improvement account. Funds in this account for the 2007-2008 fiscal year may be used to construct an equipment storage building and related improvements.

TRANSFER OF STATE PROPERTY TO WAYNE COUNTY

SECTION 29.11. The State-owned property in Wayne County that is bordered on the north by SR 581, on the west by the DART-Cherry Facility/Programs, on the south by Cherry Hospital Cemetery, and on the west by property owned by APV North America, Inc., is hereby transferred to Wayne County. The transfer under this section shall be evidenced by a deed executed in accordance with G.S. 146-75 and registered in accordance with G.S. 146-77. The deed shall provide that the State retains a possibility of reverter and that, in the event that Wayne County does not substantially commence construction of a community agricultural center on the site within five years of the execution of the deed, the property shall revert to the State.

UNC RESERVE FOR FIRE SUPPRESSION

SECTION 29.12. Notwithstanding any other provision of law, the funds appropriated in this act to the Board of Governors of The University of North Carolina for the installation of fire sprinklers in University residence halls shall be allocated among the University's constituent institutions by the President of the University of North Carolina, who shall consider the following factors when allocating those funds:

(1) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.

(2) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.

(3) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls by 2012.

(4) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

SPECIAL INDEBTEDNESS PROJECTS

SECTION 29.13.(a) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-four million dollars ($34,000,000) to finance the capital facility costs of completing a new educational building at Appalachian State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of three million dollars ($3,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(b) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of eighty-seven million dollars ($87,000,000) to finance the capital facility costs of completing a building and 10 dental clinics for the School of Dentistry at East Carolina University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the

project described in this subsection. No more than a maximum aggregate amount of ten million dollars ($10,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of fifty-two million dollars ($52,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(c) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty million dollars ($20,000,000) to finance the capital facility costs of completing a building for the School of Education at Elizabeth City State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of two million dollars ($2,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of six million dollars ($6,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(d) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-two million five hundred eighty-seven thousand dollars ($22,587,000) to finance the capital facility costs of completing a new Science and Technology Complex at Fayetteville State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(e) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-five million seven hundred eighty-seven thousand dollars ($25,787,000) to finance the capital facility costs of completing a general classroom building at North Carolina Agricultural and Technical State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(f) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-four million dollars ($24,000,000) to finance the capital facility costs of completing a building for the School of Nursing at North Carolina Central University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of two million five hundred thousand dollars ($2,500,000) of special indebtedness may be

issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of six million two hundred fifty thousand dollars ($6,250,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(g) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-four million nine hundred twenty thousand dollars ($24,920,000) to finance the capital facility costs of completing a new library at the North Carolina School of the Arts. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of one million seven hundred seventy-five thousand six hundred dollars ($1,775,600) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of fourteen million three hundred seventy-three thousand six hundred dollars ($14,373,600) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(h) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-four million dollars ($34,000,000) to finance the capital facility costs of completing an addition to Engineering Building III in the School of Engineering at North Carolina State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds. No more than a maximum aggregate amount of eight million five hundred thousand dollars ($8,500,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of twenty-five million five hundred thousand dollars ($25,500,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(i) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of one hundred fourteen million dollars ($114,000,000) to finance the capital facility costs of completing the James B. Hunt Library at North Carolina State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of two million three hundred twenty-five thousand dollars ($2,325,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of seven million nine hundred eight thousand three hundred thirty-three dollars ($7,908,333) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009. No more than a maximum aggregate amount of sixty-four million dollars ($64,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2010.

SECTION 29.13.(j) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of eight million six hundred eighty-seven thousand dollars

($8,687,000) to finance the capital facility costs of renovating Rhoades Hall at the University of North Carolina at Asheville. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of one million dollars ($1,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(k) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of nine million three hundred five thousand dollars ($9,305,000) to finance the capital facility costs of renovating Carmichael Hall at the University of North Carolina at Asheville. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of one million dollars ($1,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(l) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of one hundred nineteen million six hundred eight thousand two hundred twenty-five dollars ($119,608,225) to finance the capital facility costs of a Genomics Science Building at the University of North Carolina at Chapel Hill. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of twenty-five million two hundred seventy-two thousand two hundred twenty-five dollars ($25,272,225) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(m) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of ninety-six million dollars ($96,000,000) to finance the capital facility costs of a building addition to the School of Dentistry at the University of North Carolina at Chapel Hill. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of thirty million dollars ($30,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of eighty-seven million dollars ($87,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(n) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of seventy-six million two hundred eighteen thousand dollars ($76,218,000) to finance the capital facility costs of an Energy Production Infrastructure Center at the University of North Carolina at Charlotte. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness

in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of seven million dollars ($7,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of twenty-two million dollars ($22,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009. No more than a maximum aggregate amount of fifty-seven million dollars ($57,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2010.

SECTION 29.13.(o) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of forty-five million one hundred sixty-seven thousand dollars ($45,167,000) to finance the capital facility costs of completing a new education classroom building at the University of North Carolina at Greensboro. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of six million dollars ($6,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(p) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of nineteen million dollars ($19,000,000) to finance the capital facility costs of completing a Nursing and Allied Health Building at the University of North Carolina at Pembroke. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(q) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-four million five hundred twenty-five thousand dollars ($34,525,000) to finance the capital facility costs of completing a new teaching laboratory at the University of North Carolina at Wilmington. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of two million five hundred thousand dollars ($2,500,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of eight million six hundred thirty-one thousand two hundred fifty dollars ($8,631,250) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(r) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of eighteen million seven hundred eight thousand dollars ($18,708,000) to finance the capital facility costs of completing a new student activities center at Winston-Salem State University. The State, with the prior approval of the State

Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of two million dollars ($2,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(s) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-eight million two hundred twelve thousand dollars ($28,212,000) to finance the capital facility costs of completing a new science and general classroom building at Winston-Salem State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of four million dollars ($4,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of nineteen million dollars ($19,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(t) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of forty-three million eight hundred five thousand dollars ($43,805,000) to finance the capital facility costs of completing a new Health and Gerontological Building at Western Carolina University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of two million two hundred thousand dollars ($2,200,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of twenty-three million two thousand five hundred dollars ($23,002,500) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(u) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-four million dollars ($34,000,000) to finance the capital facility costs of establishing and renovating buildings at State-owned 4-H campuses across the State. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of four million dollars ($4,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of fourteen million dollars ($14,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009. No more than a maximum aggregate amount of twenty-four million dollars ($24,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2010.

SECTION 29.13.(v) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-two million five hundred thousand dollars ($32,500,000) to finance the capital facility costs for completing the Coastal Studies Institute. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of eight million dollars ($8,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(w) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of fifty-eight million dollars ($58,000,000) to finance the capital facility costs of completing a Nanoscience Building to be used jointly by the University of North Carolina at Greensboro and North Carolina Agricultural and Technical State University. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of ten million dollars ($10,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of thirty-eight million dollars ($38,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(x) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of seventeen million five hundred thousand dollars ($17,500,000) to finance the capital facility costs for infrastructure improvements at the North Carolina School of Science and Mathematics. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection.

SECTION 29.13.(y) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-five million dollars ($25,000,000) to acquire land for The University of North Carolina. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay for the acquisition of lands described in this subsection.

SECTION 29.13.(z) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-five million dollars ($25,000,000) to finance the plans and specifications for capital projects for The University of North Carolina. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection.

SECTION 29.13.(aa) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-nine million seven hundred sixty-three thousand one hundred dollars ($39,763,100) to finance the capital facility costs of completing a new health care facility to be located at the North Carolina Correctional Institution for Women. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of thirty-two million dollars ($32,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(bb) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirteen million one hundred ninety-one thousand three hundred dollars ($13,191,300) to finance the capital facility costs of a minimum security facility at the Alexander Correctional Institution. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of three million dollars ($3,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(cc) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of nineteen million eight hundred sixteen thousand five hundred dollars ($19,816,500) to finance the capital facility costs of a medium security facility at the Scotland Correctional Institution. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(dd) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirteen million one hundred ninety-one thousand three hundred dollars ($13,191,300) to finance the capital facility costs of a minimum security facility at the Scotland Correctional Institution. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of three million dollars ($3,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(ee) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of nineteen million eight hundred sixteen thousand five hundred dollars ($19,816,500) to finance the capital facility costs of a medium security facility at

the Bertie Correctional Institution. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 29.13.(ff) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-seven million five hundred thousand dollars ($37,500,000) to finance the capital facility costs of completing five new replacement youth development centers. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate amount of fifteen million dollars ($15,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate amount of thirty million dollars ($30,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 29.13.(gg) It is the intent of the General Assembly to finance the costs of a voice interoperability plan for emergency responders through the use of special indebtedness, provided that funds can be identified with which to pay part or all of the special indebtedness.

SECTION 29.13.(hh) This section is effective when it becomes law.

PART XXX. FEES

EROSION AND SEDIMENTATION CONTROL PLAN FEE INCREASE

SECTION 30.1.(a) G.S. 113A-54.2(a) reads as rewritten:

"(a) ~~The Commission may establish a fee schedule for the review and approval of erosion and sedimentation control plans under this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for reviewing the plans and for related compliance activities.~~ An application fee ~~may not exceed fifty dollars ($50.00)~~ of sixty-five dollars ($65.00) per acre of disturbed land shown on an erosion and sedimentation control plan or of land actually disturbed during the life of the ~~project.~~project shall be charged for the review of an erosion and sedimentation control plan under this Article."

SECTION 30.1.(b) This section becomes effective July 1, 2007, and applies to applications submitted on or after that date.

MINING PERMIT APPLICATION FEES

SECTION 30.2.(a) G.S. 74-54.1 reads as rewritten:

"**§ 74-54.1. Permit fees.**

(a) ~~The Commission may establish a~~ The fee schedule for the processing of permit applications and permit renewals and ~~modifications.~~ modifications is as follows:

	0-25 acres	26+ acres
New Permit Applications	$3,750.00	$5,000.00
Permit Modifications	$750.00	$1,000.00

Permit Renewals	$750.00	$1,000.00
Transfers	$100.00	$100.00

~~The fees may vary on the basis of the acreage, size, and nature of the proposed or permitted operations or modifications. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance activities and safeguards to prevent unusual fee assessments that would impose a serious economic burden on an individual applicant or a class of applicants.~~

(b) ~~The total amount of permit fees collected for any fiscal year may not exceed one-third of the total personnel and administrative costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance costs in the prior fiscal year. A fee for an application for a new permit may not exceed two thousand five hundred dollars ($2,500), and a fee for an application to renew or modify a permit may not exceed five hundred dollars ($500.00).~~ The Mining Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Mining Account and shall be applied to the costs of administering this Article.

(c) The Department shall annually report on or before 1 September to the Environmental Review ~~Commission~~ Commission, the Fiscal Research Division, and the Mining Commission on the cost of implementing this Article. The report shall include the fees established, collected, and disbursed under this section and any other information requested by the General Assembly or the Commission."

SECTION 30.2.(b) This section becomes effective July 1, 2007, and applies to applications submitted on or after that date.

WATER QUALITY PERMIT FEES

SECTION 30.3.(a) G.S. 143-215.3D reads as rewritten:

"**§ 143-215.3D. Fee schedule for water quality permits.**

(a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

(1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential ~~shall be two thousand eight hundred sixty-five dollars ($2,865).~~is three thousand four hundred forty dollars ($3,440).

(2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies ~~shall be seven hundred fifteen dollars ($715.00).~~is eight hundred sixty dollars ($860.00).

(3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence ~~shall be fifty dollars ($50.00).~~is sixty dollars ($60.00).

(4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point

source discharge of stormwater or wastewater ~~shall be eighty dollars ($80.00).~~is one hundred dollars ($100.00).

(5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit ~~shall be three hundred dollars ($300.00).~~is three hundred sixty dollars ($360.00).

(6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land ~~shall be one thousand ninety dollars ($1,090).~~is one thousand three hundred ten dollars ($1,310).

(7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land ~~shall be six hundred seventy-five dollars ($675.00).~~is eight hundred ten dollars ($810.00).

(8) Animal Waste Management Systems. – The annual fee for animal waste management systems ~~shall be~~is as set out in G.S. 143-215.10G.

(b) Application fee for new discharge and nondischarge permits. – An application for a new permit of the type set out in subsection (a) of this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee ~~will~~ shall be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Application and annual fees for consent special orders. –

(1) Major Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (1) or (6) of subsection (a) of this section, the initial project fee ~~shall be~~is four hundred dollars ($400.00) and the annual fee ~~shall be~~ is five hundred dollars ($500.00). These fees ~~shall be~~is in addition to the annual fee due under subsection (a) of this section.

(2) Minor Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (2) or (7) of subsection (a) of this section, the initial project fee ~~shall be~~is four hundred dollars ($400.00) and the annual fee ~~shall be~~is two hundred fifty dollars ($250.00). These fees ~~shall be~~is in addition to the annual fee due under subsection (a) of this section.

(d) Fee for major permit modifications. – An application for a major modification of a permit of the type set out in subsection (a) of this section shall be accompanied by an application fee equal to thirty percent (30%) of the annual fee applicable to that permit. A major modification of a permit is any modification that would allow an increase in the volume or pollutant load of the discharge or nondischarge or that would result in a significant relocation of the point of discharge, as determined by the Commission. This fee ~~shall be~~is in addition to the fees due under subsections (a) and (c) of this section. If the application is denied, the application fee shall not be refunded.

(e) Other fees under this Article. –

(1) Sewer System Extension Permits. – The application fee for a permit for the construction of a new sewer system or for the extension of an existing sewer system ~~shall be four hundred dollars ($400.00).~~is four hundred eighty dollars ($480.00).

(2) State Stormwater Permits. – The application fee for a permit regulating stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 ~~shall be four hundred twenty dollars ($420.00).~~is five hundred five dollars ($505.00).

(3) Major Water Quality Certifications. – The fee for a water quality certification involving one acre or more of wetland fill or 150 feet or more of stream impact ~~shall be four hundred seventy-five dollars ($475.00).~~is five hundred seventy dollars ($570.00).

(4) Minor Water Quality Certifications. – The fee for a water quality certification involving less than one acre of wetland fill or less than 150 feet of stream impact ~~shall be two hundred dollars ($200.00).~~is two hundred forty dollars ($240.00).

(5) Permit for Land Application of Petroleum Contaminated Soils. – The fee for a permit to apply petroleum contaminated soil to land ~~shall be four hundred dollars ($400.00).~~is four hundred eighty dollars ($480.00).

(6) Fee Nonrefundable. – If an application for a permit or a certification described in this subsection is denied, the application or certification fee shall not be refunded.

(7) Limit Water Quality Certification Fee Required for CAMA Permit. – An applicant for a permit under Article 7 of Chapter 113A of the General Statutes for which a water quality certification is required shall pay a fee established by the Secretary. The Secretary shall not establish a fee that exceeds the greater of the fee for a permit under Article 7 of Chapter 113A of the General Statutes or the fee for a water quality certification under subdivision (3) or (4) of this subsection.

(f) Local Government Fee Authority Not Impaired. – This section shall not be construed to limit any authority that a unit of local government may have pursuant to any other provision of law to assess or collect a fee for the review of an application for a permit, the review of a mitigation plan, or the inspection of a site or a facility under any local program that is approved by the Commission under this Article."

SECTION 30.3.(b) G.S. 143-215.10G reads as rewritten:

"**§ 143-215.10G. Fees for animal waste management systems.**

(a) The Department shall charge an annual permit fee to an animal operation that is subject to a permit under G.S. 143-215.10C for an animal waste management system according to the following schedule:

(1) For a system with a design capacity of 38,500 or more and less than 100,000 pounds steady state live weight, ~~fifty dollars ($50.00).~~sixty dollars ($60.00).

(2) For a system with a design capacity of 100,000 or more and less than 800,000 pounds steady state live weight, ~~one hundred fifty dollars ($150.00).~~one hundred eighty dollars ($180.00).

(3) For a system with a design capacity of 800,000 pounds or more steady state live weight, ~~three hundred dollars ($300.00).~~three hundred sixty dollars ($360.00).

(a1) The Department shall charge an annual permit fee to a dry litter poultry facility that is subject to a permit under G.S. 143-215.10C for an animal waste management system according to the following schedule:

(1) For a system with a permitted capacity of less than 25,000 laying chickens, less than 37,500 nonlaying chickens, or less than 16,500 turkeys, ~~fifty dollars ($50.00).~~sixty dollars ($60.00).

(2) For a system with a permitted capacity of 25,000 or more but less than 200,000 laying chickens, 37,500 or more but less than 290,000 nonlaying chickens, 16,500 or more but less than 133,000 turkeys, ~~one hundred fifty dollars ($150.00).~~one hundred eighty dollars ($180.00).

(3) For a system with a permitted capacity of more than 200,000 laying chickens, more than 290,000 nonlaying chickens, or more than 133,000 turkeys, ~~three hundred dollars ($300.00).~~three hundred sixty dollars ($360.00).

(b) An application for a new permit under this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee ~~will~~ shall be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Fees collected under this section shall be credited to the Water and Air Quality Account. The Department shall use fees collected pursuant to this section to cover the costs of administering this Part."

SECTION 30.3.(c) G.S. 90A-42 reads as rewritten:

"**§ 90A-42. Fees.**

(a) The Commission, in establishing procedures for implementing the requirements of this Article, shall impose the following schedule of fees:

(1) Examination including Certificate, $85.00;
(2) Temporary Certificate, $200.00;
(3) Temporary Certification Renewal, $300.00;
(4) Conditional Certificate, $75.00;
(5) Repealed by Session Laws 1987, c. 582, s. 3.
(6) Reciprocity Certificate, $100.00;
(6a) Voluntary Conversion Certificate, $50.00;
(7) Annual Renewal, ~~$35.00;~~$50.00;
(8) Replacement of Certificate, $20.00;
(9) Late Payment of Annual Renewal, $50.00 penalty in addition to all current and past due annual renewal fees plus one hundred dollars ($100.00) penalty per year for each year for which annual renewal fees were not paid prior to the current year; and
(10) Mailing List Charges – The Commission may provide mailing lists of certified water pollution control system operators and of water pollution control system operators to persons who request such lists. The charge for such lists shall be twenty-five dollars ($25.00) for each such list provided.

(b) The Water Pollution Control System Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Account and applied to the costs of administering this Article."

SECTION 30.3.(d) This section becomes effective July 1, 2007.

CERTIFICATE OF NEED FEE INCREASES TO MEET STATUTORY OBLIGATIONS

SECTION 30.4.(a) G.S. 131E-177(9) reads as rewritten:

"(9) ~~Establish and collect~~ Collect fees for submitting applications for certificates of need. ~~The fee schedule established should generate sufficient revenue to offset the entire cost of the certificate of need program. This fee may not exceed seventeen thousand five hundred dollars ($17,500) and may not be less than two thousand dollars~~

~~($2,000). Fees collected under this subdivision shall be credited to the General Fund as nontax revenue.~~"

SECTION 30.4.(b) G.S. 131E-182(c) reads as rewritten:

"(c) An application fee is imposed on an applicant for a certificate of need. An applicant must submit the fee with the application. ~~All fees established by the Department for submitting an application for a certificate of need are due when the application is submitted. These fees are~~ The fee is not refundable, regardless of whether a certificate of need is issued. Fees collected under this section shall be credited to the General Fund as nontax revenue. The application fee is five thousand dollars ($5,000) plus an amount equal to three-tenths of one percent (.3%) of the amount of the capital expenditure proposed in the application that exceeds one million dollars ($1,000,000). In no event may the fee exceed fifty thousand dollars ($50,000)."

SECTION 30.4.(c) This section becomes effective July 1, 2007, and applies to applications submitted on or after that date.

HEALTH CARE FACILITY CONSTRUCTION PROJECT FEE INCREASES TO MEET STATUTORY OBLIGATIONS

SECTION 30.5.(a) G.S. 131E-267 reads as rewritten:

"**§ 131E-267. Fees for departmental review of licensed health care facility or Medical Care Commission bond-financed construction projects.**

(a) The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project ~~basis, as follows, and~~ basis as provided in this section. In no event may a fee imposed under this section ~~shall not~~ exceed ~~twenty-five thousand dollars ($25,000)~~ two hundred thousand dollars ($200,000) for any single ~~project:~~project. The first seven hundred twelve thousand six hundred twenty-six dollars ($712,626) in fees collected under this section shall remain in the Division of Facility Services. Additional fees collected shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriations made for this purpose.

~~Institutional Project~~	~~Project Fee~~
~~Hospitals~~	~~$300.00 plus $0.20/square foot of project space~~
~~Nursing Homes~~	~~$250.00 plus $0.16/square foot of project space~~
~~Ambulatory Surgical Facility~~	~~$200.00 plus $0.16/square foot of project space~~
~~Psychiatric Hospital~~	~~$200.00 plus $0.16/square foot of project space~~
~~Adult Care Home~~	
~~7 or more beds~~	~~$175.00 plus $0.10/square foot of project space~~

(b) The fee imposed for the review of a hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
-0-	5,000	$750.00 plus $0.25 per square foot
5,000	10,000	$1,500 plus $0.40 per square foot
10,000	20,000	$2,000 plus $0.50 per square foot
20,000	NA	$3,000 plus $0.75 per square foot

(c) The fee imposed for the review of a nursing home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
-0-	2,000	$250.00 plus $0.15 per square foot
2,000	NA	$250.00 plus $0.16 per square foot

(d) The fee imposed for the review of an ambulatory surgical facility construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
-0-	2,000	$200.00 plus $0.15 per square foot
2,000	NA	$250.00 plus $0.20 per square foot

(e) The fee imposed for the review of a psychiatric hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
-0-	5,000	$200.00 plus $0.16 per square foot
5,000	10,000	$200.00 plus $0.25 per square foot
10,000	20,000	$300.00 plus $0.45 per square foot
20,000	NA	$400.00 plus $0.45 per square foot

(f) The fee imposed for the review of an adult care home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
-0-	2,000	$175.00 plus $0.10 per square foot
2,000	NA	$175.00 plus $0.20 per square foot

(g) The fee imposed for the review of the following residential construction projects is:

Residential Project	Project Fee
Family Care Homes	~~$175.00~~$200.00 flat fee
ICF/MR Group Homes	~~$275.00~~ $300.00 flat fee
Group Homes: 1-3 beds	$100.00 flat fee
Group Homes: 4-6 beds	~~$175.00~~ $200.00 flat fee
Group Homes: 7-9 beds	~~$225.00~~ $250.00 flat fee
Other residential:	
~~More than 9 beds~~	~~$225.00 plus $0.075/square foot of project space.~~
More than 9 beds	$250.00 plus $0.75 per square foot of project space."

SECTION 30.5.(b) This section becomes effective July 1, 2007, and applies to applications for review submitted on or after that date.

CHANGE CORPORATE ANNUAL REPORT FEES

SECTION 30.6.(a) G.S. 55-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

	Document	Fee
(1)	Articles of incorporation	$125.00
(2)	Application for reserved name	30.00
(3)	Notice of transfer of reserved name	10.00
(4)	Application for registered name	10.00
(5)	Application for renewal of registered name	10.00
(6)	Corporation's statement of change of registered agent or registered office or both	5.00
(7)	Agent's statement of change of registered office for each affected corporation	5.00
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	5.00
(10)	Amendment of articles of incorporation	50.00
(11)	Restated articles of incorporation	10.00
	with amendment of articles	50.00
(12)	Articles of merger or share exchange	50.00

(12a)	Articles of conversion (other than articles of conversion included as part of another document)	50.00
(13)	Articles of dissolution	30.00
(14)	Articles of revocation of dissolution	10.00
(15)	Certificate of administrative dissolution	No fee
(16)	Application for reinstatement following administrative dissolution	100.00
(17)	Certificate of reinstatement	No fee
(18)	Certificate of judicial dissolution	No fee
(19)	Application for certificate of authority	250.00
(20)	Application for amended certificate of authority	75.00
(21)	Application for certificate of withdrawal	25.00
(22)	Certificate of revocation of authority to transact business	No fee
(23)	Annual report (paper)	~~20.00~~ 25.00
(23a)	Annual report (electronic)	18.00
(24)	Articles of correction	10.00
(25)	Application for certificate of existence or authorization (paper)	15.00
(25a)	Application for certificate of existence or authorization (electronic)	10.00
(26)	Any other document required or permitted to be filed by this Chapter	10.00
(27)	Repealed by Session Laws 2001-358, s. 6(b), effective January 1, 2002."	

SECTION 30.6.(b) G.S. 105-122.1 reads as rewritten:

"**§ 105-122.1. Credit for additional annual report fees paid by limited liability companies subject to franchise tax.**

A limited liability company subject to tax under this Article is allowed a credit against the tax imposed by this Article equal to the difference between the annual report fee for corporations under ~~G.S. 55-1-22~~ G.S. 55-1-22(a)(23) and the annual report fee for limited liability companies under G.S. 57C-1-22(a). The credit allowed by this section may not exceed the amount of tax imposed by this Article for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 30.6.(c) Subsection (a) of this section becomes effective July 1, 2007, and applies to annual reports filed on or after that date. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2007. The remainder of this section is effective when it becomes law.

INCREASE PRIMARY FOREST PRODUCTS ASSESSMENT RATES

SECTION 30.7.(a) G.S. 113A-194(b) reads as rewritten:

"(b) The assessment levied on primary forest products shall be at the following rates:

(1) ~~Fifty cents (50¢)~~One dollar ($1.00) per thousand board feet for softwood sawtimber, veneer logs and bolts, and all other softwood products normally measured in board feet;

(2) ~~Forty cents (40¢)~~Eighty cents (80¢) per thousand board feet for hardwood and bald cypress sawtimber, veneer, and all other hardwood and bald cypress products normally measured in board feet;

(3) ~~Twenty cents (20¢)~~Forty cents (40¢) per cord for softwood pulpwood and other softwood products normally measured in cords;

(4) ~~Twelve cents (12¢)~~Twenty-four cents (24¢) per cord for hardwood pulpwood and other hardwood and bald cypress products normally measured in cords;

(5) All material harvested within North Carolina for shipment outside the State for primary processing will be assessed at a percentage of the

invoice value. This percentage will be established to yield rates equal to those if the material were processed within the State."

SECTION 30.7.(b) This section becomes effective July 1, 2007, and applies to assessments made on or after that date.

INCREASE COURT FEES AND AMEND THE ACCESS TO CIVIL JUSTICE ACT

SECTION 30.8.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars ($5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars ($30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

(3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of six dollars and twenty-five cents ($6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents ($5.75) of this sum shall be administered as is

provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents ($1.25) being administered in accordance with the provisions of G.S. 143-166.50(e).

(3a) For the supplemental pension benefits of sheriffs, the sum of one dollar twenty-five cents ($1.25) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.

(4) For support of the General Court of Justice, the sum of ~~eighty-five dollars and fifty cents ($85.50)~~ ninety-five dollars and fifty cents ($95.50) in the district court, including cases before a magistrate, and the sum of ~~ninety-two dollars and fifty cents ($92.50)~~ one hundred two dollars and fifty cents ($102.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of ~~one dollar and five cents ($1.05)~~ two dollars and five cents ($2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

(5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars ($15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.

(6) For support of the General Court of Justice, ~~for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2,~~ the sum of ~~fifty dollars ($50.00), to be remitted to the State Treasurer.~~ one hundred dollars ($100.00) is payable by a defendant who fails to do one or more of the following:

a. Fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146.

b. Fails to pay a fine, penalty, or costs within 20 days of the date specified in the court's judgment.

Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee. This fee shall be remitted to the State Treasurer.

(7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars ($300.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the

defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars ($300.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the State Bureau of Investigation under subdivision (7) of this subsection. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.

(9) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles of any conviction of a person for a violation under Chapter 20 of the General Statutes while operating a vehicle for which a commercial drivers license is required, the sum of one hundred dollars ($100.00), to be remitted to the State Treasurer."

SECTION 30.8.(b) G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in cases heard before a magistrate, and the sum of sixteen dollars ($16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of ~~seventy-nine dollars ($79.00)~~ninety-three dollars ($93.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional two hundred dollars ($200.00) shall be paid upon its assignment, and the sum of ~~sixty-four dollars ($64.00)~~ seventy-three dollars ($73.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~fifty-three dollars ($53.00).~~ sixty-three dollars ($63.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents ($1.05)~~two dollars and five cents ($2.05) of each fee collected under this subdivision to the North Carolina State Bar for the

provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 30.8.(c) G.S. 7A-306(a) reads as rewritten:

"(a) In every special proceeding in the superior court, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice the sum of forty dollars ($40.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents ($1.05)~~two dollars and five cents ($2.05) of each forty-dollar ($40.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 30.8.(d) G.S. 7A-307(a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of ~~forty dollars ($40.00),~~fifty dollars ($50.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars ($6,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the

inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars ($15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents ($1.05)~~two dollars and five cents ($2.05) of each ~~forty-dollar ($40.00)~~fifty-dollar ($50.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed six thousand dollars ($6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars ($20.00) shall be assessed on the filing of each annual and final account.

(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

(2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36A-23.1 if there is no requirement in the trust that accountings be filed with the clerk.

(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars ($20.00)."

SECTION 30.8.(e) G.S. 7A-308(a)(1) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1) Foreclosure under power of sale in deed of trust or mortgage.....~~$60.00~~$75.00 If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars ($100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars ($10.00), a minimum ten dollar ($10.00) fee will be collected. If the amount determined by the formula is more than ~~three hundred dollars ($300.00), five hundred~~ dollars ($500.00), a maximum ~~three hundred dollar ($300.00) five~~ hundred-dollar ($500.00) fee will be collected."

SECTION 30.8.(f) G.S. 7A-308(a)(17) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

...

(17) Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20.....~~10.00~~15.00"

SECTION 30.8.(g) G.S. 7A-474.1 reads as rewritten:

"**§ 7A-474.1. Legislative findings and purpose.**

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for indigent persons in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through ~~five geographically based field~~ the established legal services programs in this State."

SECTION 30.8.(h) G.S. 7A-474.2(4) reads as rewritten:

"**§ 7A-474.2. Definitions.**

The following definitions shall apply throughout this Article, unless the context otherwise requires:

...

(4) ~~"Geographically based field~~ "Established legal services programs" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Services of the Southern Piedmont, serving Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties; Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; ~~North Central Legal Assistance Program, serving Durham, Franklin, Granville, Person, Vance, and Warren Counties;~~ Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal ~~Services~~ Aid of North Carolina, ~~serving 83 counties in North Carolina;~~ a statewide program; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area."

SECTION 30.8.(i) G.S. 7A-474.4 reads as rewritten:

"**§ 7A-474.4. Funds.**

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the ~~geographically based field~~ established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the ~~five geographically based field~~ established legal services programs based upon the eligible client population in each ~~area program,~~ area, with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania ~~Counties, based upon the eligible client population in each area program.~~ Counties; Legal Aid Society of Northwest North Carolina receiving half of the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; and Legal Services of Southern Piedmont receiving half of the allocation for Cabarras, Gaston, Mecklenburg, Stanly, and Union Counties. The North Carolina State Bar shall not use any of these funds for its administrative costs."

SECTION 30.8.(j) G.S. 7A-474.5 reads as rewritten:

"**§ 7A-474.5. Records and reports.**

The ~~geographically based field~~ established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar."

SECTION 30.8.(k) G.S. 84-4.1(7) reads as rewritten:

"**§ 84-4.1. Limited practice of out-of-state attorneys.**

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of and in good standing in that state, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina

Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the proceeding. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

...

(7) A fee in the amount of ~~one hundred twenty-five dollars ($125.00),~~ two hundred twenty-five dollars ($225.00), of which ~~one hundred dollars ($100.00)~~ two hundred dollars ($200.00) shall be remitted to the State Treasurer for support of the General Court of Justice and twenty-five dollars ($25.00) shall be transmitted to the North Carolina State Bar to regulate the practice of out-of-state attorneys as provided in this section.

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application."

SECTION 30.8.(l) Subsection (a) of this section becomes effective July 1, 2007, and applies to all costs assessed or collected on or after that date, except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a) of this section, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs are specified in that notice. Subsections (b), (c), (d), (e), (f), and (k) of this section become effective July 1, 2007, and apply to all costs assessed or collected on or after that date. The remainder of this section becomes effective July 1, 2007.

COLLECTION OF OUTSTANDING FINES AND FEES BY THE COURTS

SECTION 30.9.(a) G.S. 7A-321 reads as rewritten:

"**§ 7A-321. Collection of offender fines and fees assessed by the court.**

(a) The Judicial Department may, in lieu of payment by cash or check, accept payment by credit card, charge card, or debit card for the fines, fees, and costs owed to the courts by offenders.

(b) In attempting to collect the fines, fees, and costs owed by offenders not sentenced to supervised probation, the Department may:

(1) Assess a collection assistance fee if an amount due remains unpaid for 30 days after the time period allotted by the court. The amount of the collection assistance fee shall not exceed the average cost of collecting the debt or twenty percent (20%) of the amount past due, whichever is less.

(2) Enter into contracts with a collection agency or agencies to collect unpaid fines, fees, and costs owed by offenders not sentenced to supervised probation.

(3) Intercept tax refund checks under Chapter 105A of the General Statutes, the Setoff Debt Collection Act."

SECTION 30.9.(b) This section becomes effective July 1, 2007, and applies to cases adjudicated on or after that date.

INCREASE AND CLARIFY CERTAIN COURT COSTS

SECTION 30.10.(a) G.S. 7A-305(a1) is amended by adding a new subsection to read:

"(a1) Costs apply to any and all additional and subsequent actions filed by amendment to the original action brought under Chapter 50B of the General Statutes, unless such additional and subsequent amendment to the action is also brought under Chapter 50B of the General Statutes."

SECTION 30.10.(b) G.S. 7A-307(a)(2a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit, the following costs shall be assessed:

...

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed six thousand dollars ($6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars ($20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed.

...."

SECTION 30.10.(c) G.S. 7A-308(a)(12) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

...

(12) Preparation of copies

—first page (of each document copied) 2.00

— each additional page or fraction thereof ..... .25

...."

SECTION 30.10.(d) G.S. 7A-317 reads as rewritten:

"**§ 7A-317. Counties and municipalities not required to advance certain fees.**

Counties and municipalities are not required to advance ~~costs for the facilities fee, the General Court of Justice fee, the miscellaneous fees enumerated in G.S. 7A-308, or~~ the civil process fees enumerated in G.S. 7A-311."

SECTION 30.10.(e) G.S. 20-16.5(j) reads as rewritten:

"(j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a person whose license is revoked under this section must pay a fee of ~~fifty dollars ($50.00)~~ one hundred dollars ($100.00) as costs for the action before the person's license may be returned under subsection ~~(h).~~ (h) of this section. ~~The costs collected under this section shall be credited to the General Fund.~~ Fifty percent (50%) of the costs collected shall be remitted to the General Fund and be used to fund a statewide chemical alcohol testing program administered by the Injury Control Section of the Department of Health and Human Services. The remaining fifty percent (50%) shall be remitted to the county for the sole purpose of reimbursing the county for jail expenses incurred due to enforcement of the impaired driving laws."

SECTION 30.10.(f) G.S. 130A-106(b) is repealed.

SECTION 30.10.(g) G.S. 130A-107(d) is repealed.

SECTION 30.10.(h) Subsection (d) of this act becomes effective July 1, 2008. The remainder of this act becomes effective July 1, 2007, and applies to all costs assessed or collected on or after that date.

PART XXXI. TAX LAW CHANGES

SET INSURANCE REGULATORY FEE

SECTION 31.12.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2007 calendar year.

SECTION 31.12.(b) This section is effective when it becomes law.

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 31.13.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2007.

SECTION 31.13.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is two hundred thousand dollars ($200,000).

SECTION 31.13.(c) This section becomes effective July 1, 2007.

PART XXXII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 32.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

COMMITTEE REPORT

SECTION 32.2.(a) The Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion and Capital Budgets House Bill 1473 Committee Substitute, which was distributed in the Senate and House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, or the Executive Budget Act, Chapter 143 of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 32.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2007-2009 fiscal biennium is a line-item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources, including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The Director of the Budget submitted the itemized budget requests to the General Assembly in February 2007, in the documents "The North Carolina State Budget Summary of Recommendations 2007-2009" and "The North Carolina State Budget 2007-2009 Recommended Operating Budget with Results-Based Information"

volumes one through six. The beginning appropriation for the 2007-2008 fiscal year and the 2008-2009 fiscal year for the various departments, institutions, and other spending agencies of the State is referenced in Tables 3 and 4 of the Summary of Recommendations document as the recommended continuation budget.

SECTION 32.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

MOST TEXT APPLIES ONLY TO THE 2007-2009 FISCAL BIENNIUM

SECTION 32.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2007-2009 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2007-2009 fiscal biennium.

EFFECT OF HEADINGS

SECTION 32.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

SEVERABILITY CLAUSE

SECTION 32.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 32.6. Except as otherwise provided, this act becomes effective July 1, 2007.

DeAnne

37761

SENATE APPROPRIATIONS COMMITTEE

REPORT
ON THE
CONTINUATION, EXPANSION
AND
CAPITAL BUDGETS

House Bill 1473

2007 Appropriations Act

North Carolina General Assembly

May 29, 2007

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Budget Reform Statement
General Fund Availability

		FY 2007-2008	FY 2008-2009
1	Unappropriated Balance Remaining from Previous Year	0	279,711,230
2	Projected Reversions FY 2006-07	125,000,000	0
3	Projected Overcollections FY 2006-07	1,135,200,000	0
4	Less Earmarkings of Year End Fund Balance		
5	Savings Reserve Account	(150,000,000)	0
6	Repairs and Renovations Reserve Account	(145,000,000)	0
7	**Beginning Unreserved Fund Balance**	**965,200,000**	**279,711,230**
8			
9	**Revenues Based on Existing Tax Structure**	**18,532,400,000**	**19,551,000,000**
10			
11	**Non-tax Revenues**		
12	Investment Income	201,600,000	211,100,000
13	Judicial Fees	173,000,000	177,100,000
14	Disproportionate Share	100,000,000	100,000,000
15	Insurance	55,500,000	57,900,000
16	Other Non-Tax Revenues	140,400,000	154,300,000
17	Tobacco Trust Fund Transfer	2,000,000	0
18	Highway Trust Fund/Use Tax Reimbursement Transfer	172,500,000	172,500,000
19	Highway Fund Transfer	18,190,000	17,610,000
20	**Subtotal Non-tax Revenues**	**863,190,000**	**890,510,000**
21			
22	**Total General Fund Availability**	**20,360,790,000**	**20,721,221,230**
23			
24	**Adjustments to Availability: 2007 Session**		
25	IRC Conformity	(56,900,000)	(49,100,000)
26	Health & Human Services/Facility Services Fees	1,705,501	1,642,407
27	Secretary of State Corporate Annual Report Fees	563,016	563,016
28	Adjust Transfer from Insurance Regulatory Fund	80,274	56,274
29	Adjust Transfer from Treasurer's Office	110,758	98,758
30	Transfer from Closed Capital Account	3,506,143	0
31	Net Increase in Judicial Fees	39,075,320	39,075,320
32	Reserve for Pending Tax Adjustments	(30,000,000)	(30,000,000)
34			
35	**Subtotal Adjustments to Availability: 2007 Session**	**(41,858,988)**	**(37,664,225)**
36			
37	**Revised General Fund Availability**	**20,318,931,012**	**20,683,557,005**
38			
39	**Less: General Fund Appropriations**	**(20,039,219,782)**	**(20,247,348,871)**
40			
41	**Unappropriated Balance Remaining**	**279,711,230**	**436,208,134**

SUMMARY:

GENERAL FUND APPROPRIATIONS

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Education:						
Community Colleges	892,934,482	5,241,128	21,405,550	26,646,678	4.00	919,581,160
Public Education	7,466,321,736	75,112,548	78,688,152	153,800,700	7.00	7,620,122,436
University System	2,525,065,071	78,558,531	26,385,017	104,943,548	190.25	2,630,008,619
Total Education	**10,884,321,289**	**158,912,207**	**126,478,719**	**285,390,926**	**201.25**	**11,169,712,215**
Health and Human Services:						
Office of the Secretary	61,815,967	273,084	504,536	777,620	3.00	62,593,587
Aging Division	34,643,589	361,000	639,000	1,000,000	0.00	35,643,589
Blind and Deaf / Hard of Hearing Services	10,277,646	200,000	75,000	275,000	0.00	10,552,646
Child Development	296,288,148	10,355,870	0	10,355,870	0.00	306,644,018
Education Services	38,655,272	(195,904)	77,896	(118,008)	0.00	38,537,264
Facility Services	17,903,044	1,142,407	63,094	1,205,501	17.00	19,108,545
Medical Assistance	2,877,566,705	(84,380,844)	0	(84,380,844)	14.00	2,793,185,861
Mental Health	711,971,291	2,750,299	(605,030)	2,145,269	33.00	714,116,560
NC Health Choice	51,883,163	7,507,992	0	7,507,992	0.00	59,391,155
Public Health	174,643,740	1,067,024	15,709,368	16,776,392	7.00	191,420,132
Social Services	212,060,881	710,153	17,868	728,021	6.00	212,788,902
Vocational Rehabilitation	44,374,525	0	(1,000,000)	(1,000,000)	0.00	43,374,525
Total Health and Human Services	**4,532,083,971**	**(60,208,919)**	**15,481,732**	**(44,727,187)**	**80.00**	**4,487,356,784**
Justice and Public Safety:						
Correction	1,214,815,488	(16,347,872)	15,247,462	(1,100,410)	17.00	1,213,715,078
Crime Control & Public Safety	39,283,058	(2,547,262)	11,094,633	8,547,371	16.00	47,830,429
Judicial Department	407,836,051	38,562,777	4,448,179	43,010,956	649.75	450,847,007
Judicial - Indigent Defense	101,886,218	1,702,602	2,951,431	4,654,033	0.00	106,540,251
Justice	94,586,393	(68,878)	343,684	274,806	28.00	94,861,199
Juvenile Justice & Delinquency Prevention	159,464,742	(32,791,102)	30,190,944	(2,600,158)	-98.48	156,864,584
Total Justice and Public Safety	**2,017,871,950**	**(11,489,735)**	**64,276,333**	**52,786,598**	**612.27**	**2,070,658,548**

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Natural And Economic Resources:						
Agriculture and Consumer Services	60,254,939	(9,034,798)	529,000	(8,505,798)	-168.75	51,749,141
Commerce	41,365,875	(1,319,439)	22,420,211	21,100,772	-3.00	62,466,647
Commerce - State Aid	12,268,085	(12,268,085)	22,976,478	10,708,393	0.00	22,976,478
Environment and Natural Resources	189,617,004	964,368	11,018,087	11,982,455	-10.00	201,599,459
DENR - Clean Water Mgmt. Trust Fund	100,000,000	0	0	0	0.00	100,000,000
Labor	16,209,473	385,285	0	385,285	3.00	16,594,758
NC Biotechnology Center	12,583,395	3,000,000	0	3,000,000	0.00	15,583,395
Rural Economic Development Center	24,302,607	0	19,500,000	19,500,000	0.00	43,802,607
Total Natural and Economic Resources	**456,601,378**	**(18,272,669)**	**76,443,776**	**58,171,107**	**-178.75**	**514,772,485**
General Government:						
Administration	65,923,562	406,778	17,600	424,378	5.00	66,347,940
Auditor	12,722,540	(50,000)	0	(50,000)	0.00	12,672,540
Cultural Resources	68,672,441	2,800,000	1,950,000	4,750,000	0.00	73,422,441
Cultural Resources - Roanoke Island	2,020,023	0	0	0	0.00	2,020,023
General Assembly	55,729,083	(1,190,418)	0	(1,190,418)	0.00	54,538,665
Governor	6,462,319	(200,000)	0	(200,000)	0.00	6,262,319
Housing Finance Agency	4,750,945	3,357,472	9,000,000	12,357,472	2.00	17,108,417
Insurance	30,841,859	56,274	24,000	80,274	4.00	30,922,133
Insurance - Worker's Compensation Fund	4,500,000	0	0	0	0.00	4,500,000
Lieutenant Governor	931,294	(17,172)	0	(17,172)	0.10	914,122
Office of Administrative Hearings	3,495,009	186,632	177,100	363,732	2.00	3,858,741
Revenue	87,619,246	(3,669,667)	0	(3,669,667)	-47.00	83,949,579
Secretary of State	10,600,417	0	812,500	812,500	0.00	11,412,917
State Board of Elections	5,861,461	81,922	245,089	327,011	3.00	6,188,472
State Budget and Management	5,930,060	0	0	0	0.00	5,930,060
State Budget and Management -- Special	4,938,446	0	1,500,000	1,500,000	0.00	6,438,446
State Controller	20,646,483	57,708	6,000	63,708	2.00	20,710,191
Treasurer - Operations	9,218,372	98,758	12,000	110,758	3.00	9,329,130
Treasurer - Retirement / Benefits	9,165,457	293,500	0	293,500	0.00	9,458,957
Total General Government	**410,029,017**	**2,211,787**	**13,744,289**	**15,956,076**	**-25.90**	**425,985,093**

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Transportation	**0**	**0**	**0**	**0**	**0.00**	**0**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	619,793,004	0	0	0		619,793,004
Federal Reimbursement	1,616,380	0	0	0		1,616,380
Subtotal Debt Service	**621,409,384**	**0**	**0**	**0**		**621,409,384**
Statewide Reserves:						
Compensation Increases		488,655,673	8,029,850	496,685,523		496,685,523
Salary Adjustment Fund: 2007-09 Biennium	23,688,000	0	0	0		23,688,000
Teachers' and State Employees' Retirement Contribution		29,600,000		29,600,000		29,600,000
Retirement System Payback		0	10,000,000	10,000,000		10,000,000
State Health Plan		120,118,352	0	120,118,352		120,118,352
Public Defenders Retirement		573,000	0	573,000		573,000
Judicial Longevity		717,577	0	717,577		717,577
Contingency and Emergency Fund	5,000,000	0	0	0		5,000,000
Information Technology Fund	4,140,000	0	25,000,000	25,000,000		29,140,000
Job Development Investment Grants (JDIG)	12,400,000	0	0	0		12,400,000
Internal Auditing		1,000,000	0	1,000,000		1,000,000
Reserve for Eliminated Positions		(34,403,179)	0	(34,403,179)		(34,403,179)
Subtotal Statewide Reserves	**45,228,000**	**606,261,423**	**43,029,850**	**649,291,273**		**694,519,273**
Total Reserves and Debt Service	**666,637,384**	**606,261,423**	**43,029,850**	**649,291,273**		**1,315,928,657**
Total General Fund for Operations	**18,967,544,989**	**677,414,094**	**339,454,699**	**1,016,868,793**	**688.87**	**19,984,413,782**

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Capital Improvements						
Water Resources Development Projects	0	0	20,000,000	20,000,000		20,000,000
Other Capital Improvements	0	0	34,806,000	34,806,000		34,806,000
Total Capital Improvements	**0**	**0**	**54,806,000**	**54,806,000**		**54,806,000**
Total General Fund Budget	**18,967,544,989**	**677,414,094**	**394,260,699**	**1,071,674,793**	**688.87**	**20,039,219,782**

Summary of General Fund Appropriations Fiscal Year 2008-2009 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Education:						
Community Colleges	893,151,875	5,241,128	0	5,241,128	4.00	898,393,003
Public Education	7,579,725,190	84,930,891	2,030,000	86,960,891	7.00	7,666,686,081
University System	2,578,824,109	81,526,716	(2,783,801)	78,742,915	190.25	2,657,567,024
Total Education	**11,051,701,174**	**171,698,735**	**(753,801)**	**170,944,934**	**201.25**	**11,222,646,108**
Health and Human Services:						
Office of the Secretary	64,468,327	(601,916)	0	(601,916)	-2.00	63,866,411
Aging Division	34,645,179	361,000	0	361,000	0.00	35,006,179
Blind and Deaf / Hard of Hearing Services	10,321,452	200,000	0	200,000	0.00	10,521,452
Child Development	296,303,468	15,701,471	0	15,701,471	0.00	312,004,939
Education Services	38,518,759	(207,787)	0	(207,787)	0.00	38,310,972
Facility Services	17,919,184	1,142,407	0	1,142,407	17.00	19,061,591
Medical Assistance	3,158,802,006	(92,412,455)	800,000	(91,612,455)	14.00	3,067,189,551
Mental Health	713,269,114	7,106,670	0	7,106,670	-8.79	720,375,784
NC Health Choice	51,883,163	7,507,992	0	7,507,992	0.00	59,391,155
Public Health	174,331,447	2,754,624	6,880,610	9,635,234	7.00	183,966,681
Social Services	215,228,584	780,204	0	780,204	6.00	216,008,788
Vocational Rehabilitation	44,712,409	0	0	0	0.00	44,712,409
Total Health and Human Services	**4,820,403,092**	**(57,667,790)**	**7,680,610**	**(49,987,180)**	**33.21**	**4,770,415,912**
Justice and Public Safety:						
Correction	1,235,981,287	(16,441,275)	0	(16,441,275)	17.00	1,219,540,012
Crime Control & Public Safety	39,307,071	(2,902,470)	0	(2,902,470)	-38.00	36,404,601
Judicial Department	413,500,354	39,255,178	26,085	39,281,263	649.75	452,781,617
Judicial - Indigent Defense	105,772,513	7,642,404	0	7,642,404	-11.50	113,414,917
Justice	91,003,762	667,908	0	667,908	28.00	91,671,670
Juvenile Justice & Delinquency Prevention	163,791,473	(34,097,204)	0	(34,097,204)	-150.02	129,694,269
Total Justice and Public Safety	**2,049,356,460**	**(5,875,459)**	**26,085**	**(5,849,374)**	**495.23**	**2,043,507,086**

Summary of General Fund Appropriations Fiscal Year 2008-2009 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Natural And Economic Resources:						
Agriculture and Consumer Services	60,434,179	(9,009,235)	0	(9,009,235)	-168.75	51,424,944
Commerce	41,406,272	(1,319,439)	0	(1,319,439)	-3.00	40,086,833
Commerce - State Aid	12,268,085	(12,268,085)	0	(12,268,085)	0.00	0
Environment and Natural Resources	191,595,711	(45,307)	0	(45,307)	-10.00	191,550,404
DENR - Clean Water Mgmt. Trust Fund	100,000,000	0	0	0	0.00	100,000,000
Labor	16,209,666	385,285	0	385,285	3.00	16,594,951
NC Biotechnology Center	12,583,395	3,000,000	0	3,000,000	0.00	15,583,395
Rural Economic Develoment Center	24,302,607	0	0	0	0.00	24,302,607
Total Natural and Economic Resources	**458,799,915**	**(19,256,781)**	**0**	**(19,256,781)**	**-178.75**	**439,543,134**
General Government:						
Administration	66,457,866	2,511,668	0	2,511,668	5.00	68,969,534
Auditor	12,735,993	(50,000)	0	(50,000)	0.00	12,685,993
Cultural Resources	69,561,683	2,800,000	0	2,800,000	0.00	72,361,683
Cultural Resources - Roanoke Island	2,020,023	0	0	0	0.00	2,020,023
General Assembly	56,931,204	(1,190,418)	0	(1,190,418)	0.00	55,740,786
Governor	6,500,587	(200,000)	0	(200,000)	0.00	6,300,587
Housing Finance Agency	4,750,945	4,857,472	0	4,857,472	2.00	9,608,417
Insurance	30,880,430	56,274	0	56,274	4.00	30,936,704
Insurance - Worker's Compensation Fund	4,500,000	0	0	0	0.00	4,500,000
Lieutenant Governor	932,281	(17,172)	0	(17,172)	0.10	915,109
Office of Adminstrative Hearings	3,502,386	186,632	0	186,632	2.00	3,689,018
Revenue	87,711,626	(3,669,667)	0	(3,669,667)	-47.00	84,041,959
Secretary of State	10,686,083	0	0	0	0.00	10,686,083
State Board of Elections	5,874,026	84,172	88,670	172,842	3.00	6,046,868
State Budget and Management	5,936,765	0	0	0	0.00	5,936,765
State Budget and Management -- Special	4,938,446	0	0	0	0.00	4,938,446
State Controller	20,669,990	57,708	0	57,708	2.00	20,727,698
Treasurer - Operations	9,227,432	98,758	0	98,758	3.00	9,326,190
Treasurer - Retirement / Benefits	9,165,457	293,500	0	293,500	0.00	9,458,957
Total General Government	**412,983,223**	**5,818,927**	**88,670**	**5,907,597**	**-25.90**	**418,890,820**

Summary of General Fund Appropriations Fiscal Year 2008-2009 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Transportation	**0**	**0**	**0**	**0**	**0.00**	**0**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	653,799,484	24,588,387	0	24,588,387		678,387,871
Federal Reimbursement	1,616,380	0	0	0		1,616,380
Subtotal Debt Service	**655,415,864**	**24,588,387**	**0**	**24,588,387**	**0.00**	**680,004,251**
Statewide Reserves:						
Compensation Increases		488,655,673	0	488,655,673		488,655,673
Salary Adjustment Fund: 2007-09 Biennium	23,688,000	0	0	0		23,688,000
Teachers' and State Employees' Retirement Contribution		29,600,000	0	29,600,000		29,600,000
Retirement System Payback		0	10,000,000	10,000,000		10,000,000
State Health Plan		127,270,489	0	127,270,489		127,270,489
Public Defenders Retirement		573,000	0	573,000		573,000
Judicial Longevity		717,577	0	717,577		717,577
Contingency and Emergency Fund	5,000,000	0	0	0		5,000,000
Information Technology Fund	2,840,000	0	5,000,000	5,000,000		7,840,000
Job Development Investment Grants (JDIG)	12,400,000	0	0	0		12,400,000
Internal Auditing		1,000,000	0	1,000,000		1,000,000
Reserve for Eliminated Positions	(34,403,179)		0	0		(34,403,179)
Capital Improvements		0	0	0		0
		0	0	0		0
				0		0
Subtotal Statewide Reserves	**9,524,821**	**647,816,739**	**15,000,000**	**662,816,739**		**672,341,560**
Total Reserves and Debt Service	**664,940,685**	**672,405,126**	**15,000,000**	**687,405,126**		**1,352,345,811**
Total General Fund for Operations	**19,458,184,549**	**767,122,758**	**22,041,564**	**789,164,322**	**525.04**	**20,247,348,871**

Summary of General Fund Appropriations Fiscal Year 2008-2009 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Capital Improvements						
Water Resources Development Projects	0	0	0	0		0
Other Capital Improvements	0	0	0	0		0
Total Capital Improvements	**0**	**0**	**0**	**0**		**0**
Total General Fund Budget	**19,458,184,549**	**767,122,758**	**22,041,564**	**789,164,322**	**525.04**	**20,247,348,871**

EDUCATION
Section F

Public Education

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$7,466,321,736**		**$7,579,725,190**	
Legislative Changes				
A. Reductions to Continuation Budget				
1 **Partnership for Excellence** Eliminates pass-through appropriation to Partnership for Excellence (formerly "Total Quality Education"), a private non-profit provider of professional development services. Local Education Agencies (LEAs) may use State funds to contract for these services.	($37,500)	R	($37,500)	R
2 **NC Network** Eliminates pass-through appropriation to NC Network, a private non-profit provider of professional development services. LEAs may use State funds to contract for these services.	($312,715)	R	($312,715)	R
3 **Explornet** Eliminates pass-through appropriation to private non-profit organization that promotes effective use of information technology in the public schools.	($300,000)	R	($300,000)	R
4 **Replacement School Buses** Reduces the number of buses replaced in 2007-08 by approximately 170. The remaining $53.9 million budgeted in 2007-08 for this purpose will support replacement of 658 buses.	($4,500,000)	NR		
5 **High Priority Elementary Schools** Eliminates special supplementary funding for the two remaining (of thirty-seven original) High Priority elementary schools identified per section 29.1 of S.L. 2001-424. Funding will be reprogrammed to support ongoing State initiatives to address low-performing schools. The State Board may use funds from the ADM Contingency Reserve to assist the remaining two schools should they decide to continue operating as High Priority elementary schools.	($520,067)	R	($520,067)	R
6 **Teacher Assistants** Freezes funding for additional teacher assistants in 2007-08, keeping appropriations for teacher assistants at the 2006-07 level.	($10,919,068)	R	($10,919,068)	R

	FY 07-08		FY 08-09	
B. Expansion - Technical Adjustments				
7 **Teaching Fellows** Provides funding required to annualize cost of the 100 additional scholarships funded 2 years ago.	$650,000	R	$1,300,000	R
8 **Principals for STEM Schools** Provides funding to annualize principal positions at each of the 10 restructured Science, Technology, Engineering, & Math (STEM) high schools given planning grants and 4 months of principal salary in 2006-07 to support preparations for implementation in 2007-08. Annualized principal positions not included in Governor's expansion budget (remainder of operational funding must come from non-State sources, per language in 2006-07 budget).	$812,500	R	$812,500	R
9 **Restructured High Schools** Provides funding to support implementation of 7 restructured high schools given planning grants in 2006-07.	$1,367,254	R	$1,367,254	R
10 **Education Value Added Assessment System (EVAAS)** Provides funding to support EVAAS licenses for LEAs funded out of the $845,000, including carryforward, available for expenditure in 2006-07. Consistent with General Assembly's direction to fund as many LEAs as possible within funds available, this additional funding maintains the number of LEAs currently funded.	$345,000	R	$345,000	R
C. Expansion - State Public School Fund				
11 **ABC Bonuses** Funds ABC bonuses for schools that met or exceeded expected growth in the 2006-07 school year.	$70,000,000	NR		
12 **Class Size Reduction** Provides funding for K-3 teachers to maintain K-3 student/teacher ratios at 18:1.	$37,500,000	R	$37,500,000	R
13 **Disadvantaged Student Supplemental Funding (DSSF)** Expands DSSF allotment for all LEAs to increase each LEA's capacity to meet the needs of all of its students.	$10,000,000	R	$10,000,000	R
14 **Learn & Earn** Twelve schools were provided planning grants in FY 2006-07 to become Learn & Earn high schools, however only nine schools have indicated that they will be operational in FY 2007-08. As such, this item provides funding for implementation at nine additional Learn & Earn high schools in FY 2007-08, and an additional three Learn & Earn high schools in FY 2008-09. Provides $10,000 in non-recurring funds per site to support start-up costs associated with first year of implementation.	$2,445,011 $90,000	R NR	$3,260,015 $30,000	R NR
15 **Learn & Earn Online** Provides funding to support the delivery of online college credit courses that will be made available to high school students.	$6,500,000	R	$10,100,000	R

	FY 07-08		FY 08-09	
16 School Connectivity Provides funding to support partial implementation of new plan for State-funded and supported IT infrastructure in the LEAs. Part of effort to increase schools' abilities to use up-to-date instructional technology.	$7,000,000	R	$9,000,000	R
17 Instructional Supplies/Materials Provides additional funds to LEAs for purchase of instructional supplies and materials. Increases funding factor by $1.62 (3.3%) per ADM, bringing factor to $50.12 per ADM.	$2,364,219	R	$2,364,219	R
18 Academically & Intellectually Gifted Increases funds allotted to LEAs to support programming for students identified as academically and intellectually gifted. Increases funding factor by $29.93 per ADM (for 4% of ADM), bringing factor to $1,042.53 per student.	$1,750,000	R	$1,750,000	R
19 Children with Disabilities Increases funds allotted to LEAs to support special education and related services for students with identified disabilities. Increases funding factor by $29.02 per student in funded headcount (172,317), bringing factor to $3,186.57 per student.	$5,000,000	R	$5,000,000	R
20 Small County Supplemental Funding Provides additional $1,315,297 to be distributed evenly between each of the 27 LEAs projected to receive funding through this allotment in FY 2007-08 and FY 2008-09 ($48,715 per LEA). Provides an additional $784,703 to county LEAs that have less than 1,300 ADM and have experienced a decline in ADM since FY 2001-02. This additional money is to be used to reduce the student-to-teacher ratio in grades K-5 by 1, in grades 6-8 by 2, and in grades 9-12 by 3.	$2,100,000	R	$2,100,000	R
21 At-Risk Student Services / Alternative Schools Provides recurring funds to be distributed evenly between county LEAs that have less than 1,300 ADM and have experienced a decline in ADM since FY 2001-02.	$300,000	R	$300,000	R
22 Literacy Coaches Provides funds to support 30 school-based literacy coaches to be placed in 30 schools that contain an eighth grade. Coaches will provide research-based teaching practices and job-embedded professional development to assist teachers in the development of specialized curricula. Specialized training for literacy coaches is provided through the Teacher Academy (see item 37).	$1,710,220	R	$1,710,220	R
23 Critical Foreign Language Pilots Provides funding to support development and piloting of online and traditional high school courses in Chinese, Farsi, or other critical foreign languages; development of licensure standards for critical foreign languages; a lateral entry program for heritage speakers; and grants to LEAs to use as incentives for hiring critical foreign language teachers.	$250,000	NR		

	FY 07-08		FY 08-09	
24 Child Nutrition Operating Funds Provides funding to supplement basic child nutrition operations in elementary schools, where programs operate at a deficit (i.e., cost to provide meals exceeds revenue from reimbursements and receipts).	$800,000	NR		
25 Focused Education Reform Pilot Program Funds the first two years of a three-year education reform pilot program in five LEAs to be administered by the Public School Forum of North Carolina, in conjunction with the North Carolina Science, Mathematics and Technology Education Center. Participating LEAs will be selected based on hard-to-staff criteria, geographic diversity, continuing low performance, and high-risk student population. The pilot program will incorporate targeted professional development, after-school programming, teacher recruitment and retention bonuses, principal achievement bonuses, teacher mentoring, and science and math instructional assistance. Where necessary, pilot LEAs will receive funding to support EVAAS licensure. In each FY, $2,342,705 will be allocated to the Public School Forum of North Carolina for the creation of after-school programs, the creation of a leadership development program for school administrators, food/lodging costs for campus-based summer training, provision of staff/consultants, and administration/coordination of the pilot program. All remaining funds will be distributed through DPI as directed by the parameters of the pilot.	$4,423,094	R	$7,176,433	R
26 School Technology Pilot Provides funds to establish 5 pilot high schools that will incorporate technology in the classroom by providing computers for all teachers and students in the pilot schools. These schools shall be as reflective of North Carolina's population makeup as possible.	$3,000,000	NR		
27 Low Wealth Counties Supplemental Funding Provides one-time funding to LEAs that experienced decreases in Low Wealth Counties Supplemental Funding of greater than $700,000 in 2007-08. This money will restore 75% of each LEA's decrease in Low Wealth Counties Supplemental Funding.	$3,083,372	NR		
D. Expansion - Department of Public Instruction				
28 DPI Consolidated Assistance Program Provides funding to support effort to budget assistance program components rather than funding them each year out of reversions. DPI shall budget all components of the Consolidated Assistance Program beginning in FY 2008-09.	$150,000	R	$150,000	R
29 DPI Legacy Computer System Upgrades Provides funding to complete technical upgrades required by ITS's review of DPI computing systems (per SB 991). These non-recurring appropriations support the 2nd and 3rd phases of a 3-year phased implementation ($2 million per year; total of $6 million, including NR funds in 2006-07).	$2,000,000	NR	$2,000,000	NR

	FY 07-08		FY 08-09	
30 DPI Testing Positions	$234,600	R	$234,600	R
Funds 3 new positions in the DPI Accountability Services Division.	3.00		3.00	
31 School Bus Diesel Emissions Reduction Account				
Provides funding to the School Bus Diesel Emissions Reduction Account if the account is established by the 2007 General Assembly. Funds in this account will be used to retrofit existing school bus engines to reduce diesel emissions in areas designated as nonattainment or maintenance for ozone. Funds in the account will be matched 4:1 with a federal grant, per the Safe, Accountable, Flexible, Efficient Transportation Equity Act.	$500,000	NR		
32 Financial Literacy Curriculum	$1,000,000	R	$1,000,000	R
Provides funding to support training of certain civics and economics teachers in financial literacy in 2007-08. It is the intent of the General Assembly that financial literacy modules be established within the core high school civics and economics curriculum in 2008-09.				

33 Receipt-Supported Positions

Creates the following permanent receipt supported positions in the Department of Public Instruction:

A. Comprehensive Exceptional Children Accountability System (CECAS) - Federal IDEA VI-B Handicapped Funds

4 Training Consultants - $318,462
1 Training Coordinator - $89,947
1 Quality Analyst - $99,130
1 Office Assistant - $40,155

Positions will maintain and support LEA usage of CECAS, the management system for personal education plans and identification of children with disabilities. Converts contracted position to permanent State positions.

B. Safe Schools - Federal 21st Century Community Learning Centers

Education Consultant - $75,024

Consultant will provide technical assistance to schools and LEAs on middle and high school counseling issues, and provide technical assistance and monitor the 190 centers providing after-school programs to at-risk students. Converts a contract position to a permanent State position.

C. Child Nutrition - Federal Child Nutrition Funds

2 School Meals Program Consultants - $152,444

Consultants will assist local education agencies in ensuring that all compliance requirements for federal child nutrition programs are met and that the State's nutritional standards are implemented. Consultants will coordinate the implementation and oversight of the US Department of Agriculture' s Seamless Summer Food Service program, Summer Milk program, Fruit and Vegetable program, USDA Best Practice program, and the Healthier US program.

D. DPI Communications and Information - Receipts from Use of Services

2 IT Technical Support Analysts - $95,431
1 Operations & Systems Technician - $38,291

Analyst positions will assist DPI with website maintenance and development. Technician will finish jobs in the department's printing and duplicating centers. Converts contracted positions to permanent State positions.

E. Children with Special Needs - Federal IDEA VI-B Handicapped Funds

3 Education Program Administrators - $257,943

One administrator will be responsible for charter school monitoring, one for local education agency (LEA) program monitoring, and one will be assigned for dispute resolution. Converts contracted positions to permanent State positions.

F. Financial and Business Services - Indirect Cost Funds

Social Research Assistant - $41,735

Research assistant will help design the research intern program being established in the Financial and Business Services Area by coordinating hiring of graduate student interns and monitoring research projects.

G. Reading First - Federal Reading First Funds

Education Consultant - $94,830

Consultant will oversee roll-out of NC Reads training to all K-3 schools that do not receive Reading First grants and support incoming calls relating to participation in and implementation of NC READS I and II.

H. Technology Services - ½ Lottery funds, ½ Federal Title I Funds

Business & Technology Applications Specialist - $107,165

Specialist will serve as a technical documenter and will facilitate the modification/maintenance of systems that support More at Four and Title I programs. Converts contracted position to permanent State position.

I. Human Resource Management - Federal Troops to Teachers and Licensure Receipts

1 Administrative Officer - $61,662
1 Education Licensure Specialist - $49,770

The administrative officer coordinates the federal program that facilitates the transition of qualified military personnel into the teaching profession. The licensure specialist works with prospective and current teachers in maintaining/securing their license to teach in North Carolina. Administrative officer will be a permanent State position, converted from a contracted position.

J. Curriculum and Instructional Services - Federal Title I Funds

Chief Consultant - $92,242

Consultant will manage the program operation of the Department's largest federal grant (over $300 million).

K. Attorney General's Office - Worker's Compensation

Receipts

Attorney III - $102,881

Attorney will be placed in the Tort Claims Section of the Department of Justice and will manage claims associated with the DPI's workers' compensation cases.

34 Centralization of Professional Development

Establishes the Office of Professional Development under the State Board of Education. The Office will catalogue current professional development opportunities, develop a user rating system for professional development programs, examine new professional development opportunities, and ensure that all LEAs are aware of available professional development opportunities. Additionally, the office will develop standards for evaluating professional development providers, provide technical advice to LEAs in order to ensure that professional development expenditures align with local needs, and study the effectiveness of professional development funding.

FY 07-08		FY 08-09	
$550,000	R	$550,000	R
4.00		4.00	

35 Data Warehousing

Provides funding to DPI to support the ongoing collaboration between public schools, UNC, NCCCS, the Employment Security Commission, and SAS Institute, Inc. to develop a comprehensive data warehousing system that will allow interface between all relevant parties, and will produce reports based on specific data requests to assist policymakers.

$2,000,000	NR		

36 State Board of Education Operating Support

Provides additional funds to support operations of the State Board of Education.

$100,000	NR		

E. Expansion - Pass-Throughs

37 Communities in Schools

Provides additional funds to private non-profit organization that assists with the establishment and development of local student support programs designed to prevent academic failure and dropout. The funding shall be granted to local programs as "seed money" for both new and established programs. In addition, the General Assembly recommends that CIS use up to $300,000 from its cash reserves for additional grants to local programs.

$500,000	R	$500,000	R
$250,000	NR		

38 Teacher Academy

Provides funds to the Teacher Academy to provide specialized training of literacy coaches. Funds shall be used to provide both ongoing training to coaches employed in FY 2006-07 and initial training to coaches employed for the first time in FY 2007-08.

$314,780	NR		

	FY 07-08		FY 08-09	
39 Teach for America Provides additional pass-through funds to support this private non-profit organization's efforts to recruit teachers to hard to staff schools in North Carolina.	$100,000	NR		
40 Science Competitions Provides $50,000 in additional funding for Science Olympiad. Also provides $50,000 to the North Carolina Science, Mathematics and Technology Education Center, Inc. to support the establishment of new interscholastic science competitions.	$100,000	NR		
41 Kids Voting Provides funding to support continued operation of the Kids Voting program, which received a non-recurring appropriation of the same amount in FY 2006-07.	$250,000	NR		
42 Ag in the Classroom Provides funding to support the delivery of the Ag in the Classroom program.	$50,000	NR		
43 Schools Attuned Provides additional recurring funds to private non-profit organization that delivers professional development training to North Carolina public school educators for recognizing, understanding, and managing students with differences in learning.	$500,000	R	$500,000	R
44 PTA Parental Involvement Initiative Provides funds to the North Carolina Congress of Parents and Teachers, Incorporated, a nonprofit organization, to implement the PTA Parental Involvement Initiative	$300,000	NR		
Total Legislative Changes	**$75,112,548**	R	**$84,930,891**	R
	$78,688,152	NR	**$2,030,000**	NR
Total Position Changes	7.00		7.00	
Revised Budget	**$7,620,122,436**		**$7,666,686,081**	

UNC System

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$2,525,065,071**		**$2,578,824,109**	
Legislative Changes				
A. Base Budget Adjustments				
45 Principals' Executive Program Budget Change	($1,266,170)	R	($1,266,170)	R
Converts the Principals' Executive Program (PEP) budget to nonrecurring funds for the FY 07-09 biennium. Funding will be returned to a recurring basis if PEP demonstrates to the General Assembly that its programs make a positive, measurable impact on conditions for teaching and learning in schools.	$1,266,170	NR	$1,266,170	NR
46 NC Progress Board Elimination	($227,971)	R	($227,971)	R
Eliminates the funding for the North Carolina Progress Board which ceased operation in December 2006.				
47 Building Reserve Adjustments				
Adjusts the building reserves for new and renovated buildings due to changes in completion dates, recalculation of reserve costs, and deletion of projects pending legislative approval.	($1,711,153)	NR	($4,092,971)	NR
48 FSU Equipment Reduction	($9,500)	R	($2,000)	R
Removes an error made in the calculation of equipment for Fayetteville State University.				
49 Medical Scholarships Reduction	($50,000)	R	($50,000)	R
Reduces the amount appropriated for medical scholarships for students in the State's four medical schools based on their actual tuition and fee rates instead of estimated rates.				
50 Religious College Grant Reduction				
Makes one-time grant reduction because Fall 2007 payments to Roanoke Bible College and Southeastern College are determined in Spring of 2007. Only $357,000 of the $420,000 appropriation is needed in FY 07-08.	($63,000)	NR		

	FY 07-08		FY 08-09	
51 Affiliate Institutions- Efficiency Reduction	($2,873,935)	R	($2,873,935)	R
	-11.00		-11.00	

Implements the reductions recommended by the President's Advisory Committee on Efficiency and Effectiveness (PACE) for UNC Affiliate institutions. The reductions are as follows:
Information Technology
$90,000 - Eliminate the Multimedia Educational Resource for Learning and Online Teaching (MERLOT) project and professional development support for the Teaching & Learning with Technology Conference.
$90,000 - Eliminate the Collaborative Procurement Director position in the Coordinated Technology Management program.
$223,136 - Eliminate UNC Distance Education support operation.
$550,000 - Reduce NC Research and Education Network (NCREN) equipment refresh funding.

Higher Education Student Aid Programs
$83,065 - Eliminate one applications programmer position.
$821,358 - Fund SEAA operations from state and federal receipts.
$38,089 - Eliminate SPA Program Director.

Center for School Leadership Development
$85,000 - Eliminate one Director position by consolidating teacher recruitment programs.
$25,000 - Relocate the NC Model Teacher Consortium into the CSLD facility.
$146,931 - Eliminate the Education Law North Carolina publication operation.
$135,628 - Consolidate CSLD program support into a central service operating unit.
$125,000 - Transfer State funded conferencing direct support activities to conference receipts to consistently match revenues with associated expenses.
$100,000 - Reduce Hunt Institute administrative costs through program consolidation along with implementing in-house research.

UNC Center for Public Television
$150,000 - Realize savings from operational audit.
$89,952 - Eliminate seasonal in-house manufacturing interface services by obtaining service in equipment acquisitions.

Other UNC Program Reductions
$85,170 - Leverage operational capacities between Education Pathways and SEAA.
$35,606 - Reduce personnel costs by consolidating the Higher Education Facility Commission with the Institutional Research and Analysis Division.

	FY 07-08		FY 08-09	
52 Office of the President - Efficiency Reduction Implements the reductions recommended by the President's Advisory Committee on Efficiency and Effectiveness (PACE) for the Office of the President. $1.9 million in savings were made by reducing operating expenses and by eliminating 15.5 positions in Finance(3.5), Human Resources(1), Academic Affairs(4), Information Resources(1), President's Office(1), Strategy Development and Analysis(1), University Affairs(2) and University Schools(2). Approximately $570,000 of the reduction was reallocated to hire a Chief of Staff, a VP for Economic Development, and an Audit Compliance and Oversight Officer.	($1,271,352) -12.50	R	($1,271,352) -12.50	R
53 Future Efficiency Reductions Reduces campus operating budgets based on future recommendations of the President's Advisory Committee on Efficiency and Effectiveness (PACE).	($10,000,000)	R	($21,239,484)	R
54 NC Center for Nursing Eliminates funding for the North Carolina Center for Nursing.	($509,824) -6.00	R	($509,824) -6.00	R
B. Expansion - Technical Adjustments				
55 Graduate Nurse Scholarship Program for Faculty Production Funds the second year of this scholarship loan program for nurse faculty production that was created in the 2006 Session. Adds 80 additional $15,000 scholarships. Priority will be given to Community College faculty needing an advanced degree to meet new accreditation standards for nursing programs.	$1,200,000	R	$1,200,000	R
56 NC School of Science and Math Tuition Grant Funds the tuition remission for the fourth class of graduates from the NC School of Science and Math. Also adjusts the appropriation for increased tuition/fees and for increased class participation in the program. In FY 07-08, 800 students will receive an average tuition award of $3,441.	$449,905	R	$834,099	R
57 Future Teacher Scholarship Loan Funds the second year cost of the 50 scholarship loans added in the 2006 Session. The scholarships are $6,500 each.	$325,000	R	$325,000	R
58 UNC Enrollment Growth Adjustment Restores funding cut in projected enrollment cost for FY 07-08 made by the Office of State Budget and Management in the base budget process. Uses previously agreed upon enrollment funding model to project expenditures.	$5,988,206	R	$5,988,206	R
59 Private College Enrollment Growth Increases the appropriation for the Legislative Tuition Grant and the State Contractual Scholarship Fund for a 3% increase in the number of NC residents attending the State's private colleges. In FY 07-08, the number of students is projected to increase from 33,493 to 34,498.	$2,372,250	R	$2,372,250	R

	FY 07-08		FY 08-09	
60 Elizabeth City State University Pharmacy Space Funds the leases of six modular units that house the Pharmacy Program until a permanent facility is constructed.	$43,000	NR	$43,000	NR
61 UNC-Pembroke Modular Building Leases Funds the leases of two facilities that house faculty that were hired due to campus growth and one facility for a new Entrepreneur Center in the School of Business.	$83,843	R	$88,035	R
C. Expansion				
62 Need-Based Financial Aid Funds the inflationary cost of room, board, books and supplies, and the scheduled increase in tuition and fees for the 41,143 students that receive UNC need-based grants ($22 million). Also funds the 5,421 eligible students that go unfunded each year because their applications are filed after the aid has been dispersed in the spring ($13.6 million). Of the $35.6 million in increased cost, $8 million is funded from the Escheat Fund each year and the remaining $27.6 million is funded from the General Fund.	$27,605,210	R	$27,605,210	R
63 UNC Online Funds the continued development of UNC Online, a virtual online education center with related support and technology infrastructure that will provide one-stop access to and delivery of UNC online degree and certificate programs.	$2,000,000 $2,200,000	R NR	$2,000,000	R
64 Information Technology Initiatives Funds the creation of a secondary data center (hot site) for disaster recovery operations. Also funds a shared hardware platform and regional (multi-campus) hosted enterprise systems and services solution center.	$640,000	R	$640,000	R
65 ECU Dental School Operations Funds the professional staff needed for planning and operation of the new dental school.	$500,000	R	$500,000	R
66 TEACCH Provides funds to the TEACCH (Treatment and Education of Autistic and Related Communication-Handicapped Children) program for the following: 1) $175,702 - Expands TEACCHing At Home Program to Asheville and Wilmington to provide home-based early intervention services to autistic preschoolers from 18 months to 3 years of age. 2) $142,298 - Provides a 4% raise to complete the therapist pay increase plan initiated in the 2006 Session. 3) $50,000 - Provides funds to match federal research grants.	$368,000	R	$368,000	R
67 Perinatal Mortality and Disease Appropriates funds to the UNC-Chapel Hill School of Medicine to support the Perinatal Quality Collaborative of North Carolina. This group is committed to improving clinical and health system issues in perinatal care.	$50,000	R	$50,000	R

	FY 07-08		FY 08-09	
68 UNC-CH Cochlear Implant Program Appropriates funds to the UNC Board of Governors to be allocated to the Center for the Acquisition of Spoken Language through Listening Enrichment (CASTLE), which is operated by the Carolina Children's Communicative Disorders Program of The University of North Carolina Health Care System to 1) train teachers and therapists to work with deaf preschool-age children with cochlear implants and 2) provide oral preschool classes to these children.	$400,000	NR		
69 ECU Auditory Learning Center Appropriates funds to the UNC Board of Governors to be allocated to East Carolina University Health Sciences Division and the Auditory Learning Center to 1) train teachers and therapists to work with deaf preschool-age children with cochlear implants and 2) provide oral preschool classes to these children.	$100,000	NR		
70 NC Research Campus at Kannapolis Provides operating funds for UNC programs located at the North Carolina Research Campus in Kannapolis. Of the recurring funds, $4.2 million is for leases and $4.3 million is for new faculty positions. The nonrecurring funds are to be used for faculty startup ($4 million) and for equipment ($4 million).	$8,500,000 $8,000,000	R NR	$8,500,000	R
71 Gateway Technology Center Provides funding to the Gateway Technology Center located on the campus of North Carolina Wesleyan College for a) operating funds for the center which offers online courses from East Carolina University and NC State University ($150,000) and b) support for the summer math and engineering camps for young children ($27,000).	$177,000	R	$177,000	R
72 State Contractual Scholarship Fund Increase Increases the State Contractual Scholarship Fund from $1,250 per Full Time Equivalent (FTE) North Carolina student in the state's private colleges to $1,300 per FTE student. These funds are for financially needy students.	$1,600,000	R	$1,600,000	R
73 Legislative Tuition Grant Increase Increases the Legislative Tuition Grant from $1,900 to $1,950 per North Carolina resident student in the state's private colleges.	$1,600,000	R	$1,600,000	R
74 Religious College Grant Increases the Religious College Grant from $1,800 to $1,950 per North Carolina resident student attending Roanoke Bible College and Southeastern College.	$29,700	R	$29,700	R
75 Hunt Institute Provides funding for additional operating support and for research on improving science and math instruction, encouraging out-of-school programs, and assisting groups involved in educational improvement.	$100,000 $100,000	R NR	$100,000	R

	FY 07-08		FY 08-09	
76 UNC-TV Statewide Programs Provides funds to support UNC-TV's statewide programming of North Carolina Now, North Carolina Legislative Review, and Legislative Week in Review.	$289,952	R	$289,952	R
77 North Carolina in the World Project Provides funds to continue the NC in the World Project which began in FY 05-06. This project is an initiative of the NC Center for International Understanding and is focused on improving students' knowledge and skills about the world.	$200,000	NR		
78 NCSU Center for Universal Design Provides funding to this Center in the College of Design at North Carolina State University that promotes accessible and universal design in housing, buildings, outdoor and urban environments and related products. The Center works with builders and manufacturers on new design solutions and provides information, referrals and technical assistance to individuals with disabilities.	$300,000	NR		
79 Joint Program in Nanotechnology Funds the creation of a joint graduate School of Nanoscience and Nanoengineering at NC A&T and UNCG's Millennium Campus.	$1,400,000	R	$1,400,000	R
80 UNC-CH Law School Provides funding to the UNC-Chapel Hill Law School to address deficiencies in the operating budget.	$2,000,000	NR		
81 Special Focus Institutions Provides additional funding to UNC-Asheville ($500,000) and to the North Carolina School of the Arts ($500,000) for nonrecurring needs. The missions and limited sizes of these institutions make it difficult for them to generate sufficient funds from the student credit hour enrollment funding model to provide the services students need.	$1,000,000	NR		
82 EARN Scholars Funds the proposed EARN (Education Access Rewards North Carolina) Scholars program. This program will be funded with up to $50 million from the Escheat Fund in FY 07-08 and up to $50 million from the Escheat Fund in FY 08-09.				
83 Veterinary Medicine Clinical Teaching and Research Fund Provides funds to the NC State University College of Veterinary Medicine to establish a Veterinary Medicine Clinical Teaching and Research Fund. This fund will allow advanced diagnostic and treatment options for animals where a) owner financing of such options are limited, b) significant instructional value exists, or c) the diagnostic and treatment options have the potential of adding significantly to core knowledge in the relevant clinical area.	$200,000	NR		

	FY 07-08		FY 08-09	
84 Shellfish Restoration Funds Funds a shellfish restoration project conducted by the UNC-Chapel Hill Institute of Marine Sciences in Morehead City. The project will attempt to 1) restore the North Carolina bay scallop, 2) conduct a pilot project to protect oyster sanctuaries from cownose ray and skate predation, and 3) evaluate and combat the damage done by the cownose rays and skates to seagrass nursery habitat. The UNC-Chapel Hill Institute of Marine Sciences shall work in conjunction with the Department of Environment and Natural Resources to facilitate this initiative.	$300,000	NR		
85 Statewide Program for Infection Control and Epidemiology Funds the Statewide Program for Infection Control and Epidemiology (SPICE) at the UNC-Chapel Hill School of Medicine.	$150,000	NR		
86 NCSU Entrepreneurship & Regional Cluster-Based Economic Development Funds Provides funding to NCSU to expand the activities of the Industrial Extension Service, foster new microenterprises, capture the production of new high technology-based products, and pursue focused recruitment and retention efforts in high-priority job clusters.	$1,800,000	NR		
87 NCSU College of Engineering Provides additional operating funds for the bioengineering program in the NCSU College of Engineering.	$5,000,000 55.00	R	$5,000,000 55.00	R
88 Science, Technology, Engineering, and Math (STEM) Teacher Recruitment Provides $500,000 to NCSU to strengthen on-going programs to develop new teaching methods for science and math teachers across the state, including the Kenan Fellows program and the statewide network of 4-H educational programs. Provides $500,000 to UNC-CH to support a model program to train new teachers in science and math education and develop a National Board Science and Math Teacher Center in collaboration with the Center for Teaching Quality, which will increase the number of National Board certified teachers in hard-to-staff schools.	$1,000,000	R	$1,000,000	R
89 Teacher Education Enrollment Planning and Recruitment Efforts Provides funds to UNC to hire a national recruitment organization to work with UNC's 15 teacher education programs to increase their production of teachers by 64% within a five year period.	$1,000,000	R	$1,000,000	R

	FY 07-08		FY 08-09	
90 **Principals' Executive Program Leadership Program for Middle & High Schools** Continues the joint effort of the Principals' Executive Program (PEP) and the Kenan-Flagler Business School at UNC-CH to improve the management and leadership skills of leadership teams from low-performing middle and high schools. This funding will cover the cost of Kenan-Flagler's services, instructor fees, books, and materials, lodging, and venue rental for 110 participants each year.	$607,000	R	$607,000	R
91 **UNC/NCCCS 2+2 Joint E-Learning Initiative** Provides recurring funds for the UNC/NCCCS 2+2 Joint E-Learning Initiative that was established in 2005 with nonrecurring funds. In FY 2007-09 biennium, these funds will be used to develop a method to track student progress and articulation among and across campuses and to develop technology to support online courses and 2+2 programs.	$1,000,000	R	$1,000,000	R
92 **Academic Summer Bridge and Retention Pilot Programs** Funds Academic Summer Bridge and Retention Pilot Programs at the seven Focused Growth institutions (ECSU, FSU, NC A&T, NCCU, UNCP, WCU, and WSSU) to target first generation college students or students requiring additional college preparation. Students will attend a four to five week residential summer session before their freshman year to study English and math. Students attending these sessions will earn 6 hours of credit toward their degree.	$1,193,000	R	$1,193,000	R
93 **Graduate Student Recruitment and Retention** Funds new tuition waivers aimed at recruiting and retaining top tier graduate students in science and technology.	$2,000,000	R	$2,000,000	R
94 **Biomanufacturing Research Institute & Technology Enterprise (BRITE)** Provides additional operating funds for Biomanufacturing Research Institute & Technology Enterprise (BRITE) initiative at NCCU.	$1,000,000	R	$1,000,000	R
95 **Competitiveness Fund** Creates a research competitiveness fund to support strategic investments in emerging areas of importance to the economic competitiveness to the state. The awards would emphasize interdisciplinary research to encourage the involvement of multiple campuses. The fund would be focused on such areas as: Nanosciences, Marine Sciences, Natural Products, Environmental Sciences, Information Technology, Biomanufacturing, Port Logistics, Marine Aerodynamics, Pharmacogenomics, Biomedical Sciences, Advanced Materials Sciences and Biotechnology.	$8,000,000	R	$8,000,000	R

	FY 07-08		FY 08-09	
96 University Cancer Research Fund Provides General Fund support to the President of the University of North Carolina for distribution to UNC Hospitals for cancer research. Additional funds in the amount of $16 million are appropriated to this fund from the Tobacco Trust Fund in each year of the biennium.			$16,000,000	R
97 Distinguished Professors Endowment Fund Provides $4.6 million to be administered by the University of North Carolina Board of Governors for a private Challenge Grant Initiative to be allocated to each of the sixteen constituent universities as per G.S. 116-41.5. Provides $1.4 million to be administered by the UNC Board of Governors to address the existing backlog of endowed professorships.	$6,000,000	NR		
98 Center for Design Innovation Provides funding for the Center for Design Innovation, a program jointly operated by the NC School of the Arts, Winston-Salem State University, and Forsyth Technical Community College since 2004. This Center specializes in the application of digital design in entertainment, life science, education, product design, and product marketing to generate and facilitate design-focused instruction, research, workforce development, and entrepreneurial activity; to promote educational programming that emphasizes innovation; and to act as a design-based business cluster accelerator in the Piedmont Triad.	$500,000	R	$500,000	R
99 Inland Port Study Provides funding to the Institute for the Economy and the Future of Western Carolina University, to study the feasibility of establishing an inland port within the 23 county region of the North Carolina Regional Economic Development Commission, known as AdvantageWest. Western Carolina University shall work with AdvantageWest in conducting the study.	$100,000	NR		
100 The Soldier Institute for Regenerative Medicine Provides funds to Wake Forest Institute for Regenerative Medicine at Wake Forest University to attract federal investment in The Soldier Institute for Regenerative Medicine at Piedmont Triad Research Park to develop advanced regenerative techniques for treatment of soldier wounds - from the battlefield to the hospital and through long-term care by creating major tissue reconstruction for limbs, fingers and toes, facial reconstruction, and skin burn repair. Except as may be restricted by the Department of Defense, the contract for the grant shall require the grantee to provide the State an equitable share of any revenue from patents, royalties, licensing agreements, or other ancillary revenues that might be generated.	$4,000,000 $4,000,000	R NR	$4,000,000	R

Senate Subcommittee on Education	FY 07-08		FY 08-09	
101 **Biofuels Center of NC** Provides funds to the UNC Board of Governors to be allocated to the Biofuels Center of North Carolina, Inc. upon its incorporation. The Biofuels Center, in consultation with NC A&T State University and NC State University, will be responsible for implementing "North Carolina's Strategic Plan for Biofuels Leadership." The State will lease property at the Oxford Research Station to the Biofuels Center.	$5,000,000	R	$5,000,000	R
102 **Transfer Agriculture Research Stations** Transfers the Research Stations Division of the Department of Agriculture and Consumer Services to the UNC Board of Governors.	$9,188,217 164.75	R	$7,000,000 164.75	R
Total Legislative Changes	**$78,558,531** **$26,385,017**	R NR	**$81,526,716** **($2,783,801)**	R NR
Total Position Changes	190.25		190.25	
Revised Budget	**$2,630,008,619**		**$2,657,567,024**	

Community Colleges

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$892,934,482**		**$893,151,875**	
Legislative Changes				
A. Enrollment and Tuition				
103 **Fully Fund Enrollment Growth** Provides funds to fully fund enrollment growth. Community college enrollment has increased by 2,296 FTE, from 193,027 to 195,323, an increase of 1.2%. This enrollment growth requires a total appropriation of $8.8 million. The continuation budget included $5.5 million for this purpose. However, the data needed to accurately calculate enrollment growth requirements were not available at the time the continuation budget was developed. This appropriation provides the remaining $3.3 million needed.	$3,315,117	R	$3,315,117	R
104 **Increase Tuition by 6.3%** Increases community college tuition by 6.3%. In-state tuition will increase from $39.50 to $42.00 per credit hour up to 16 hours; full-time resident students will pay $672 per semester or $1,344 per year. Out-of-state tuition will increase from $219.50 to $233.30 per credit hour up to 16 hours. These additional tuition receipts will remain with the NC Community College System to fund expansion items, increasing total spending by an additional $7.5 million.	($7,500,000)	R	($7,500,000)	R
105 **Enrollment Growth Reserve** Provides funds for an Enrollment Growth Reserve to assist colleges that experience high growth in the fall semester. Funds shall be distributed to colleges that realize an increase greater than 5% over the previous fall semester.	$2,000,000	NR		
B. Formula Enhancement				
106 **Allied Health** Provides additional funds to support allied health programs. Funds may be used for allied health equipment and supplies, or to supplement the salaries of allied health faculty. Funds shall be distributed on the basis of Allied Health FTE.	$5,600,000	R	$5,600,000	R
C. Distance Learning				
107 **Data Connectivity** Provides funds to increase community college bandwidth. Enhanced connectivity is necessary to expand distance learning initiatives. Funds shall be used to provide base-level bandwidth at each community college commensurate with institutional size.	$3,827,600	R	$3,827,600	R

	FY 07-08		FY 08-09	
108 Virtual Learning Centers	$550,000	R	$550,000	R
Provides funds to establish three additional Virtual Learning Centers (VLCs). VLCs develop and refine online course content. The VLCs shall be established by the System Office through a request for proposal (RFP) process, soliciting participation from colleges interested in hosting a VLC. Funds may be used for staff and operating expenses related to course development, course editing, and professional development of instructors delivering online instruction.	$45,000	NR		
109 Virtual Computing Lab	$130,600	R	$130,600	R
Provides funds to contract for 100 "seats" dedicated for community college students at NCSU's Virtual Computing Lab. The lab provides students state-of-the-art secure computing services, either as part of classroom instruction or individualized assistance. The virtual computing lab should result in reduced IT support, computer down-time, and duplicative software costs.	$500,400	NR		
110 Distance Learning System Office Support	$255,743	R	$255,743	R
Provides funds to establish three positions - an instructional designer, an applications integrator, and an IT services support analyst - to support the NCCCS's distance learning initiatives.	$6,000	NR		
	3.00		3.00	
D. Categorical and Miscellaneous Programs				
111 Reallocate Minimum Faculty Salary Adjustment Funds	($1,200,000)	R	($1,200,000)	R
Eliminates funding appropriated in 2004 for specific full-time faculty members that were being paid below the minimum salary levels adopted that year by the General Assembly and reallocates those funds to support community college expansion items.				
112 Equipment				
Provides additional funds for the purchase of instructional equipment at all 58 community colleges. These funds shall be distributed in accordance with the existing equipment formula.	$6,000,000	NR		
113 Multi-Campus Center Funds	$100,000	R	$100,000	R
Provides additional funds to support multi-campuses centers (MCCs), satellite campuses that provide students services and at least one degree program. One additional MCC - Ashe County MCC of Wilkes Community College - was approved by the State Board of Community Colleges in FY 2006-07, bringing the total number of MCCs to 24.				
114 NC REAL				
Provides funds for NC REAL (NC Rural Entrepreneurship through Active Learning). This program was formerly supported by the Worker Training Trust Fund.	$250,000	NR		

Senate Subcommittee on Education	FY 07-08		FY 08-09	
115 Motorsports Consortium Funds				
Provides funds for curriculum development activities of the North Carolina Motorsports Consortium, which is established to help create a highly trained workforce to support the State's motorsports industry.	$500,000	NR		
116 Male Minority Mentoring				
Provides funds to expand the Male Minority Mentoring program to 10 additional community colleges.	$300,000	NR		
117 NC Center for Viticulture and Enology				
Provides funds for the NC Center for Viticulture and Enology located at Surry Community College. Funds may be used for equipment, staff, and building operations. An additional $500,000 has been appropriated in the Department of Commerce budget for viticulture promotion, providing a total of $1 million for the advancement of the viticulture industry in the State.	$500,000	NR		
118 NC Research Campus	$100,000	R	$100,000	R
Provides funds for the Rowan-Cabarrus Community College Biotechnology Training Center and Greenhouse at the NC Research Campus in Kannapolis. Funds may be used for equipment, staff, and building operations.	$1,300,000	NR		
E. System Office				
119 Workers' Compensation Analyst	$62,068	R	$62,068	R
Establishes one workers' compensation analyst position in the System Office to administer workers' compensation claims for NCCCS and to work with community colleges to identify methods and practices to contain workers' compensation costs. The community college shall implement risk management strategies to reduce claims at least by an amount equivalent to the cost of this position.	$4,150 1.00	NR	 1.00	
F. Community College Capital				
120 Advanced Planning Funds				
Provides funds for advanced planning of community college capital projects and the development of facility master plans. These funds shall be matched in accordance with G.S. 115D-31.	$10,000,000	NR		
Total Legislative Changes	**$5,241,128**	R	**$5,241,128**	R
	$21,405,550	NR		
Total Position Changes	4.00		4.00	
Revised Budget	**$919,581,160**		**$898,393,003**	

HEALTH
&
HUMAN SERVICES
Section G

Health and Human Services

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$4,532,083,971		$4,820,403,092	
Legislative Changes				
(1.0) Office of the Secretary				
1 Department-Wide Reduction Reserve Reduces funding from the line items in the following budget categories: purchased services (2000), supplies (3000), property, plant, and equipment (4000), and other expenses (5000).	($1,775,000)	NR		
2 Controller's Office Reduction Eliminates funding for the continuation budget increase in the Controller's Office for the Financial Audit Consulting Fees line item.	($549,641)	R	($549,641)	R
3 Information Resource Management Reduction Reduces funding for inflationary increases for the Communications and Data processing line item in the Division of Information Resource Management.	($1,500,000)	R	($3,000,000)	R
4 Automation Reserve Fund Reduction Reduces funding for the Automation Reserve Fund.	($1,000,000)	R	($1,000,000)	R
5 Office of Policy and Planning Eliminates recurring funding for the Office of Policy and Planning and provides nonrecurring fund for the program in FY 2007-08. This program is subject to continuation review.	($414,536) $414,536	R NR	($414,536) -5.00	R
6 Prior Year Earned Revenue - Department-Wide Requires prior year earned revenue to be budgeted throughout the department and reduces State appropriation.	($3,385,000)	NR		
7 Unbudgeted Non-Federal Receipts - Department-Wide Requires unbudgeted non-federal receipts to be budgeted throughout the department and reduces State appropriations.	($3,855,142)	NR		
8 Medicaid Management Information System (MMIS) Provides funding to support the Office of Medicaid Management Information Services and to replace the Medicaid Management Information System.	$3,855,142	NR		

	FY 07-08		FY 08-09	
9 Legal Services Provides funding for a contract with the Department of Justice for additional legal support for the following Divisions: Facility Services, Medical Assistance, and Child Development.	$300,000	R	$300,000	R
10 NC Health Net Provides funding to sustain provider networks that coordinate free care for low-income uninsured patients.	$2,255,000	R	$2,880,000	R
11 Health Care Access				
Provides funding for a grant-in-aid to the North Carolina Association for Healthcare Access for operations, board development, and an annual conference.	$250,000	NR		
12 Aid to Community Health Centers Provides funding on a competitive grant basis to rural health centers, local health departments, qualified health centers, free clinics, school-based clinics, and entities providing preventive care.	$5,000,000	NR		
13 Medication Access and Review Program Provides $633,920 in realigned funding from the Atypical Antipsychotic Drug program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the Medication Access and Review Program (MARP). MARP streamlines the process of obtaining free prescription drugs from pharmaceutical manufacturers' Prescription Assistance Programs (PAPs).	$633,920	R	$633,920	R
14 Housing and Homelessness Positions Provides funding to convert three time-limited, grant supported positions to permanent, full-time staff funded through the General Fund. The positions include one community development specialist and two human services planners. These positions support departmental housing and homelessness initiatives.	$248,341 3.00	R	$248,341 3.00	R
15 Institute of Medicine Studies Provides funding for the Institute of Medicine to hire staff to undertake additional studies annually at the request of the North Carolina General Assembly, including a specific study on substance abuse services. Also provides funding to support a rapid-response capacity to analyze secondary data sources on health or provide other health-related data to the North Carolina General Assembly and to State and local government agencies.	$300,000	R	$300,000	R
(2.0) Division of Aging and Adult Services				
16 Senior Games Eliminates recurring funding for the Senior Games and appropriates nonrecurring funding for the program in FY 2007-08. This program is subject to continuation review.	($175,000) $175,000	R NR	($175,000)	R

	FY 07-08		FY 08-09	
17 Pilot for Adult Care Home Quality Improvement Provides funding to support the Quality Improvement Pilot Initiative, a collaboration between the adult care home industry and the State. The pilot will include up to 100 adult care homes in the following counties: Alamance, Buncombe, Nash, and Rutherford.	$264,000	NR		
18 Senior Center General Purpose Fund Provides funding for the Senior Center General Purpose Fund to provide additional funding for senior centers.	$200,000	NR		
19 Home and Community Care Block Grant Provides funding for the Home and Community Care Block Grant Program.	$536,000	R	$536,000	R
20 Receipt-Supported Position - Division of Aging and Adult Services Creates one new position in the Division of Aging and Adult Services to provide day-to-day coordination of a health promotion program to reduce the disability of chronic disease among seniors. Aging Program Specialist II - $66,988 This position is 100% receipt supported through a grant from the federal Administration on Aging and state match.				
(3.0) Division of Child Development				
21 Under-Budgeted Receipts - Licensure Fees Increases budgeted receipts from licensure fees to reflect actual collections and reduces state appropriations.	($20,000)	R	($20,000)	R
22 Under-Budgeted Receipts - Sale of Publications Increases budgeted receipts from the sale of publications to reflect actual collections and reduce state appropriations.	($10,000)	R	($10,000)	R
23 Touching the Lives of Children Eliminates funding for the grant-in-aid to Touching the Lives of Children.	($300,000)	R	($300,000)	R
24 Child Care Subsidies Provides funding to remove 339 children from child care subsidy waiting lists and implements rate adjustments, by region, as defined in the 2007 Child Care Market Rate Study.	$8,400,000	R	$8,400,000	R
25 T.E.A.C.H. Program Provides funding to maintain 850 existing scholarships. The scholarships cover the cost of tuition, books, and travel for child care providers working on a credential or degree in early childhood education or child development.	$1,000,000	R	$1,000,000	R
26 Smart Start Provides funding to be equally distributed among the counties whose percent of need funded is below 50%.	$1,285,870	R	$6,631,471	R

Senate Subcommittee on Health and Human Services	FY 07-08		FY 08-09	
(4.0) Division of Education Services				
27 **Utilities Inflationary Increase Reduction** Reduces funding for the continuation budget increase for utilities by 50%.	($122,661)	R	($130,321)	R
28 **Equipment Reduction** Eliminates funding for the continuation budget increase for equipment in FY 2007-08.	($151,255)	NR		
29 **Textbooks Reduction** Eliminates funding for the continuation budget increase for textbooks.	($73,243)	R	($77,466)	R
30 **Beginnings, Inc.** Provides funding for family support services for children who are deaf or hard of hearing.	$229,151	NR		
(5.0) Division of Public Health				
31 **Under-Budgeted Receipts - State Public Health Laboratory** Increases budgeted receipts from Medicaid for the State Public Health Laboratory to reflect actual collections and reduce state appropriations.	($4,000,000)	R	($4,000,000)	R
32 **Utilities Inflationary Increase Reduction** Reduces funding for the continuation budget increase for the utilities line item in the Division of Public Health.	($25,000)	R	($25,000)	R
33 **Dental Health Services** Eliminates funding for a portion of the Drugs and Pharmaceutical Supplies line item in Dental Health Services Program and appropriates nonrecurring funding for FY 2007-08. This line item is subject to continuation review.	($125,000) $125,000	R NR	($125,000)	R
34 **Child Developmental Service Agencies** Reduces a portion of the funding for the Child Developmental Service Agencies and appropriates nonrecurring funding for each year. The Child Developmental Centers are directed to increase receipts from Medicaid and insurance to offset the nonrecurring appropriations. This program is subject to continuation review.	($4,000,000) $4,000,000	R NR	($4,000,000) $4,000,000	R NR
35 **Pandemic Influenza Planning** Provides funding for the purchase of 843,939 treatment courses of antivirals (667,106 of Tamiflu and 176,833 of Relenza). The federal government will pay for 25% of the cost of purchasing the antivirals. Additionally, provides funding for climate controlled storage space for the antivirals.	$50,400 $9,626,340	R NR	$50,400 $2,880,610	R NR

	FY 07-08		FY 08-09	
36 Public Health Lab Testing	$235,877	R	$329,895	R
Provides funding and positions to expand testing at the state public health laboratory for Human Papilloma Virus (HPV), food borne diseases, tick borne diseases, and HIV testing for pregnant women. The two positions are a medical laboratory technologist and an accountant technician. In addition to the appropriation from the General Fund, $128,212 in FY 2007-08 and $128,283 in FY 2008-09 in receipts will support the expansion of these tests.	$2,500	NR		
	2.00		2.00	
37 Food-borne/Tick-borne Diseases	$280,747	R	$374,329	R
Provides funding for two nurse consultant/epidemiologist positions (one focusing on food-borne diseases and one focusing on tick-borne diseases). Additionally provides $25,000 in each year for tick control demonstration projects. Also provides $145,862 in FY 2007-08 and $139,802 in FY 2008-09 to be transferred to the Department of Environment and Natural Resources to fund their participation in the tick control demonstration projects.	$6,060	NR		
	2.00		2.00	
38 HIV Prevention - Counseling and Testing	$2,000,000	R	$2,000,000	R
Provides funding for HIV prevention activities, including counseling, testing, and early medical interventions. Funds will be awarded to local health departments, historically black colleges and universities, and other community organizations. Also provides funding for 3 community-based, harm-reduction programs in local health departments.				
39 ADAP Inflation Correction			$500,000	R
Provides funding to correct inflation in the second year of the biennium for the AIDS Drug Assistance Program to maintain the FY 2007-08 funding level in FY 2008-09.				
40 Health Disparities Initiative				
Provides funding for grants-in-aid awarded through the Community-Focused Eliminating Health Disparities Initiative (CFEHDI).	$352,468	NR		
41 Special Population Dentistry				
Provides funding for a mobile dental provider to deliver services to the frail elderly and persons with disabilities in unserved areas.	$200,000	NR		
42 Healthy Carolinians				
Provides funding for local health departments to establish and maintain necessary infrastructure to reduce rates of diabetes, cancer, heart disease, obesity, injury, and infant mortality.	$1,000,000	NR		
43 Women's Health Services	$200,000	R	$200,000	R
Provides funding for family planning services to uninsured women who are not eligible for Medicaid.				

	FY 07-08		FY 08-09	
44 Monitoring of Birth Defects Provides funding for the surveillance and collection of clinical data on birth defects, and linking the data to vital statistics, newborn metabolic screening, and children's health services. Also provides funding for 3 new positions for birth defects monitoring registry. Those positions are two Social Research Assistant IIs, and one Social Research Associate.	$200,000 3.00	R	$200,000 3.00	R
45 Health Care Provider Training Provides funding for development, training, and communications initiatives among hospitals and emergency medical services for stroke victims.	$150,000	R	$150,000	R
46 Stroke Public Awareness Provides funding for a stroke public awareness campaign, a survey of gaps and needs in the prevention and treatment of stroke, and to continue to the Justus-Warren Heart Disease and Stroke Task Force.	$360,000	R	$360,000	R
47 NC Collaborative Stroke Registry Provides funding for the state match to existing federal funds for the NC Collaborative Stroke Registry to increase hospital participation in the registry.	$390,000	R	$390,000	R
48 Purchase of Medical Care for Cancer Provides funding for the Purchase of Medical Care Program for cancer patients who are uninsured.	$1,000,000	R	$1,000,000	R
49 Breast and Cervical Cancer Control Program Provides funding for additional screening and diagnostic services for breast and cervical cancer through the North Carolina Breast and Cervical Cancer Control Program.	$2,000,000	R	$2,000,000	R
50 School Nurse Funding Provides funding for an additional 42 school nurse positions in FY 2007-08 and 62 school nurse position in FY 2008-09.	$2,100,000	R	$3,100,000	R
51 Adolescent Pregnancy Prevention Provides funding for a grant-in-aid to the Adolescent Pregnancy Prevention Coalition of North Carolina.	$100,000	R	$100,000	R
52 Funds Healthy Start Foundation Provides funding for a grant-in-aid to the Healthy Start Foundation.	$150,000	R	$150,000	R
53 Safe Sleep Awareness Campaign Provides funding for the development and implementation of a safe-sleep awareness campaign to strengthen SIDS risk reduction.	$150,000	NR		
54 Prevention of Pre-term Births Provides funding to educate women on the benefits of progesterone for those who have had preterm births and to purchase medication for eligible minority and low-income women.	$97,000	NR		

55 Prevent Blindness

Provides funding for a grant-in-aid to Prevent Blindness North Carolina to expand the Pre-K Vision Screening Program. $150,000 NR

56 Receipt Supported Position - Division of Public Health

Creates one new position in the Division of Public Health to coordinate the Centers for Disease Control-funded, hospital-based, public health epidemiologist positions in the 11 largest hospital systems in the state.

Public Health Nurse Consultant II - $84,207

This position is 100% receipt supported through a grant from the federal Centers for Disease Control.

57 Receipt Supported Position - Division of Public Health

Creates one new position in the Division of Public Health to plan, organize, implement, and administer the Diabetes Education Umbrella project.

Public Health Nurse Consultant II - $80,345

This position is 100% receipt supported through a grant with the federal Centers for Disease Control.

58 Receipt Supported Position - Division of Public Health

Creates one new position in the Division of Public Health to provide leadership and direct the clinical activities of the Family Planning and Reproductive Health Unit.

Public Health Nurse Consultant II - $81,911

This position is 100% receipt supported through the federal Family Planning Block Grant.

59 Receipt Supported Position - Division of Public Health

Creates one new position in the Division of Public Health to provide expert statewide training and technical assistance to tobacco-use prevention and treatment programs, with an emphasis on health care providers.

Public Health Nurse Consultant II - $58,506

This position is 100% receipt supported through the federal CDC Tobacco Prevention and Control Program.

60 Receipt Supported Position - Division of Public Health

Creates one new position in the Division of Public Health to support activities to expand the identification, recruitment, enrollment, and training of health care providers to participate in the vaccine program to serve adolescents.

Public Health Consultant I - $57,418

This position is 100% receipt supported through a federal Centers for Disease Control grant.

	FY 07-08		FY 08-09	
61 Receipt Supported Position - Division of Public Health				
Creates one new position in the Division of Public Health to serve as an influenza specialist and have sole responsibility for influenza surveillance testing. Lab Medical Specialist - $54,362 This position is 100% receipt supported through a grant from the federal Centers for Disease Control.				
62 Receipt Support Position - Division of Public Health				
Creates one new position in the Division of Public Health to support the Paul Coverdell National Acute Stroke Registry and use the registry to improve the delivery of care to patients with acute stroke. Public Health Consultant I - $61,249 This position is 100% receipt supported through a grant from the federal Centers for Disease Control.				
(6.0) Division of Social Services				
63 State/County Special Assistance	($500,000)	R	($500,000)	R
Reduces funding for the State/County Special Assistance Program based on lower enrollment projections.				
64 Hearings and Appeals Program	$88,993	R	$118,657	R
Provides funding to add a hearing officer supervisor and two hearing officers in the DHHS Office of Hearings and Appeals.	$6,607 3.00	NR	 3.00	
65 Child Welfare Oversight	$121,160	R	$161,547	R
Provides funding to support three Social Services Program Consultant positions to strengthen oversight of Child Welfare Services.	$11,261 3.00	NR	 3.00	
66 Food Banks	$1,000,000	R	$1,000,000	R
Provides funding to be equally distributed to the regional network of food banks in North Carolina.				
(7.0) Division of Medical Assistance				
67 FY 2007-08 Provider Inflationary Increases	($55,751,178)	R	($59,949,603)	R
Eliminates funding for FY 2007-08 Medicaid provider inflationary increases. The reduction applies to all Medicaid private and public providers with the following exceptions: federally qualified health clinics, rural health centers, state institutions, pharmacy, outpatient hospital services, and the noninflationary components of the case-mix reimbursement system for nursing facilities.				

	FY 07-08		FY 08-09	
68 Medicaid Pharmacy Payments Reduces Medicaid pharmacy payments for prescription drugs not covered by the State MAC Program from Average Wholesale Price minus ten percent to Average Wholesale Price minus fifteen percent.	($17,848,688)	R	($21,340,033)	R
69 Cost Containment Activities Reduces funding for the Medicaid Program due to savings from the implementation of new software and other activities related to prior authorization and utilization review of high-cost diagnostic testing, automated pharmacy procedures, and increased fraud and abuse detection and recovery activities.	($15,345,711)	R	($16,996,129)	R
70 Prior Authorization - Mental Health and HIV/AIDS Drugs Reduces funding due to savings from the prior authorization of all mental health and HIV/AIDS prescription drugs.	($8,331,758)	R	($9,081,616)	R
71 Prior Authorization - Personal Care Services Reduces funding due to savings from the prior authorization of all personal care services.	($2,907,387)	R	($3,387,384)	R
72 Medicaid Special Fund Replacement Funding Provides funding for the Medicaid Program to reduce funding from the transfer from the Medicaid Special Fund. This transfer has been reduced to provide $10,000,000 for the hospital supplemental payment program to maintain payments for private hospitals at the FY 2006-07 percentages.	$10,000,000	R	$10,000,000	R
73 Critical Access Pharmacies Provides funding for supplemental payments for critical access pharmacies.	$2,260,000	R	$2,680,000	R
74 Increase Division Staff Provides funding for fourteen additional staff in the Division of Medical Assistance: two DMA Nurse Is, one DMA Services Consultant, four Income Maintenance Quality Analysts, and seven Accountant IIs.	$327,412 14.00	R	$436,549 14.00	R
75 CAP-MR/DD Slots Provides funding for 200 additional Community Alternatives Program-Mental Retardation/Developmental Disability (CAP-MR/DD) slots. Funding for this item comes from realigned developmental disability services funding in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.	$3,000,000	R	$3,000,000	R
76 Expand Medicaid Coverage for Foster Care Adolescents Provides funding to expand Medicaid coverage to foster care adolescents ages 18, 19, and 20 under the Federal Foster Care Independence Act.	$216,466	R	$645,841	R
77 NC Kids' Care Provides funding to expand health coverage to children in families with incomes between 200% and 225% of the Federal Poverty Level.			$1,579,920 $800,000	R NR

	FY 07-08		FY 08-09	
(8.0) NC Health Choice				
78 Health Choice Provides funding for NC Health Choice. The funds allow enrollment to increase at a rate of 6 percent annually.	$7,507,992	R	$7,507,992	R
(9.0) Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing				
79 Medical Eye Care Program Provides funding to the Division of Services for the Blind to increase the eligibility level to 125% of the federal poverty level from a fixed tiered amount.	$200,000	R	$200,000	R
80 Accessible Electronic Information for Blind and Disabled Persons Provides funding to continue accessible electronic information services for blind and disabled persons.	$75,000	NR		
81 Receipt Supported Position - Services for the Deaf and Hard of Hearing Creates one new position in the Division of Services for the Deaf and Hard of Hearing to evaluate existing programs to determine if they are meeting the needs of North Carolina's deaf and hard of hearing population and to plan for future needs. Human Services Planner/Evaluator III - $ 62,153 This position is 100% receipt supported through the Wireless Connection Surcharge receipts.				
(10.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services				
82 MH/DD/SA Reductions Reduces state appropriations for mental health, developmental disability, and substance abuse services based on historical availability of funds in the following account codes: domiciliary care (Fund 1290), BMC catchment reserves (Fund 1390), developmental disability funding for non-unit cost reimbursement (UCR) child reserves (Fund 1390), developmental disability funding for non-UCR other reserves (Fund 1390), training (Fund 1390), contract funds not allocated (Funds 1390 and 1490), and miscellaneous reserves. The reductions identified here should not decrease the amount of funds received by local management entities (LMEs).	($2,335,134)	R	($2,335,134)	R

	FY 07-08		FY 08-09	
83 Atypical Antipsychotic Drugs Realigns $975,499 in funding for the Office of Rural Health and Community Care (ORH) for their Medication Access and Review Program (MARP) to coordinate obtaining free prescription drugs. Also provides realigned funding for a reserve in DMH to cover outstanding drug claims for atypical antipsychotic drugs.	($975,499) $165,000	R NR	($975,499)	R
84 Realignment of Mental Health Services Funds Realigns existing funding for mental health services. Of the $18,450,000 in each year reduced in this item, funding will be realigned as follows: + $3,000,000 in both years for mental health services, + $14,137,856 in both years for crisis services, + $1,250,000 in both years for supported employment, and + $62,144 in both years for mental health services for returning veterans.	($18,450,000)	R	($18,450,000)	R
85 Mental Health Services Provides funding for mental health services to be distributed to the Local Management Entities (LMEs) such that each LME receives a percentage of the total allocation that is equal to that LME's percentage of the State's total population below the poverty level. Funding for this item comes from realigned mental health services funding. This funding will be allocated on a non-UCR basis.	$3,000,000	R	$3,000,000	R
86 Crisis Services for MH/DD/SA Provides funding for crisis services to be distributed to LMEs to continue to fund LMEs' crisis services plans completed in 2007. Funding for this item comes from realigned mental health services funding.	$14,137,856	R	$14,137,856	R
87 Supported Employment for MH/DD/SA Provides funding for supported employment for individuals with mental illness, developmental disabilities, and/or substance abuse addictions. The funds shall be distributed to LMEs such that each LME receives a percentage of the total allocation that is equal to that LME's percentage of the State's total population below the poverty level. Funding for this item comes from realigned mental health services funding ($1.25 million) and realigned developmental disability services funding ($1.25 million).	$2,500,000	R	$2,500,000	R

	FY 07-08		FY 08-09	
88 Mental Health Services for Returning Vets	$62,144	R	$62,144	R
Provides funding for one mental health program manager position to lead the Division's response to the mental health service needs of veterans and their families. Also provides funding for expansion of the NC Health Information Portal, education and social marketing to veterans and their families, and statewide training to providers regarding the mental health and substance abuse needs of this population. Of the funds in this item, $62,144 in both years comes from realigned mental health services funding.	$394,482 1.00	NR	 1.00	
89 Realignment of Developmental Disability Services Funds	($4,250,000)	R	($4,250,000)	R
Realigns existing funding for developmental disability services. Of the $6,250,000 in FY 2007-08 and $4,250,000 in FY 2008-09 reduced in this item, funding will be realigned as follows: + $3,000,000 in both years for 200 additional CAP-MR/DD slots, + $1,250,000 in both years for supported employment, and + $2,000,000 in nonrecurring funding in the first year for the development of model programs of early intervention for autism.	($2,000,000)	NR		
90 CAP-MR/DD Slots				
Provides $3,000,000 in realigned developmental disability services funding for 200 additional Community Alternatives Program-Mental Retardation/Developmental Disability (CAP-MR/DD) slots. The funds for this item are located in the Division of Medical Assistance section of this report.				
91 Early Intervention for Autism				
Provides $2,000,000 in realigned developmental disability services funding for the development of at least three model programs of early intervention for autism across the State. Early intervention with children with autism includes children from birth to age 10.	$2,000,000	NR		
92 Realignment of Substance Abuse Services Funds	($7,300,000)	R	($7,300,000)	R
Realigns funds for regionally-funded, locally-hosted substance abuse services.				
93 Regionally-Purchased, Locally-Hosted Substance Abuse Services	$7,871,061	R	$8,036,061	R
Provides $7,300,000 in realigned substance abuse funding for substance abuse services. The remainder of the funds appropriated are new funds, including an additional $589,294 in non-recurring start-up funding. These funds will provide regionally-funded, locally-hosted substance abuse services.	$589,294	NR		

	FY 07-08		FY 08-09	
94 Delay Julian F. Keith ADATC Opening Reduces state appropriations for the Julian F. Keith ADATC based on delaying the opening of the new detoxification beds from May 2008 to FY 2008-09.	($3,753,806)	NR		
95 Closure of Dorothea Dix Hospital Reduces the budget for Dorothea Dix Hospital to account for its anticipated closure in late Fall 2007. In addition to the reduced state appropriation, an additional $10,357,840 in FY 2007-08 and $17,990,270 in FY 2008-09 in receipts will be reduced.	($31,773,078)	R	($52,290,268) 1104.38	R
96 Closure of John Umstead Hospital Reduces the budget of John Umstead Hospital in anticipation of its closure in late Fall 2007 and the transfer of Whitaker School and R.J. Blackley ADATC at that time. In addition to the reduced state appropriation, an additional $10,131,962 in FY 2007-08 and $17,312,369 in FY 2008-09 in receipts will be reduced.	($35,347,782)	R	($60,677,194) 1260.18	R
97 Opening of Central Regional Hospital Provides funding for the operation of the Central Regional Hospital, scheduled to open in late Fall 2007. In addition to the state appropriation, an additional $20,489,802 in FY 2007-08 and $33,857,431 in FY 2008-09 in receipts will be transferred for the operation of this hospital.	$62,402,431	R	$102,828,228 2144.77	R
98 Forensic Unit Beds to Broughton Hospital Provides funding for the transfer of half of the Forensic Unit from Dorothea Dix Hospital to Broughton Hospital.	$4,718,429	R	$5,750,000 103.00	R
99 Local Administration for MH/DD/SA Provides funding for the LME Administrative Cost Model from the savings generated by the opening of Central Regional Hospital and the closure of Dorothea Dix and John Umstead Hospitals.			$4,389,234	R
100 Treatment Alternatives for Safer Communities (TASC) Provides funding for local management entities to increase the number of TASC case managers and substance abuse services for adult drug offenders.	$2,000,000	R	$2,000,000	R
101 Offender Substance Abuse Treatment Programs Provides funding for services for existing pre- and post-plea mental health courts, DWI courts, and adult and family drug treatment courts for adult offenders.	$2,000,000	NR		

	FY 07-08		FY 08-09	
102 Institute of Medicine Studies Provides funding for the Institute of Medicine to undertake additional studies annually at the request of the North Carolina General Assembly, including a specific study on substance abuse services. Also provides funding to support a rapid-response capacity to analyze secondary data sources on health or provide other health-related data to the North Carolina General Assembly and to State and local government agencies. The funds for this item are located in the Office of the Secretary section of this report.				
103 Crisis Intervention Teams Provides funding to be used by the LMEs to develop Crisis Intervention Teams statewide. Also provides funding for the Division of MH/DD/SAS to develop the capacity to provide statewide training.	$100,000	R	$100,000	R
104 Housing Trust Fund - Housing for People with Disabilities Provides $7,500,000 in non-recurring funding to the North Carolina Housing Trust Fund for the financing of additional independent- and supportive-living apartments for people with disabilities. The apartments shall be affordable to those with incomes at the Supplemental Security Income (SSI) level. The funds for this item are located in the Housing Finance Agency Section of this report.				
105 Operating Cost Subsidy - Housing for People with Disabilities Provides funding for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities. The apartments shall be affordable to those with incomes at the SSI level.	$3,500,000	R	$4,500,000	R
106 Hospital Utilization Pilots for MH/DD/SA Provides funding for psychiatric hospital utilization pilots.	$2,500,000	R	$5,000,000	R
107 Central and Field Office Staff Provides funding for increased staff to enhance the Division's oversight, management, and delivery of community-based services. These positions include three Mental Health Program Managers (LME Team), two Mental Health Program Coordinators (Accountability), and two Business Officers (Budget/Finance).	$267,883 7.00	R	$357,177 7.00	R
108 NC Special Care Center Staff Provides funding to increase staffing ratios to meet the treatment and safety needs of clients and staff. The additional positions will increase the staffing ratio from 1.5 staff per patient to 2.9 staff per patient in FY 2008-09.	$121,988 25.00	R	$724,065 100.00	R

	FY 07-08		FY 08-09	
(11.0) Division of Facility Services				
109 Under-Budgeted Receipts Increases budgeted receipts from licensure fees to reflect actual collections and reduce State appropriations.	($500,000)	R	($500,000)	R
110 Certificate of Need (CON) Program Provides funding for nine new positions for the Certificate of Need (CON) Program to meet the increased volume of applications, appeals, and determinations related to the development of health care facilities and services: four Project Analysts, two Team Leaders, two Planning Analysts, and one Office Assistant. The funding for these positions will be offset by increased fees that will be deposited in the General Fund as non-tax revenue.	$852,687 $28,418 9.00	R NR	$852,687 9.00	R
111 Construction Program Provides funding for eight new positions for the Construction program to provide a more timely review of construction plans for health care and local confinement facilities: one Facility Architect II, two Facility Architectural Supervisor Is, two Building Systems Engineer IIIs, one Building System Engineer II, one Building System Engineer I, and one Processing Assistant IV. The funding for these positions will be offset by increased fees that will be deposited in the General Fund as non-tax revenue.	$789,720 $34,676 8.00	R NR	$789,720 8.00	R
112 Receipt Supported Positions - EMS Program Creates one and one-half positions for the Office of Emergency Medical Services to improve EMS Service delivery, personnel performance and patient care in the 100 EMS Systems in North Carolina. Administrative Officer II - $ 34,209 Administrative Officer III - $ 67,652 These positions are 100% receipt supported through a grant from The Duke Endowment.				
(12.0) Division of Vocational Rehabilitation				
113 Federal Indirect Cost Receipts Requires the Division of Vocational Rehabilitation to budget federal indirect cost receipts and reduce state appropriations.	($1,000,000)	NR		
Total Legislative Changes	**($60,208,919)** **$15,481,732**	R NR	**($57,667,790)** **$7,680,610**	R NR
Total Position Changes	80.00		33.21	
Revised Budget	**$4,487,356,784**		**$4,770,415,912**	

NATURAL
&
ECONOMIC
RESOURCES
Section H

Agriculture and Consumer Services

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$60,254,939**		**$60,434,179**	

Legislative Changes

Department-Wide

1 Vacant Positions
Eliminates six (6.0) positions that were vacant prior to March 31, 2006.

($234,581)	R	($234,581)	R
-6.00		-6.00	

Food and Drug Protection

2 Food Regulatory Laboratory Equipment
Provides funding to purchase laboratory equipment to enhance the Department's ability to manage critical food safety and food security issues.

$200,000	R	$200,000	R

Marketing

3 Marketing Funds
Provides additional funding for agriculture marketing initiatives in the State.

$210,000	NR

Meat and Poultry Inspection

4 Cover Federal Funding Shortfall
Provides funding to cover the loss of federal funding from the USDA, Food Safety and Inspection Services.

$269,000	NR

5 Replace Field Automation Information Laptop Computers
Provides additional funds to replace 52 laptop computers used in the Federal "FAIM" program for meat inspectors. These funds will be matched 50% by the federal government.

$50,000	NR

Property and Construction

6 Real Property Agent Position
Establishes one full-time position in the Property and Construction Division to respond to the increased caseload of capital projects, real property and engineering consulting programs.

$65,000	R	$65,000	R
1.00		1.00	

Research Stations

7 Transfer Research Stations to the University System
Shifts the Research Stations Division to the University System.

($9,188,217)	R	($9,162,654)	R
-164.75		-164.75	

	FY 07-08		FY 08-09	
Standards				
8 Receipt Supported Position - LP-Gas Site Inspector Allows for the establishment of one (1.0) full-time LP-Gas Inspector position from the Highway Fund. Also provides NR receipts for the purchase of equipment for this position. LP-Gas Inspector $41,014 Equipment $26,056				
Veterinary Services				
9 Veterinary Diagnostic Lab Support Provides funding for one (1.0) additional pathologist position for the Veterinary Services Division. This position will serve as the Head of the Pathology Section to coordinate the activities of the four current pathologists.	$123,000 1.00	R	$123,000 1.00	R
Total Legislative Changes	**($9,034,798)** **$529,000**	R NR	**($9,009,235)**	R
Total Position Changes	-168.75		-168.75	
Revised Budget	**$51,749,141**		**$51,424,944**	

Labor

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$16,209,473**		**$16,209,666**	
Legislative Changes				
Occupational Safety and Health				
10 Agricultural Safety Officers Provides funds for two additional agricultural safety officers. These officers will conduct migrant housing inspections, search for unregistered migrant housing, and train farmers and farm workers on safety issues.	$124,748 2.00	R	$124,748 2.00	R
11 Operational Funding Provides funds for various operating line items.	$200,000	R	$200,000	R
Standards & Inspections				
12 Wage and Hour Investigator Position Provides funds for one additional wage and hour investigator position.	$60,537 1.00	R	$60,537 1.00	R
Total Legislative Changes	**$385,285**	R	**$385,285**	R
Total Position Changes	3.00		3.00	
Revised Budget	**$16,594,758**		**$16,594,951**	

Environment & Natural Resources

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$189,617,004**		**$191,595,711**	

Legislative Changes

(1.0) Department-Wide

13 Vacant Positions

Eliminates 25 positions in various divisions that were vacant prior to March 31, 2006.

	($1,148,846)	R	($1,148,846)	R
	-25.00		-25.00	

(1.0) Office of Conservation & Community Affairs

14 River Herring Research

Provides funding for a variety of river herring research projects, including: evaluating techniques that enhance native spawning to accelerate restoration; performing an independent review of current stock status, data deficiencies, and research needs; reviewing the effects of predation by striped bass and other species; identifying priority habitat restoration sites; and implementing restorative measures.

$100,000 NR

(1.0) Secretary's Office

15 Energy Grants - Receipt-supported Positions

Authorizes the Secretary's Office to accept three positions from the Department of Administration to administer the Energy Improvement Loan Program and related activities.

(2.0) Environmental Health

16 Radiation Protection Receipt-supported Positions

Authorizes the Division of Environmental Health to establish 4.5 new positions, contingent upon fee increases proposed for 15A NCAC 11.1106 "Radioactive Materials and Accelerator Fee Amounts" currently in the rulemaking process.

Environmental Radiation Specialist	1.0
Processing Assistant IV	1.0
Health Physicists	2.5

17 Private Well Water Safety Program

Provides additional funding for incentive grants to counties as they adopt local programs to enforce statewide private well construction standards. New private well construction standards will go into effect July 1, 2008.

$300,000 NR

	FY 07-08		FY 08-09	
18 Emergency Drinking Water Fund				
Provides funds to notify private well users of contamination, to cover the costs of testing private wells for contamination, and to pay for alternative drinking water supplies.	$115,000	NR		
(2.0) Land Resources				
19 Landslide Hazard Mapping Program	$184,911	R	$184,911	R
Provides funds to create a permanent Landslide Mapping/Geohazards Program within the North Carolina Geological Survey section. The existing three-year program was created through the Hurricane Recovery Act of 2005 and funding will expire in FY 2008-09. Funds will be used to fund shift three positions to General Fund support from special Hurricane Recovery Act funds.	3.00		3.00	
Geologist II 2.0 Computer Consultant II 1.0				
20 Sediment and Erosion Control				
Increases fees charged for sediment and erosion control plan reviews. Current fees are $50 per acre of disturbed land and will increase to $65/acre. Increased fee revenue will be used to support seven new positions to allow for more timely inspections.				
Environmental Specialist III 7.0				
Total Receipts Required $472,500 Total New Receipt Revenue $472,500				
21 Mining Compliance and Technical Assistance				
Increases fees charged for mining permits. Increased fee revenue will be used to support five new positions to improve compliance monitoring and provide technical assistance to the mining industry. With the addition of these five new positions, the Department will place at least one mining specialist in each of the Department's seven regional offices.				
Environmental Tech V 5.0				
Total Receipts Required $286,088 Total New Receipt Revenue $286,088				
(2.0) Pollution Prevention & Enviro. Assistance				
22 Continuation Review of the Environmental Stewardship Initiative	($276,624)	R	($276,624)	R
Changes the funding for the Environmental Stewardship Initiative to non-recurring. This program is subject to continuation review.	$276,624	NR		

	FY 07-08		FY 08-09	
(2.0) Waste Management				
23 Groundwater Remediation Program	$160,835	R	$160,835	R
Provides funding to establish two new positions to focus on cleaning up existing contaminated sites across the State, many of which have an impact on groundwater quality.	$11,472	NR		
	2.00		2.00	
Hydrogeologist II 1.0 Environmental Engineer II 1.0				
24 Hazardous Waste Facilities and Management	$125,000	R	$125,000	R
Provides funds for two positions to work on hazardous waste issues. The Environmental Chemist II position will promote improved environmental compliance, sustainable hazardous waste management practices, and effective hazardous waste/emergency response cleanups. The Administrative Officer II position will oversee the administration of several national computerized databases on hazardous waste activities, the public document file room, and the administration of annual fee invoicing, payment, and collection activities.	2.00		2.00	
(2.0) Water Quality				
25 Water Quality Fees	($202,142)	R	($202,142)	R
Increases existing water quality fees by 20%. New fee revenue will fund nine new positions and allow the Division to take a $202,142 General Fund reduction. Three positions will work on the BasinWide Information Management System (BIMS), and three positions will provide technical assistance to professional wastewater treatment plant operators. Three positions will work to improve groundwater classifications and standards.				
Business & Tech. Application Specialist 1.0 Business & Tech. Application Analyst 2.0 Wastewater Treatment Consultant 2.0 Environmental Engineer II 1.0 Industrial Hygiene Consultant 1.0 Environmental Chemist II 1.0 Environmental Specialist III 1.0				
Total Receipts Required $795,803 Total New Receipt Revenue $997,945				
26 Water Quality Monitoring on Ferry Vessels				
Provides funds for the Ferrymon Program which evaluates water quality in the Pamlico Sound and its tributary rivers using equipment attached to three ferry vessels.	$300,000	NR		
(2.0) Water Resources				
27 River Basin Water Supply Planning	$95,000	R	$95,000	R
Provides funding for one (1.0) new position and funding for resources needed to complete the modeling and data management for river basin water supply plans.	$5,000	NR		
	1.00		1.0	

	FY 07-08		FY 08-09	
28 Sustainable Management of Groundwater Resources	$95,490	R	$95,490	R
Provides funds for one new position to provide technical assistance to groundwater users to find sustainable and cost effective groundwater sources. Also provides funds to improve the monitoring well network.	$4,510	NR		
	1.00		1.00	
Hydrogeologist I 1.0				
(3.0) Aquariums				
29 Continue Increased Operating Support	$2,500,000	R	$2,500,000	R
Continues to provide increased General Fund support for operating expenses to replace admission receipts within the Division's budget.				
(3.0) Forest Resources				
30 Continuation Budget Increase for On-Call Pay	($469,883)	R	($479,558)	R
Reduces the continuation budget increase for on-call pay within the Division's budget. On-call pay compensation has previously been paid from lapsed salaries.				
31 Continuation Budget - 3rd Party Financing of Equipment	($842,426)	R	($842,426)	R
Reduces the recommended increase for 3rd party financing of equipment for the Forest Resources Division. This recommendation still allows for a $992,764 increase in FY 2008-09.				
32 Forest Development Program	($589,500)	R	($589,500)	R
Eliminates General Fund support for the Forest Development Program (FDP). Currently FDP is funded by General Fund and $2 million from Primary Forest Product Assessments. This action will make FDP entirely receipt-supported.				
(3.0) Marine Fisheries				
33 Stock Assessment & River Herring Management Program	$148,521	R	$148,521	R
Establishes three positions, including one Stock Assessment Scientist, to implement the Albemarle Sound River Herring Management Plan. An additional $99,939 R and $6,010 NR will be funded by Coastal Recreational Fishing License (CRFL) receipts.	$103,679	NR		
	3.00		3.00	
Stock Assessment Scientist 1.0 M.F. Biologist I 1.0 M.F. Technician II 1.0				
(3.0) Parks and Recreation				
34 Reduce Continuation Increase	($300,000)	R	($300,000)	R
Reduces the continuation budget increase allowed for new and existing park expansion. The continuation item provides operating money for expansion at 17 different parks over the biennium. With this reduction, the Division still receives a $1,105,885 increase in FY 2007-08 and a $2,660,473 in FY 2008-09.				

	FY 07-08		FY 08-09	
(3.0) Soil & Water Conservation				
35 Conservation Reserve Enhancement Program (CREP)	$100,455	R	$100,455	R
Provides funding to support the expansion of CREP into two additional river basins in need of riparian buffers and restored wetlands. This funding is to address Phase II of CREP expansion, to include the Roanoke and Pasquotank River Basins. In addition, provides funding to establish and support one Land Surveyor position and one Paralegal II position to implement the amended CREP agreement in the Neuse, Tar-Pamlico, Chowan and Jordan Lake watersheds.	$199,545	NR		
	2.00		2.00	
36 Poultry Waste Management				
Provides funds to the Soil and Water Conservation Division to continue the funding for best management practices for poultry waste management and for new technologies, including the disposal of poultry mortalities.	$200,000	NR		
37 Community Conservation Assistance Program	$200,000	R	$200,000	R
Provides funds to the Division to implement the Community Conservation Assistance Program, including establishing one (1.0) Environmental Specialist III position.	1.00		1.00	
(3.0) Zoo				
38 Increase Operating Support				
Provides additional General Fund support to the Division to offset expenditure of admission receipts. The $1 million in admission receipts may be transferred to the Special Zoo Fund for capital projects per G.S. 143B-336.1.	$1,000,000	NR		
(4.0) Reserves and Transfers				
39 Clean Water State Revolving Fund Match				
Provides funds to meet the 20% State match requirement for drawing down the maximum available federal funds for the Wastewater Treatment Plant (Clean Water) State Revolving Fund.	$3,863,277	NR		
40 Drinking Water State Revolving Fund Match				
Provides funds to meet the 20% State match requirement for drawing down the maximum available federal funds for the Drinking Water State Revolving Fund.	$5,538,980	NR		
41 Grassroots Science Program Funding	$183,577	R	$183,577	R
Provides increased funding to the Grassroots Science Program in order to hold all museums at the same allocation level as FY 2006-07 and adds one new museum.				

Senate Subcommittee on Natural and Economic Resources	FY 07-08		FY 08-09	
Total Legislative Changes	**($35,632)**	R	**($45,307)**	R
	$12,018,087	NR		
Total Position Changes	-10.00		-10.00	
Revised Budget	**$201,599,459**		**$191,550,404**	

DENR-Clean Water Management Trust Fund

GENERAL FUND

	FY 07-08	FY 08-09
Adjusted Continuation Budget	**$100,000,000**	**$100,000,000**
Legislative Changes		
Clean Water Management Trust Fund		
42 Statutory Appropriation Pursuant to G.S. 113A-253.1		
No Legislative Adjustments.		
Total Legislative Changes		
Total Position Changes		
Revised Budget	**$100,000,000**	**$100,000,000**

Commerce

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$41,365,875**		**$41,406,272**	
Legislative Changes				
A. Business and Industry				
43 Northeast Regional Office Economic Developer	$92,447	R	$92,447	R
Provides funds for an Economic Developer position at the Northeast Regional Office. Formerly, this position was a contract position shared with the Northeast Regional Partnership. The other 8 Regional Offices have Economic Developers.	1.00		1.00	
B. Policy, Research, & Strategic Planning				
44 EDIS - OneMap Integration	$10,000	R	$10,000	R
Provides funds for the redesign of the NC Buildings and Sites system and for the integration of EDIS with NC OneMap.	$290,000	NR		
C. Administrative Programs				
45 Eliminate Positions Vacant for More Than One Year	($202,508)	R	($202,508)	R
Eliminates 6 vacant positions in various divisions throughout the department that have been vacant for at least one year.	-6.00		-6.00	
46 Non-profit Monitoring Position	$70,409	R	$70,409	R
Provides funds for an additional position to assist in the monitoring of all non-State entities receiving funds through the Department of Commerce.	1.00		1.00	
D. Division of Community Assistance				
47 Transfer Councils of Government Funding to State-Aid	($832,150)	R	($832,150)	R
Transfers pass-through funds for the Councils of Government to the Commerce - State Aid fund code. Most recurring funding for non-profits that passes through Commerce is in the State Aid fund code. This funding is added back in Item XX, page HXX in the Commerce-State Aid budget.				
48 Community Development Planner	$65,935	R	$65,935	R
Provides funds for an additional Community Development Planner for the Small Town Main Street Program in the western part of the State.	1.00		1.00	

E. Tourism, Film, and Sports Development

49 Blue Ridge National Heritage/Agriculture Funds

Provides funds for economic development projects in the western part of the State. Funds may be used to promote the tourism industry through the Blue Ridge National Heritage Area's Destination Center and for improvements at the Western North Carolina Farmer's Market.

$400,000 NR

50 Film Commission Funds

Provides $50,000 to each of the 6 regional film commissions for FY 07-08.

$300,000 NR

51 Viticulture Promotion

Provides funding to the NC Wine and Grape Growers Council to promote the viticulture industry in North Carolina. An additional $500,000 has been appropriated in the Community College budget for the Surry Community College Viticulture Program, providing a total of $1 million for the advancement of the viticulture industry in the State.

$500,000 NR

52 Motorsports Funds

Provides funds for marketing and promotion of the motorsports industry in the State.

$100,000 NR

F. Executive Aircraft

53 Increase Aircraft Rates

($100,000) R ($100,000) R

Increases the rates charged for the use of the Department's aircraft as follows:

Citation Jet	
Business & Industry Rate:	$455/hour
Other State Officials:	$770/hour
Sikorsky Helicopter	
Business & Industry Rate:	$715/hour
Other State Officials:	$770/hour
King Air	
Business & Industry Rate:	$325/hour
Other State Officials:	$560/hour

This is the first rate increase in at least seven years.

54 Eliminate Continuation Budget Increase for New Aircraft

($423,572) R ($423,572) R

Eliminates new funding provided in the continuation budget for the purchase of new aircraft. The Division can use existing funds to pay off the remaining loans on two aircraft, and can delay the purchase of a replacement plane for the King Air. The replacement plane can be purchased with funds available in FY 2008-09.

	FY 07-08		FY 08-09	
G. Marketing				
55 Furniture Market Funds				
Provides funds to the High Point International Home Furnishings Market Authority Corporation to promote the International Home Furnishings Market.	$1,000,000	NR		
H. Commerce Finance				
56 NC Green Business Fund				
Establishes the NC Green Business Fund to provide grants to private businesses with less than 100 employees, non-profit organizations, and State agencies to encourage the expansion the growth of a green economy in the State. Grants will be focused on three priority areas: 1. To encourage the development of the biofuels industry; 2. To foster the development of the green building industry; and, 3. To leverage investments in additional clean technology and renewable energy products and businesses.	$1,000,000	NR		
57 One North Carolina Fund				
Appropriates funds for One North Carolina to offer economic development incentive grants to businesses creating new jobs in the State for infrastructure, repair and renovation, and machine or equipment purchases.	$14,000,000	NR		
58 One North Carolina Small Business Fund				
Appropriates funds for the Department of Commerce to provide grants under the North Carolina SBIR/STTR Incentive program.	$5,000,000	NR		
59 Industrial Development Fund Cash Balance				
Reduces the Industrial Development Fund cash balance and transfers $100,000 to the Institute for the Economy and the Future of Western Carolina University, to study the feasibility of establishing an inland port within the 23 county region of the North Carolina Regional Economic Development Commission, known as Advantage West. Western Carolina University shall work with Advantage West in conducting the study.	($169,789)	NR		
Total Legislative Changes	**($1,319,439)** **$22,420,211**	R NR	**($1,319,439)**	R
Total Position Changes	-3.00		-3.00	
Revised Budget	**$62,466,647**		**$40,086,833**	

Commerce - State Aid

GENERAL FUND

	FY 07-08	FY 08-09
Adjusted Continuation Budget	**$12,268,085**	**$12,268,085**

Legislative Changes

60 Continuation Review of Regional Economic Development Commissions	($6,775,000)	R	($6,775,000)	R
Provides a 90% hold-harmless to Partnerships that incurred a formula loss as a result of the new Article 3J development factor calculations. Makes the Partnership funds non-recurring and reduces the appropriation by 10%.	$6,242,842	NR		
61 Transfer Council of Government (COG) Funds to State Aid				
Transfers funding for the COGs to State Aid; makes the funding non-recurring, and reduces the budget by 5%. Each of the COGs will receive $46,503 in FY 07-08. This program is subject to continuation review.	$790,551	NR		
62 Johnson & Wales University				
Provides funds to Johnson and Wales University in Charlotte, a private university that specializes in the culinary and hospitality industries.	$2,000,000	NR		
63 Defense and Security Technology Accelerator				
Provides funds for the Partnership for Defense Innovation to support the Defense and Security Technology Accelerator, a business incubator focusing on economic development opportunities in the industries relating to homeland security and national defense.	$2,000,000	NR		
64 Continuation Review of Non-Profit Programs	($5,493,085)	R	($5,493,085)	R
Makes certain non-profit budgets non-recurring. FY 07-08 funding for these entities shall be as follows (not including any additional expansion funding in this report):	$5,493,085	NR		

Land Loss Prevention:	$ 450,280
NC Association of CDCs:	$ 359,360
NC Community Development Initiative:	$2,296,802
NC Institute of Minority Econ. Dev.:	$1,347,602
NC Minority Support Center:	$ 539,041
e-NC Authority:	$ 500,000
Total:	$5,493,085

Each of these programs is subject to continuation review.

	FY 07-08		FY 08-09	
65 Land Loss Prevention				
Provides additional funding for the purpose of continuing expansion of legal representation to financially distressed small farmers and to rural landowners in underserved tobacco dependent communities.	$250,000	NR		
66 NC Association of Community Development Corporations (NCACDC)				
Provides funding to the NCACDC for the purpose of strengthening the State's economy through community-based development activities, including enhancing the work of community development corporations in building prosperous communities.	$200,000	NR		
67 NC Institute of Minority Economic Development (NCIMED)				
Provides increased funding to NCIMED for technical assistance, training, loans, grants and administration in economic development projects and statewide initiatives. $40,000 in each fiscal year shall be used for the creation of a minority entrepreneurial development program in collaboration with regional educational institutions.	$500,000	NR		
68 NC Community Development Initiative (NCCDI)				
Provides funding to NCCDI for the purpose of providing grants, loans, technical assistance, and administration dedicated statewide for community economic development projects.	$500,000	NR		
69 NC Minority Support Center (NCMSC)				
Provides increased funding to NCMSC for operating expenses, programs, technical assistance and financial support for products and services to credit unions.	$1,000,000	NR		
70 e-NC Authority				
Provides funding to the e-NC Authority as follows: $3 million for broadband connectivity incentives $1 million for the PEG Channel Fund, to be distributed per G.S. 66-359.	$4,000,000	NR		
Total Legislative Changes	**($12,268,085)** **$22,976,478**	R NR	**($12,268,085)**	R
Total Position Changes				
Revised Budget	**$22,976,478**		**$0**	

N.C. Biotechnology Center

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$12,583,395**		**$12,583,395**	
Legislative Changes				
71 Regional Centers of Innovation Provides funds to the Biotechnology Center to create three regional centers of innovation. Each center will focus on research and commercialization in a specific area such as biofuels, marine and natural biotechnology, and integrative medicine.	$3,000,000	R	$3,000,000	R
Total Legislative Changes	**$3,000,000**	R	**$3,000,000**	R
Total Position Changes				
Revised Budget	**$15,583,395**		**$15,583,3**	

Rural Economic Development Center

GENERAL FUND

	FY 07-08		FY 08-09
Adjusted Continuation Budget	**$24,302,607**		**$24,302,607**
Legislative Changes			
72 Expand Economic Infrastructure Fund Provides additional funds to the Rural Center's Economic Infrastructure Fund to establish and implement the Rural Economic Transition Program. This program shall provide grants and equity investments in severely distressed rural areas.	$19,000,000	NR	
73 Equine Industry Study Provides funds to be allocated to the Agricultural Advancement Consortium for the purpose of assessing the numbers, composition, and value of the equine industry in North Carolina; analyzing the direct and indirect impact of the industry on the State's economy; and developing a comprehensive plan to maximize the economic opportunities presented by the industry. (S.B. 187, H.B. 204)	$500,000	NR	
Total Legislative Changes	**$19,500,000**	NR	
Total Position Changes			
Revised Budget	**$43,802,607**		**$24,302,607**

JUSTICE
&
PUBLIC SAFETY
Section I

Judicial

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$407,836,051**		**$413,500,354**	

Legislative Changes

Administration

1 **Technology Initiatives**	$10,168,859	R	$10,173,461	R
Funding is provided to continue technology modernization and infrastructure projects currently under development. The non-recurring funds will be transferred to the Court Information Technology Fund and will not revert pursuant to G.S. 7A-343.2	$593,315 78.00	NR	 78.00	
2 **Financial Services Positions**	$185,346	R	$185,902	R
Funding is provided for two (2) Internal Auditor II/Financial Management Analyst positions to perform financial and system-wide audits.	$14,498 2.00	NR	 2.00	
3 **Research and Planning Positions**	$189,541	R	$189,659	R
Funding is provided for two (2) positions to conduct research, policy, and statistical analyses, including that required for legislative fiscal note estimates and reporting.	$18,696 2.00	NR	 2.00	
4 **Increase Emergency Judge Funding**	$558,935	R	$558,935	R
Funds are provided to increase the daily rate paid to emergency judges. The rate will increase from $300/day to $400/day. The rate has not changed since 1998.				

Appellate

5 **New Court of Appeals Positions**	$117,356	R	$120,349	R
Funding is provided for one Staff Attorney I position and one Appellate Clerk I position to address increases in Appellate workload.	$14,357 2.00	NR	 2.00	
6 **Appellate Judge Per diem/Mileage Reimbursement**	$250,000	R	$250,000	R
Funds are provided for weekly travel allowances for all appellate judges who reside 50 miles or more from Raleigh. The allowance will be paid for each week that the judge travels from home to Raleigh for business of the court.				
7 **Expansion of Judicial Standards Commission**	$178,105	R	$178,105	R
Governor's Recommendation: funding is provided for two new positions for the Judicial Standards Commission: one Staff Attorney I and one Investigator. These positions are needed to support the recent expansion of the commission's membership and to address an increase in the number of complaints investigated by the commission.	$15,261 2.00	NR	 2.00	

	FY 07-08		FY 08-09	
District Attorney Offices				
8 New Prosecutors and Support Staff	$10,504,245	R	$10,535,340	R
Funding is provided for 80 Victim Witness/Legal Assistant, 60 Assistant District Attorney, and 15 District Attorney Investigator positions. The positions will be allocated by the Administrative Office of the Courts.	$490,185 155.00	NR	 155.00	
9 Receipt-Supported Positions - Guilford				
The Guilford County DA's Office may establish eight (8) time-limited positions using funds provided by Guilford County: 1.0 Mental Health Court Coordinator II 1.0 Mental Health Court Case Coordinator 6.0 Pretrial Screener I				
10 Receipt-Supported Position - Forsyth County				
The Forsyth County DA's Office may establish one time-limited Gang Intervention & Resource Specialist position using federal grant funds from the Governor's Crime Commission.				
11 Reduce Funds for District Attorney Conference	($218,923)	R	($218,923)	R
General Fund support for the Conference of District Attorneys should be consistent with that provided for the Conference of Clerks: funding for the Executive Director and clerical support. Therefore, the continuation budget for the Conference of District Attorneys shall be reduced by eliminating the following positions: Deputy Director/Research & Training Project Supervisor, Comm & Grants Chief Resource Prosecutor	-3.00		-3.00	
12 Continuation Review-DA Conference Funds	($182,366)	R	($182,366)	R
Funding is provided for the District Attorneys Conference for FY 2007-08 only. Restoration of FY 2008-09 funds is subject to findings of the continuation review.	$182,366	NR	 -2.00	
Equipment and Other Reserves				
13 Equipment for New Courthouse	$4,300	R	$4,300	R
Governor's Recommendation: funding is provided for a telephone system for the new Rockingham County courthouse scheduled to be completed in FY 2007-08.	$125,500	NR		
Trial Courts				
14 New Deputy Clerk Positions	$11,204,700	R	$11,244,000	R
Provides funding for 300 new Deputy Clerk positions to more effectively manage Superior and District Court caseloads. The positions shall be allocated by the Administrative Office of the Clerks.	$660,900 300.00	NR	 300.00	
15 New Magistrate Positions	$1,803,648	R	$1,806,126	R
Funding is provided for 42 new magistrate positions to be allocated by the Administrative Office of the Courts.	$170,352 42.00	NR	 42.00	

	FY 07-08		FY 08-09	
16 New District Court Judge Positions	$1,381,240	R	$1,366,600	R
Funding is provided for ten (10) new district court judges to be allocated by the Administrative Office of the Courts.	$94,340	NR		
	10.00		10.00	
17 New District Court Judicial Support Staff	$759,033	R	$759,033	R
Funding is provided for 17 new District Court Judicial Assistant I positions.	$57,086	NR		
	17.00		17.00	
18 Family Court Expansion	$521,528	R	$521,528	R
Funding is provided for 8 new positions and associated operating expenses to expand family court into two (2) new districts to be selected by the Administrative Office of the Courts.	$46,728	NR		
	8.00		8.00	
19 Guardian ad Litem (GAL) Program Staff	$1,101,010	R	$1,102,775	R
Funding is provided to replace expiring federal grant funds used to support 3 GAL program positions and to establish 12 new positions, including two (2) Regional Administrators and ten (10) Program Supervisors.	$48,272	NR		
	15.00		15.00	
20 GAL Contract Attorney Rate Adjustment	$500,000	R	$500,000	R
Funds are provided to increase the contract rate paid to private GAL attorneys who represent children in hearings before the court. The contract adjustment will increase the GAL attorneys' rate from $45 to $65, the rate currently paid to court-appointed parent attorneys.				
21 Drug Treatment Court Positions	$833,769	R	$1,236,560	R
Funding is provided to replace expiring federal and county grant funds used to support 13.75 positions in Drug Treatment Courts in 9 districts. Funds will be needed for 10.75 of these positions on July 1, 2007. Federal funds for the remaining 3 positions will expire on June 30, 2008. In addition, funds are provided for one AOC drug treatment court administrative position and for on-going management information system costs.	$52,701	NR	$26,085	NR
	10.75		14.75	
22 New Superior Court Judicial Support Staff	$260,682	R	$260,682	R
Funding is provided for 6 new Superior Court Judicial Assistant I positions to be allocated by AOC.	$20,004	NR		
	6.00		6.00	
23 Special Superior Court Judges	$266,295	R	$487,638	R
Governor's Recommendation: funding is provided for 3 new Special Superior Court Judge positions, effective January 1, 2008.	$19,092	NR		
	3.00		3.00	
24 Continuation Review - Dispute/Mediation Centers	($1,703,124)	R	($1,703,124)	R
The continuation budget for dispute resolution and community mediation centers is subject to a continuation budget review.	$1,703,124	NR		
25 Continuation Review - Clerks Conference	($121,402)	R	($121,402)	R
The continuation budget for the Clerks of Superior Court Conference is subject to a continuation budget review.	$121,402	NR		
			-2.00	

Senate Subcommittee on Justice and Public Safety	FY 07-08		FY 08-09	
Total Legislative Changes	**$38,562,777**	R	**$39,255,178**	R
	$4,448,179	NR	**$26,085**	NR
Total Position Changes	649.75		649.75	
Revised Budget	**$450,847,007**		**$452,781,617**	

Judicial - Indigent Defense

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$101,886,218**		**$105,772,513**	
Legislative Changes				
Indigent Persons Attorney				
26 **Hourly Rate for Assigned Counsel** Funding is provided to increase the rate for private assigned counsel in non-capital cases from $65/hour to $75/hour effective January 1, 2008.	$4,130,255	R	$8,500,000	R
27 **Electronic Fee Applications Pilot** Funding is provided to develop and pilot the electronic submission and payment of attorney fee applications.	$175,000	NR		
28 **Certiorari Filing Fees** Funding is provided to cover the cost of certiorari filing fees for cases on appeal to the North Carolina or United States Supreme Courts.	$50,000	R	$50,000	R
Public Defender Office				
29 **Equipment Replacement** Governor's Recommendation: funding is provided to establish a six-year equipment replacement schedule for equipment in the Public Defender Offices.	$98,778	R	$98,778	R
30 **Expand Public Defender Offices** Funding is provided to expand the number of Public Defender offices and attorney positions around the state.			$1,570,057	R
Sentencing Services				
31 **Grants to Sentencing Services Nonprofits** Governor's Recommendation: funding is provided to increase the FY 2007-08 grants to local Sentencing Services programs operated by nonprofit agencies.	$200,000	NR		
32 **Continuation Review-Sentencing Services**	($2,576,431)	R	($2,576,431)	R
The continuation budget for Sentencing Services is subject to a continuation budget review.	$2,576,431	NR	-11.50	

Senate Subcommittee on Justice and Public Safety	FY 07-08		FY 08-09	
Total Legislative Changes	**$1,702,602**	R	**$7,642,404**	R
	$2,951,431	NR		
Total Position Changes			-11.50	
Revised Budget	**$106,540,251**		**$113,414,917**	

Justice

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$94,586,393**		**$91,003,762**	
Legislative Changes				
Legal Services				
33 **Special Litigation Reserve** Elimination of the Governor's continuation request for special litigation funds.	($1,067,150)	R	($1,067,150)	R
34 **Victims of Human Trafficking Reserve** Pass through funding to provide legal assistance to human trafficking victims. This appropriation is contingent upon the enactment of House Bill 974, Senate Bill 1079, or substantially similar legislation during the 2007 General Assembly	$50,000	NR		
35 **Consumer Protection Specialist** Funding to establish and support a consumer protection specialist position in the Department of Justice. The consumer protection specialist shall be responsible for (i) coordinating consumer complaints from military personnel and their families, (ii) providing a single point of contact in the Consumer Protection Division for military personnel, their families and military attorneys; and (iii) communicating with military bases in North Carolina on a regular basis to inform the appropriate military offices of services provided by the Consumer Protection Division, to discover new complaints, and follow up on cases initiated by military personnel or their families through military offices.	$47,323 $3,596 1.00	R NR	$47,323 1.00	R
36 **Medicaid Fraud Unit Staff Expansion** Funding is provided for 5 staff positions to assist in Medicaid recovery efforts. These positions will also provide investigative and prosecutorial support for new Medicaid fraud criminal and civil penalties.	$85,141 5.00	R	$85,141 5.00	R
37 **Receipt-Supported Position** Using receipts from the State Education Assistance Authority, the Division may establish a Paralegal II (PG 69) position, effective July 1, 2007.				
38 **NC LEAF - Continuation Review** The Legal Education Assistance Foundation (NCLEAF) program is subject to continuation review.	($500,000) $500,000	R NR	($500,000)	R

Senate Subcommittee on Justice and Public Safety	FY 07-08		FY 08-09	
SBI				
39 **Drug and Violent Crime Agents**	$215,073	R	$215,073	R
Funding to establish 3 sworn agent positions to investigate drug, violent crime and gang related cases.	$88,191	NR		
	3.00		3.00	
40 **Computer Crimes Unit Positions**	$161,070	R	$161,070	R
Funding to establish 2 sworn agents to investigate child exploitation and sexual predator cases.	$76,056	NR		
	2.00		2.00	
41 **Sex Offender Technology Support**	$210,368	R	$210,368	R
Governor's recommendation: Funding for a staff position to support the operation of the sex offender registry.	$6,856	NR		
	1.00		1.00	
42 **SBI Equipment Replacement Reduction**				
Reduction in the Governor's continuation request for SBI equipment replacement.	($690,514)	NR		
43 **Convicted Offender DNA Processing Resources**	$279,957	R	$279,957	R
Funding for 3 Information Processing Technicians to receive, analyze and upload DNA samples into the SBI CODIS database.	$132,819	NR		
	3.00		3.00	
44 **Piedmont Triad Regional Crime Laboratory**	$431,837	R	$1,168,623	R
Funding for the establishment of the Piedmont Triad Regional Crime Laboratory. Scheduled to be open in April of 2008, this lab will provide drug chemistry, fingerprint analysis, latent evidence analysis, computer forensics, and drug toxicology services to the Triad region. This lab will be staffed with 12 non-sworn staff positions.	$156,074	NR		
	12.00		12.00	
Training and Standards				
45 **School Training Safety Coordinator Position**	$67,503	R	$67,503	R
Funding for a staff position to develop and administer uniform school safety and gang prevention programs for school resource officers.	$20,606	NR		
	1.00		1.00	
Total Legislative Changes	**($68,878)**	R	**$667,908**	R
	$343,684	NR		
Total Position Changes	28.00		28.00	
Revised Budget	**$94,861,199**		**$91,671,670**	

Juvenile Justice & Delinquency Prevention

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$159,464,742**		**$163,791,473**	
Legislative Changes				
Department-Wide				
46 Eliminate funding for vacant positions	($2,530,058)	R	($2,530,058)	R
Eliminate funding for positions that have been vacant for one year or longer. Sixty-nine of these positions are vacant YDC positions, 5 positions are vacant Detention Services positions, and 1 position is a vacant Intervention/Prevention position.	-75.00		-75.00	
Detention Services				
47 State Share In-County Detention	($260,202)	R	($260,202)	R
Reduce the increase in the state share for in-county detention and fund the actual 2005-06 amount. This will not reduce the payments to counties for the state share of detention centers.				
Intervention/Prevention				
48 Continuation Review-JCPC County Allocation	($22,652,860)	R	($22,652,860)	R
The JCPC county allocation is subject to a continuation review.	$22,652,860	NR		
49 Continuation Review-Boys & Girls Club	($400,000)	R	($400,000)	R
The Boys & Girls Club funding is subject to a continuation review.	$400,000	NR		
50 Continuation Review-Project Challenge	($160,000)	R	($160,000)	R
Project Challenge is subject to a continuation review.	$160,000	NR		
Special Initiatives				
51 Eckerd Wilderness Camp contract	$1,057,921	R	$1,057,921	R
Funds are provided to increase the daily contract rate for 346 beds to $130.15, up from $121.77. The increase will partially address the difference between the contract rate and Eckerd's current actual operating cost for the seven camps of $141.01 per day.				
52 Continuation Review-Juvenile Assessment Center	($165,434)	R	($165,434)	R
The Juvenile Assessment Center funding is subject to a continuation review.	$165,434	NR		

Senate Subcommittee on Justice and Public Safety	FY 07-08		FY 08-09	
53 Eliminate funding for CIS Eliminate JJDP funding for state administrative office of Communities in Schools. CIS continues to receive General Fund support from the Department of Public Instruction.	($181,588)	R	($181,588)	R
54 Continuation Review-Governor's One-on-One program The Governor's One on One program is subject to a continuation review.	($1,645,465) $1,645,465	R NR	($1,645,465)	R
Support our Students				
55 Continuation Review-Support our Students program The Support our Students program is subject to a continuation review.	($5,911,297) $5,911,297	R NR	($5,911,297) -4.00	R
Youth Development Centers				
56 Post-Secondary Educational Assistance to Students Governor's Recommendation: Provide scholarships to former YDC students who have completed their GED or high school diploma to take courses at a community college.	$100,000	NR		
57 Delay funding for Edgecombe YDC Delay funding for two months of new Edgecombe Youth Development Center because of construction delays.	($270,706)	NR		
58 Delay funding for Chatham YDC Delay funding for two months of new Chatham Youth Development Center because of construction delays.	($573,406)	NR		
59 Guilford YDC Eliminate funding for new Guilford Youth Development Center because the project site fell through and DJJDP is looking for a new construction site.	($1,243,352) -23.48	R	($3,897,285) -71.02	R
60 Eckerd EFFORT project Provide start-up and recurring funds for a 36-bed facility for committed youth operated by Eckerd Youth Alternatives, Inc. The Eckerd Family Focus on Rehabilitative Treatment (EFFORT) will be carried out through a contract between DJJDP and Eckerd. EFFORT will provide 36 beds for DJJDP to assign committed youth and will offer a therapeutic treatment model similar to DJJDP. The proposed site for the project is two cottages located on the Samarkand Youth Development Facility in Eagle Springs, NC.	$1,347,831	R	$2,695,662	R
61 Reduce Barber/Hair Care Services Cut the continuation increase to reflect 2005-06 actual expenditures for barber and hair care services provided at the Youth Development Centers.	($46,598)	R	($46,598)	R

Senate Subcommittee on Justice and Public Safety	FY 07-08		FY 08-09	
Total Legislative Changes	**($32,791,102)**	R	**($34,097,204)**	R
	$30,190,944	NR		
Total Position Changes	-98.48		-150.02	
Revised Budget	**$156,864,584**		**$129,694,269**	

Correction

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$1,214,815,488**		**$1,235,981,287**	
Legislative Changes				
Alcohol and Chemical Dependency Program				
62 **Continuation Review--Private Treatment Programs**	($5,292,116)	R	($5,424,500)	R
This program is subject to continuation review. DOC contracts for long term residential substance treatment beds through Evergreen (90 male inmate beds) and Mary Frances (100 female beds). Funding will be nonrecurring.	$5,292,116	NR		
63 **Inmate Drug and Alcohol Addiction Treatment**				
Increases the capacity for treating drug and alcohol addiction by providing nine additional contract beds to house male inmates who are being provided intensive treatment for drug and alcohol abuse and addiction. These funds shall be used solely to house and treat these inmates and to maximize the treatment facility's capability to provide intensive treatment to chemically dependent male inmates	$200,000	NR		
Community Corrections				
64 **Increase funding for Women at Risk**				
Increase funding for the Women at Risk program, a community-based treatment program serving females offenders and their families.	$70,000	NR		
65 **Continuation Review-Women at Risk**	($350,000)	R	($350,000)	R
The Women at Risk program is subject to a continuation review.	$350,000	NR		
66 **Increase funding for Summit House**				
Increase the funding for Summit House, a community-based residential alternative to incarceration for mothers and pregnant women convicted of non-violent crimes.	$100,000	NR		
67 **Continuation Review-Summit House**	($1,231,293)	R	($1,231,293)	R
The Summit House program is subject to a continuation review.	$1,231,293	NR		
68 **Continuation Review-Harriet's House**	($275,000)	R	($275,000)	R
Harriet's House is subject to a continuation review.	$275,000	NR		

	FY 07-08		FY 08-09	
69 Eliminate funding for Reallocation of 33 positions Eliminate the continuation funding request for the personnel & non-personnel costs to reallocate 15 Surveillance Officers to PPO IIs, 15 PPOs Is to PPO IIs, and 3 SOs to Chief PPOs. This continuation budget request was intended to address future division needs.	($218,400)	R	($218,400)	R
70 Reduce CJPP Inflationary Increase Eliminate the Criminal Justice Partnership Program inflationary increase. State budget instructions do not permit an inflationary increase for this program.	($372,357)	R	($372,357)	R
71 Continuation Review-CJPP The Criminal Justice Partnership Program is subject to a continuation review.	($8,865,634) $8,865,634	R NR	($8,865,634)	R
Department Management				
72 IT Project Manager Governor's Recommendation: This position will serve as a second IT Project Manager for DOC information technology projects.. Position will be responsible for direct project management and for inputting and tracking DOC projects through the State Information Technology project management tool.	$112,308 $4,193 1.00	R NR	$112,308 1.00	R
73 Offender System Upgrade Governor's Recommendation: DOC's offender information system (OPUS) was developed in 1994 and requires updating to a more modern and secure system architecture. These funds are to develop an initial plan for system design, the schedule for completing the project and the estimated costs.	$300,000	NR		
74 Special Projects Staff Governor's Recommendation: The DOC Secretary's Office has operated for several years with two grant funded positions. These positions coordinate grants department wide and are also responsible for DOC Emergency Operations plans and the DOC Leadership Development Program. State funds will replace federal funding which ends September 30,2007.	$116,699 2.00	R	$155,680 2.00	R
75 Central Engineering Positions These positions are primarily to increase the number of inmates participating in prison construction and renovation and repair projects. The positions are a mix of construction engineers and tradesmen (HVAC; electrical). One position is to screen inmates for the inmate construction program in Fund 1310 and one engineer position should be devoted to the DOC Energy program.	$776,248 $210,435 14.00	R NR	$776,248 14.00	R
76 Victims Services Positions Adds one position to the DOC Office of Victim Services: an Outreach Specialist I. The Specialist would handle all inquiries from Hispanic victims and other requests as well. Staffing has been level at 5 positions since 2001, although calls have increased significantly.	$53,905 $4,194 1.00	R NR	$53,905 1.00	R

	FY 07-08		FY 08-09	
77 Departmental Energy Budget	($500,000)	R	($500,000)	R
The recommended continuation budget for DOC energy was $4.4 million greater than projected expenditures for 06/07. The continuation increase is reduced by $1 million but $500,000 is Non-Recurring	($500,000)	NR		
78 Reduce Increase in Administrative Positions	($543,609)	R	($543,609)	R
The DOC continuation budget included a request for 39 new administrative positions. The positions are primarily for training, personnel and fiscal operations. This budget funds 27 of 39 positions in DOC priority order and deletes positions 28-39.	($46,542)	NR		
	-12.00		-12.00	

Prisons

79 Neuse Correctional Center	$454,456	R	$454,456	R
Authorizes DOC to convert 77 regular population beds to 77 misdemeanor processing beds. Neuse is the only diagnostic center for adult misdemeanants. Admissions are anticipated to increase by over 140 a month in 2007 and 2008. The new staffing is to add various diagnostic staff, increase custody supervision in a dormitory for inmates being processed and increase correctional transportation officers.	$32,192	NR		
	11.00		11.00	
80 Prison Case Manager	($34,079)	R	($34,079)	R
The DOC Recommended Continuation Budget included three new positions. The positions are reduced from three to two.	-1.00		-1.	
81 Reduce Jail Misdemeanant Payments	($225,000)	R	($225,000)	R
Counties are paid $18 a day by DOC for housing offenders sentenced to 30 to 90 days in county jails. The Governor recommended an increase of approximately $900,000 over projected expenditures for FY 06/07. The increase is reduced by $450,000 the first year and $225,000 in 08/09.	($225,000)	NR		
82 Swannanoa Female Prison				
DJJDP transferred a portion of the Swannanoa property to DOC to establish a 166 bed female minimum custody prison. The project has been delayed, allowing for a one time reduction by hiring positions at later dates than originally budgeted	($624,053)	NR		
83 Tabor City Correctional Center				
Tabor City is last of the six 1,000 bed prisons authorized by the General Assembly. The prison is scheduled to open May 2008 and receive inmates September 2008. This one-time reduction is achieved by sliding the schedule for positions due to be established in Nov 07 and Dec. 07 by one month	($296,000)	NR		
84 Our Children's Place Administration	$46,000	R	$46,000	R
Fund a position that will operate as an assistant to the Executive Director of Our Children's Place, a program for female inmates.	$4,000	NR		
	1.00		1.00	

	FY 07-08		FY 08-09	
Total Legislative Changes	**($16,347,872)**	R	**($16,441,275)**	R
	$15,247,462	NR		
Total Position Changes	17.00		17.00	
Revised Budget	**$1,213,715,078**		**$1,219,540,012**	

Crime Control and Public Safety

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$39,283,058**		**$39,307,071**	
Legislative Changes				
ALE				
85 eCitation Expansion				
Funding to expand the automation of the citation writing process to all ALE field agents.	$160,000	NR		
86 Elimination of Boxing Authority Increase	($32,618)	R	($32,618)	R
Elimination of program operating increases included in the Governor's continuation request.				
Butner Public Safety				
87 Butner Public Safety - Continuation Review	($3,334,633)	R	($3,334,633)	R
Butner Public Safety is subject to continuation review.	$3,334,633	NR		
			-49.00	
Emergency Management				
88 Regional Response Teams				
Funding for 7 HAZMAT Regional Response Teams. Funds will be used to support the teams' training and equipment replacement.	$200,000	NR		
89 Accountant I	$68,893	R	$68,893	R
Governor's Recommendation: Establishes an Accountant I position within the Emergency Management Division manage the Division's federal assistance funds.	1.00		1.00	

	FY 07-08		FY 08-09	
90 Flood Plain Mapping	$1,331,096	R	$975,888	R
Funding for staff and contractual service costs. This recommendation includes $2.4 m (NR) for engineering contracts and funds 15 positions currently funded with special reserve funds. Staff positions are reduced during the biennium to reflect the program's shift from the map development phase to the map maintenance phase.	$2,400,000	NR		
	15.00		10.00	
2007-08: (Elimination of 5 positions) Administrative II Community Development Planner III Computing Consultant II Environmental Engineer III Environmental Program Manager II				
2008-09: (Elimination of 5 positions) Database Specialist Environmental Engineer III Computing Consultant II Emergency Planner I Community Development Planner II				
Governor's Crime Commission				
91 Gang Intervention and Suppression				
Funding for grants to local government and community agencies for gang prevention, intervention and suppression initiatives.	$3,000,000	NR		
National Guard				
92 National Guard Family Assistance Centers	$420,000	R	$420,000	R
Funding to establish 3 National Guard Family Assistance Centers to provide benefit and planning services to families of deployed National Guard members.				
93 Tarheel Challenge - Continuation Review	($1,100,000)	R	($1,100,000)	R
The Tarheel Challenge program is subject to continuation review.	$1,100,000	NR		
Victims Compensation Services				
94 Victims Compensation	$250,000	R	$250,000	R
Funding to reduce the program's backlog of approved but unpaid claims. The expansion will increase federal VOCA receipts, since VOCA provides a 60% match to appropriated state funds.	$750,000	NR		
95 NCVAN - Continuation Review	($150,000)	R	($150,000)	R
Victims Assistance Network (NCVAN) program is subject to continuation review.	$150,000	NR		

Senate Subcommittee on Justice and Public Safety	FY 07-08		FY 08-09	
Total Legislative Changes	**($2,547,262)**	R	**($2,902,470)**	R
	$11,094,633	NR		
Total Position Changes	16.00		-38.00	
Revised Budget	**$47,830,429**		**$36,404,601**	

GENERAL GOVERNMENT
Section J

Administration

GENERAL FUND

	FY 07-08	FY 08-09
Adjusted Continuation Budget	$65,923,562	$66,457,866

Legislative Changes

1411 State Construction

1 Funds for Energy Grants and Energy Efficiency — $2,000,000 R

$1 million is provided in FY 2008-09 for grants for energy conservation, research, and efficiency. The funds shall be deposited in budget code 24100 for use by the Department of Environment and Natural Resources.

$1 million is provided in FY 2008-09 for energy efficiency projects in State owned buildings that cannot be funded by the Repairs and Renovations Fund. The funds shall be deposited in budget code 24100 for use by the Department of Administration, State Construction Office.

2 Design Review Team Addition — $318,287 R; $16,000 NR; 4.00 — $318,287 R; 4.00

Funds are provided for four new positions to establish an additional Design Review Team. The positions include three Building Systems Engineer II positions ($63,000 each) and one Facility Architect II position ($63,000). A new team will accelerate the review process and allow construction to begin more quickly.

Recurring	FY2007-08	FY2008-09
531211 Salaries	$252,000	$252,000
531511 Social Security	$ 19,278	$ 19,278
531521 Retirement	$ 17,993	$ 17,993
531561 Medical Insurance	$ 15,416	$ 15,416
533110 General Office Supplies	$ 2,400	$ 2,400
5327XX Travel Expense	$ 1,200	$ 1,200
532811 Telephone Service	$ 2,400	$ 2,400
532840 Postage	$ 800	$ 800
532850 Reproduction	$ 800	$ 800
532332 Repairs & Maintenance	$ 800	$ 800
532821 Computer/Data Processing	$ 3,200	$ 3,200
534521 Office Equipment	$ 8,000	$ 1,000
534534 Equip-Computers	$ 10,000	$ 1,000
Total Recurring	$334,287	$318,287

1421 Facilities Management

3 Reduce Operating Budget — ($996,859) R — ($996,859) R

Eliminates the continuation budget increase for utilities.

Senate Subcommittee on General Government	FY 07-08		FY 08-09	
1731 Council for Women/DV Commission				
4 Rape Crisis/Sexual Assault	$800,000	R	$904,890	R
Provides increased funding for rape crisis and sexual assault services.				
5 Abolish Position	($38,741)	R	($38,741)	R
Abolishes vacant Human Services Coord II position (Pos. No. 4116-0000-0014-300).	-1.00		-1.00	
6 Additional Positions	$138,022	R	$138,022	R
	$1,600	NR		
Establish three new positions for the Council for Women and Domestic Violence. One position is for an Office Assistant III for a Regional Director; the two other positions are Community Development Specialists needed to help the council comply with state rules and regulations regarding the monitoring of state grant funds.	3.00		3.00	
2791 License to Give Trust Fund Commission				
7 License to Give Receipt-Supported Positions				
Authorizes a permanent part-time (24 hrs per week) Administrative Assistant III position that will support the Chair of the Commission, work with grantees to ensure compliance with obligations and reporting as agreed upon in the grant agreement, and create materials to promote awareness and availability of grants funded by the Commission.				
Salary and fringe benefits total $25,836 for FY 2007-08. The position is receipt-supported.				
State Capitol Police				
8 Additional Public Safety Officers	$186,069	R	$186,069	R
Funds are provided to hire four additional Public Safety Officers ($28,822 each) to respond to calls for law enforcement services from state agencies in the greater Raleigh/Wake County area. The positions are needed to provide adequate law enforcmenet services to agencies that have located beyond the normal coverage areas and the downtown state government complex.	4.00		4.00	

FY 07-08	FY 08-09

State Energy Office

9 Eliminate State Energy Office

The State Energy Office is eliminated. New and existing grants, including the Energy Improvement Loan Program, shall be transferred to the Secretary's Office in the Department of Environment and Natural Resources. All other current Energy Office functions, including functions to serve the Energy Policy Council, shall be transferred to the State Construction Office in the Department of Administration.	-5.00	-5.00

Staff Changes:
Seven positions are transferred to the State Construction Office, including one Energy Conservation Representative Supervisor (Pos. No. 4173-0000-0000-163); two Energy Conservation Representative II positions (Pos No. 4173-0000-0000-152 and 4173-0000-0000-158); one Building Systems Engineer I position (Pos. No. 4173-0000-0000-165); two Building Systems Engineer II positions (Pos. No. 4173-0000-0000-153 and 4173-0000-0000-164);and one Information Processing Technician (Pos. No. 4173-0000-0000-159).

Three positions are transferred to the Secretary's Office in the Department of Environment and Natural Resources, including two Energy Conservation Representative II positions (Pos No. 4173-0000-0000-156 and 4173-0000-0000-167); and one Building Systems Engineer I position (Pos. No. 4173-0000-0000-160).

Six positions are eliminated, including the Energy Division Director (Pos. No. 4173-0000-0000-150); two Office Assistant IV positions (Pos No. 4173-0000-0000-157 and 4173-0000-0000-161); one Office Assistant IV position (Pos No. 4173-0000-0000-161); one Information and Communication Specialist II position (4173-0000-0000-154); and one Energy Conservation Representative II position (Pos No. 4173-0000-0000-169).

A Deputy Secretary position ($99,270) is created and will be located in Secretary's Office of the Department of Administration. The Deputy Director shall coordinate and oversee the State's energy policy and collaborate with interested parties, including the Utilities Commission, governmental entities, private corporations, and nonprofits.

Funding Source:
Funds for each position, including operating support, shall be receipted from budget code 24100. These costs are fully supported by Federal grants.

The Department of Administration shall transfer to the Department of Environment and Natural Resources the sum of $213,821 for salaries and benefits associated with three staff and for operating expenses, including:

531212 Salaries	$152,311
531462 Longevity Pay	1,157
531512 Social Security	11,741

State Energy Office

531522 Retirement	10,958
531562 Medical Insurance	11,562
531573 Workers Comp Premiums	3,046
531572 Unemployment	3,046
5327XX Travel	5,000
5328XX Communications	10,000
5331XX Supplies	3,000
534XXX Equipment	2,000
TOTAL	$213,821

Grant Administration:
Administration of the following grants shall transfer to the State Construction Office. Administration of all other grants shall be transferred to the Department of Environment and Natural Resources.
06-HVC-MG1 HVAC Controls Tune-up
07-TRN-CM2 Clean Transportation Program
13-5588533 RFP for Utility Accounting Services
06-BLD-KS2 MOA-NCCCS & DOA/Energy Savings Coordinator
06-BLD-KS3 USI Strategic Energy Planning Workshops
06-BLD-KS5 Energy Savings Initiative USI Coordinator
07-BLD-LH3 USI Energy Management Diploma Series
06-EDU-SS4 State Energy Plan Implementation: Phase III
07-UTL-SS2 Personal Services Contract

Total Legislative Changes	**$406,778**	R	**$2,511,668**	R
	$17,600	NR		
Total Position Changes	5.00		5.00	
Revised Budget	**$66,347,940**		**$68,969,534**	

Auditor

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$12,722,540		$12,735,993	
Legislative Changes				
Field Audit				
10 **Eliminate Equipment Replacement Schedule** Eliminates an increase from the continuation budget to put the Auditor's Office on a replacement schedule for computer equipment.	($50,000)	R	($50,000)	R
Total Legislative Changes	**($50,000)**	R	**($50,000)**	R
Total Position Changes				
Revised Budget	**$12,672,540**		**$12,685,993**	

Cultural Resources

GENERAL FUND

	FY 07-08	FY 08-09
Adjusted Continuation Budget	$68,672,441	$69,561,683

Legislative Changes

Archives and History

11 Enhanced History Education

Provides funds to continue and broaden history education activities initiated under the Cultural Sharing and Caring pilot program in 2006-07. These funds are appropriated to the Division of Archives and History, which will collaborate with the State Board of Education to meet curriculum demands and to schedule events.

$100,000 NR

12 CSS Neuse Funds

Appropriates $500,000 to provide adequate climate-controlled housing for the CSS Neuse, a Civil War-era ironclad gunboat. The relic is a designated historic site in the Division of Archives and History, and needs proper storage and preservation to prevent its loss.

$500,000 NR

13 Charlotte Hawkins Brown Historic Site

Appropriates $50,000 to contract for a professional facilities planner to assess the capacities and capability of campus facilities for a variety of uses, including community and economic development activities, educational outreach centers, and meeting spaces.

$50,000 NR

14 International Civil Rights Museum

Appropriates $500,000 for capital costs of a civil rights museum. The Department will pass these funds to the non-profit organization Sit-In Movement, Inc.

$500,000 NR

Arts Council

15 Expand Arts Council Basic Grants

Provides additional recurring funds for the competitive Basic Grants Program in the Arts Council to be awarded through the formal application process.

$1,000,000 R $1,000,000 R

16 Expand Grassroots Arts Program

Increases funding for the Grassroots Arts Program in the Arts Council.

$1,000,000 R $1,000,000 R

NC Symphony

17 Additional Operating Funds

Provides a recurring expansion to the operating budget for the NC Symphony.

$175,000 NR

Senate Subcommittee on General Government	FY 07-08		FY 08-09	
Office of the Secretary				
18 **Cultural Sharing and Caring** Appropriates funds to continue the Cultural Sharing and Caring Program initiated in 2006. This program will provide exposure to professional performing arts for students in the public schools.	$1,000,000	R	$1,000,000	R
Reserves				
19 **Reduce Reserves-Exhibits** Eliminates a $200,000 reserve for new exhibits within the Department of Cultural Resources.	($200,000)	R	($200,000)	R
State Archaeology				
20 **Queen Anne's Revenge Archaeology Project** Increases operational support for the Queen Anne's Revenge archaeological project. These funds will sustain major recovery efforts, conservation, and analysis of artifacts and images from the 18th century shipwreck.	$150,000	NR		
Statewide Programs and Grants				
21 **Aid to Public Libraries** Increases the appropriation to public libraries by $475,000 non-recurring. These funds will be distributed based on the existing formula for county library grants.	$475,000	NR		
Total Legislative Changes	**$2,800,000** **$1,950,000**	R NR	**$2,800,000**	R
Total Position Changes				
Revised Budget	**$73,422,441**		**$72,361,683**	

General Assembly

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$55,729,083**		**$56,931,204**	
Legislative Changes				
22 **Reduce Contingency Reserves** Reduces funding in the General Assembly's contingency reserves, which are used when sessions go beyond projected length, when special sessions are called, and for other purposes such as to fund the Government Performance Audit Commission.	($636,863)	R	($636,863)	R
23 **Reduce Temporary Salary Line Item** Takes a recurring reduction to the funding for temporary employee salaries. These funds are based on expected session lengths and allowance of days per week for member support staff.	($553,555)	R	($553,555)	R
Total Legislative Changes	**($1,190,418)**	R	**($1,190,418)**	R
Total Position Changes				
Revised Budget	**$54,538,665**		**$55,740,786**	

Governor

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$6,462,319**		**$6,500,587**	
Legislative Changes				
1110 Administration				
24 **Eliminate Communities in Schools Pass-Through** Eliminates the transfer to the central office of Communities in Schools from the General Government section of the budget. This non-profit office still receives funding through the Public Instruction and Juvenile Justice budgets.	($200,000)	R	($200,000)	R
Total Legislative Changes	**($200,000)**	R	**($200,000)**	R
Total Position Changes				
Revised Budget	**$6,262,319**		**$6,300,587**	

Housing Finance Agency

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$4,750,945**		**$4,750,945**	
Legislative Changes				
25 Receipt-Supported Positions Establishes two receipt-supported positions for the Housing Finance Agency. The first position is a Senior Supportive Housing Development Officer at a position cost of $69,224, and the second is Loan Underwriter at a position cost of $57,338. These positions are funded through receipts from the Department of Health and Human Services for housing assistance for persons with disabilities.	2.00		2.00	
HOME Match				
26 Reduce HOME Match Program Takes a recurring reduction to the HOME Match program in the Housing Finance Agency. This reduction is 3% of the overall Housing Finance Agency budget.	($142,528)	R	($142,52	R
Housing Programs				
27 North Carolina Housing Trust Fund Appropriates additional recurring funds to support the Housing Trust Fund. This fund seeks to provide decent, safe, and affordable housing for North Carolina citizens with low to moderate incomes. The trust fund currently expends $3 million per year; this expansion will increase that expenditure to $8 million recurring.	$3,500,000	R	$5,000,000	R
28 Home Protection Pilot Program Provides non-recurring funds to continue the Home Protection Pilot program that assists homeowners in 26 counties who are at risk of losing their homes due to job loss. The program offers short- or long-term loans to qualifying homeowners so that they can maintain their home while regaining employment.	$1,500,000	NR		

	FY 07-08		FY 08-09	
Housing Programs				
29 Housing Assistance for Persons with Disabilities Provides funding to the North Carolina Housing Trust Fund for the financing of additional independent- and supportive-living apartments for people with disabilities. The apartments shall be affordable to those with incomes at the Supplemental Security Income (SSI) level. A description of this item is also located in the Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services Section of this report.	$7,500,000	NR		
Total Legislative Changes	**$3,357,472** **$9,000,000**	R NR	**$4,857,472**	R
Total Position Changes	2.00		2.00	
Revised Budget	**$17,108,417**		**$9,608,417**	

Insurance

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$30,841,859**		**$30,880,430**	
Legislative Changes				
Departmentwide				
30 **Reduce Operating Line Items 1%**	($308,419)	R	($308,419)	R
Reduces various operating line items to produce a cut of 1% of the Department of Insurance's budget.				
State Fire Marshal				
31 **Staff Expansion**	$364,693	R	$364,693	R
Funds four receipt-supported positions for State Building Construction Code Review, Inspection, and Enforcement to achieve targeted review times, implement new services and provide training activities for owner agencies and designers. Recommendations for these positions were included in the Legislative Study Commission on State Construction Inspections' report and in House Bill 73.	$24,000 4.00	NR	 4.00	
Total Legislative Changes	**$56,274** **$24,000**	R NR	**$56,274**	R
Total Position Changes	4.00		4.00	
Revised Budget	**$30,922,133**		**$30,936,704**	

Lieutenant Governor

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$931,294**		**$932,281**	
Legislative Changes				
32 **Additional Office Assistant Hours**	$4,019	R	$4,019	R
Funds an increase in the work hours for the Office Assistant position from 16 hours to 20 hours per week.	0.10		0.10	
33 **Operating Budget Increase**	$2,791	R	$2,791	R
Funds an increase to the operating budget, including membership dues and subscriptions, for the Office of the Lieutenant Governor.				
34 **Reduce Continuation Increase**	($23,982)	R	($23,982)	R
Reduces an increase built into the continuation budget for data processing costs.				
Total Legislative Changes	**($17,172)**	R	**($17,172)**	R
Total Position Changes	0.10		0.10	
Revised Budget	**$914,122**		**$915,109**	

Office of Administrative Hearings

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$3,495,009**		**$3,502,386**	
Legislative Changes				
35 **Create Tax Appeals Hearings Unit**	$167,283	R	$167,283	R
Establishes two positions to handle appeals of tax decisions by the Secretary of Revenue. This function is currently handled by an Assistant Secretary in the Department of Revenue, with an associated support staff position. These positions will be recreated at OAH, and the Chief Administrative Law Judge will have the authority to fill both positions.	2.00		2.00	
Civil Rights				
36 **Eliminate Civil Rights Investigator Position**	($46,697)	R	($46,697)	R
Eliminates an Investigator position in the Civil Rights Division that has been vacant since May, 2006.	-1.00		-1.00	
Hearings				
37 **Administrative Hearings Assistant**	$48,546	R	$48,546	R
Establishes a Hearings Assistant position to provide administrative and clerical support to the two new Administrative Law Judge positions created in the 2006 budget.	$2,100	NR		
	1.00		1.00	
38 **Automated Case Tracking System Replacement**	$17,500	R	$17,500	R
Funds the replacement the Automated Case Tracking System. A new tracking system will improve key business functions for the Office of Administrative Hearings and improve both public interaction and departmental accountability.	$175,000	NR		
Total Legislative Changes	**$186,632**	R	**$186,632**	R
	$177,100	NR		
Total Position Changes	2.00		2.00	
Revised Budget	**$3,858,741**		**$3,689,018**	

Revenue

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$87,619,246**		**$87,711,626**	
Legislative Changes				
39 **Reduce Line Items 2%** Takes a 2% reduction in several line items related to temporary employees.	($1,752,384)	R	($1,752,384)	R
Collections and Examinations				
40 **Budget Project Collect Fees** Budgets $1.75 million in Project Collect collection assistance fees and moves 45 positions in the Collections and Examinations Division from General Fund to receipt-support.	($1,750,000) -45.00	R	($1,750,000) -45.00	R
Hearings				
41 **Eliminate Tax Appeals Hearing Positions** Eliminates the Assistant Secretary for Administrative Services position in the Department of Revenue currently responsible for tax appeal hearings, as well as the associated administrative assistant. Their functions are transferred to the Office of Administrative Hearings, where new positions are created in this act to perform this responsibility. The Chief Administrative Law Judge will have the responsibility for filling these new positions.	($167,283) -2.00	R	($167,283) -2.00	R
Total Legislative Changes	**($3,669,667)**	R	**($3,669,667)**	R
Total Position Changes	-47.00		-47.00	
Revised Budget	**$83,949,579**		**$84,041,959**	

Secretary of State

	GENERAL FUND		
	FY 07-08		FY 08-09
Adjusted Continuation Budget	**$10,600,417**		**$10,686,083**
Legislative Changes			
1210 Corporations			
42 Redaction of Personal Information Funds are provided to redact identifying information from Business Entity database images.	$812,500	NR	
Total Legislative Changes	**$812,500**	NR	
Total Position Changes			
Revised Budget	**$11,412,917**		**$10,686,083**

State Board of Elections

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$5,861,461**		**$5,874,026**	
Legislative Changes				
1100 Administration				
43 **Additional Office Space**	$75,000	R	$77,250	R
Funding is recommended for additional office space to house the Administration section.	$27,750	NR		
44 **Reduce Operating Budget**	($48,078)	R	($48,078)	R
Reduces the operating budget for LAN Support Services by $48,078.				
1200 Campaign Reporting				
45 **Time-Limited Audit Specialists**				
Funding is provided to maintain the three time-limited Audit Specialists authorized in the 2006 budget until December 31, 2008 in order to eliminate the auditing backlog of campaign finance reports.	$177,339 3.00	NR	$88,670 3.00	NR
46 **Web-based and Regional Training**	$55,000	R	$55,000	R
Funding is provided for online training, regional seminars, and a learning management system to track data for committee treasurers. The training is required by G.S. 163-278.7(f).	$40,000	NR		

Recurring	FY2007-08	FY2008-09
532821 Computer/Data Processing	$ 80,000	$ 40,000
532714 Transportation Ground-IS	$ 10,000	$ 10,000
535900 Other Expenses	$ 5,000	$ 5,000
Total Recurring	$ 95,000	$ 55,000

Total Legislative Changes	**$81,922**	R	**$84,172**	R
	$245,089	NR	**$88,670**	NR
Total Position Changes	3.00		3.00	
Revised Budget	**$6,188,472**		**$6,046,868**	

State Budget and Management - Special

GENERAL FUND

	FY 07-08		FY 08-09
Adjusted Continuation Budget	**$4,938,446**		**$4,938,446**
Legislative Changes			
1023 Fire Protection Grants			
47 Fire Protection Grants-in-Aid Supplement Funds are provided to increase the funding for the Fire Protection Grants-in-Aid program. Many new state-owned facilities have been constructed statewide. This funding will assist local fire districts that provide fire protection and other services to state-owned facilities.	$450,000	NR	
1900 Reserves and Transfers			
48 Reserve for Military Morale, Recreation, Welfare Funds are provided to a Reserve for the Military Morale, Recreation, and Welfare Fund to be distributed to each military installation on a per capita basis.	$1,000,000	NR	
49 Earned Income Tax Credit Outreach Provides funding to the EITC Carolinas Initiative at MDC, Inc., to support free tax preparation and outreach efforts associated with the earned income tax credit for low-income North Carolina taxpayers.	$50,000	NR	
Total Legislative Changes	**$1,500,000**	NR	
Total Position Changes			
Revised Budget	**$6,438,446**		**$4,938,446**

State Controller

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$20,646,483**		**$20,669,990**	
Legislative Changes				
1000 Administration				
50 **Internal Control Compliance**	$165,043	R	$165,043	R
Funding is provided for one Advanced State Management Analyst ($66,425) and one Standard State Management Analyst ($60,620) in Risk Mitigation Services to perform internal control compliance reviews in accordance with statutory provisions. Funding will include operating support for professional education and specialized training.	$6,000	NR		
	2.00		2.00	
1000 Department wide				
51 **Reduce Operating Budget**	($107,335)	R	($107,335)	R
Reduces the following line items each fiscal year:				

Recurring	FY2007-08	FY2008-09
532146 Mainframe Support Serv	($ 50,000)	($ 50,000)
532718 Trans Oth-Out of State	($ 100)	($ 100)
531821 Computer/Data Process	($ 55,735)	($ 55,735)
534530 Other DP Equipment	($ 1,500)	($ 1,500)
Total Recurring	($107,335)	($107,335)

Total Legislative Changes	**$57,708**	R	**$57,708**	R
	$6,000	NR		
Total Position Changes	2.00		2.00	
Revised Budget	**$20,710,191**		**$20,727,698**	

Treasurer

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$9,218,372**		**$9,227,432**	

Legislative Changes

1210 Investment Management

52 Reduce Operating Budget ($63,000) R ($63,000) R

Reduces the operating budget for the following line items:

Recurring	FY2007-08	FY2008-09
532199 Misc Contract Services	$ 10,200	$ 10,200
5327XX Travel	$ 25,000	$ 25,000
532821 Computer/Data Process	$ 2,000	$ 2,000
532840 Postage	$ 4,000	$ 4,000
532920 Bonding	$ 3,000	$ 3,000
532942 Other Emp Educational	$ 4,800	$ 4,800
534530 Other DP Equipment	$ 4,000	$ 2,000
535830 Membership Dues	$ 10,000	$ 10,000
Total Recurring	$ 63,000	$ 63,000

53 Staff Expansion $210,758 R $210,758 R

Funding is provided to establish three Investment Analyst positions ($55,448 each) in the Investment Management Division for the Alternatives, Real Estate, and Public Equity fund asset classes. $12,000 NR

3.00 3.00

Recurring	FY2007-08	FY2008-09
531211 Salaries	$166,344	$166,344
531511 Social Security	$ 12,725	$ 12,725
531521 Retirement	$ 11,877	$ 11,877
531561 Medical Insurance	$ 11,562	$ 11,562
532712 Trans Air-Out of State	$ 4,425	$ 4,425
532722 Lodging-Out of State	$ 2,700	$ 2,700
532725 Meals-Out of State	$ 375	$ 375
533110 Office Supplies	$ 750	$ 750
534511 Furniture	$ 4,500	$ 0
534521 Office Equipment	$ 7,500	$ 0
Total Recurring	$222,758	$210,758

1310 Local Government

54 Reduce Operating Budget ($49,000) R ($49,000) R

Reduces the operating budget for the following line items:

Recurring	FY2007-08	FY2008-09
532840 Postage	$ 7,000	$ 7,000
532850 Print, Bind, Duplicate	$ 35,000	$ 35,000
532942 Other Emp Educational	$ 7,000	$ 7,000
Total Recurring	$ 49,000	$ 49,000

1410 Retirement Operations

55 Eliminate Continuation Budget Increase

Eliminates the recurring amount of $1,221,429 in the continuation budget for Financial/Audit Services to reflect the Service Audit Team's expenditures.

56 Audit State Employee Service Records

Nonrecurring receipts in the amount of $1,200,000 for FY 2007-08 are authorized for financial/audit services to audit State employee service records.

57 Online Retirement Benefits through Integrated Tech

Nonrecurring funding is provided for the next two years of the ORBIT project. The General Assembly provided funds for the first three years of the project. All expenditures will be funded with receipts.

Recurring	FY2007-08	FY2008-09
531212 Salaries- Receipt	$ 15,000	$ 0
531512 Social Security	$ 1,365	$ 0
531522 Retirement	$ 1,071	$ 0
531562 Medical Insurance	$ 964	$ 0
532140 Other Information Tech	$491,629	$1,564,775
532441 Maint Agree-Other Softwa	$ 0	$ 231,650
532840 Postage	$118,702	$ 18,702
532850 Print, Bind, Duplicate	$ 30,000	$ 0
Total Recurring	$658,731	$1,815,127

2110 Health and Wellness Trust Fund Admin

58 Abolish Positions

Two receipt-supported positions within the Health and Wellness Trust Fund are eliminated. A Res. Director/Childhood Obesity (Position # 3470-2611-2346-968) and a Health Disparities Program Director (Position #3470-2611-2346-984) are abolished. The total salary is $119,978 plus the fringe benefits of $25,453, for a total cut of $145,431.

Total Legislative Changes	**$98,758**	R	**$98,758**	R
	$12,000	NR		
Total Position Changes	3.00		3.00	
Revised Budget	**$9,329,130**		**$9,326,190**	

Treasurer - Retirement for Fire and Rescue

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$9,165,457		$9,165,457	
Legislative Changes				
1412 Gen. Fund Contribution to Fire Pension Fund				
59 **Increase Retirement Benefits** Increases the benefits in the Fireman's and Rescue Squad Workers' Pension Fund from $165 to $167 per month for retirees and future retirees effective July 1, 2007.	$293,500	R	$293,500	R
Total Legislative Changes	**$293,500**	R	**$293,500**	R
Total Position Changes				
Revised Budget	**$9,458,957**		**$9,458,957**	

2007

SENATE
FINANCE COMMITTEE

MINUTES

TRANSPORTATION
Section K

Highway Fund

	HIGHWAY FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$1,769,403,262**		**$1,772,720,398**	
Legislative Changes				
Administration				
1 Reduction to Administrative Budgets Reduces funds for administration from all divisions within the Department of Transportation.	($11,749,430)	NR	($10,000,000)	NR
2 Interstate 40 Resurfacing Project Provides funds to pay for the Interstate 40 repairs in Durham County.	$11,749,430	NR	$10,000,000	NR
3 Security Management Provides funds for security management equipment for 31 DMV locations and integration of those locations into the DOT security management system.	$235,262 $2,264,738	R NR	$235,262	R
4 Upgrade Printing Services Provides funds to upgrade and consolidate two separate printing service operations for DOT and DMV into a single printing contract.	$1,500,000	R	$1,500,000	R
5 Printing and Production Provides additional funds for printing the North Carolina state highway map and the coastal boating guide.	$225,000	R	$225,000	R
6 Mail Equipment Provides funds to upgrade DMV mail equipment, including mail inserters and postage meters.	$19,000 $361,000	R NR	$19,000	R
7 ITS Enterprise Fee Provides funds for payment of the Enterprise Fee implemented by the Office of Information Technology Services.	$404,000	R	$404,000	R
Aeronautics Division				
8 Rural Airport Development Increases funds for the grant program that assists rural airports with capital improvement projects.	$2,000,000	R	$2,000,000	R
9 Aircraft Fleet Upgrade Provides funds to purchase one King Air or equivalent aircraft. This aircraft will replace a Cessna Conquest turbo prop aircraft.	$3,400,000	NR		

	FY 07-08		FY 08-09	
Bicycle Program				
10 Regional Bicycle Planning Provides funds for financial and technical assistance to counties, metropolitan planning organizations, and rural planning organizations for regional bicycle plans.	$500,000	R	$500,000	R
Division of Motor Vehicles				
11 Driver License Secure ID and Card Production System Reserves funds to implement a new driver license secure ID and card production system. The new system will be in compliance with the U.S. Real ID Act and HB 267. Funds are reserved because federal requirements for Real ID Act compliance have not been finalized.	$1,437,760 $162,240 36.00	R NR	$20,000,000 36.00	R
12 Driver License System Enhancements Reserves funds for development of system enhancements to allow the State Automated Driver License System to interface with the new digitized Driver License System.	$640,000	R	$640,000	R
13 Unified Carrier Registration/CDL Changes Increases funds for the DMV to conduct significant technology upgrades and required interfacing with the International Registration Program/Motor Carrier program. These funds shall not be expended unless HB 769 or substantially similar legislation is enacted during the 2007 General Assembly.	$2,974,000	NR		
14 License Plate Recall Provides funds for replacement of older license plates that are often in poor condition and for a continuous license plate recall program.	$99,000 $183,199	R NR	$99,000	R

	FY 07-08		FY 08-09	
Employee Benefits				
15 State Health Plan Provides funding based on the recommendations of the Executive Administrator of the State Health Plan. The Executive Administrator's recommendations include funding the Plan's additional financial requirements for the biennium through increased premiums paid by employing agencies and plan members with dependent coverage, certain benefit reductions and enhancements, cost containment actions recommended by the Plan's staff, and elimination of the self-insured Indemnity plan effective July 1, 2008. The funding appropriated supports, effective October 1, 2007, an 11.5% premium increase for the PPO programs to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the Highway Fund for the biennium. The funding appropriated also supports, effective October 1, 2007, a 13.3% premium increase for the Indemnity plan to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the Highway Fund during the 2007-2008 fiscal year.	$5,605,523	R	$5,939,289	R
16 State Funded Compensation Increase Increases funds to support a 4% annual salary increase for permanent employees whose salaries are supported by Highway Fund appropriations.	$20,453,968	R	$20,453,968	R
17 Retirement System Contribution Increases the State's contribution for FY07-09 to provide a 2% cost-of-living adjustment to retirees of the Teachers' and State Employees' Retirement System. This adjustment is funded in part with actuarial gains within the system.	$1,414,000	R	$1,414,000	R
Ferry Division				
18 Maintenance Repair Costs Increases funds for repairs and service parts necessary to maintain the fleet of ferries.	$1,000,000	R	$1,000,000	R
19 Ferry Boats and Operations Increases funds to upgrade rescue boats and generators to meet new United States Coast Guard requirements. Funds will also be used for booster pumps for use in dredge operations, rail cars at the maintenance facility and to complete renovation projects.	$3,550,000	NR	$3,550,000	NR
20 Training and License Renewals Increases funds for training and license renewals of Ferry Division vessel personnel so that required United States Coast Guard licenses are maintained.	$100,000	R	$100,000	R

	FY 07-08		FY 08-09	
21 Ferry Division Personnel Increases funds to hire 40 licensed positions to meet US Coast Guard regulations for staffing.	$1,800,000 40.00	R	$1,800,000 40.00	R
Maintenance				
22 Contract Resurfacing Increases funds for contract resurfacing to help offset increased material costs for resurfacing projects.	$3,616,213	NR	$2,321,558	NR
23 General Maintenance Reserve Increases funds for general maintenance to recover highway system from storm related damages from federally undeclared tropical storms Alberto and Ernesto.	$1,725,880	NR	$2,321,557	NR
24 System Preservation Provides funds for highway maintenance activities that preserve and extend the life of infrastructure assets, including pavements, bridges, and traffic signal systems.	$2,206,460	NR	$4,716,459	NR
Public Transportation Division				
25 Reduction in New Starts Program Reduces funding for the State's New Starts program. The reduction represents decreased expenditures for the Triangle Transit Authority's commuter rail project.	($23,400,000)	NR	($23,400,000)	NR
26 Operating Funds Reduces funding for the Public Transportation Grant program.	($1,200,000)	R	($1,200,000)	R
27 Transportation Services for Trade Shows Provides funding for transportation services for annual or semiannual trade shows of international significance.	$1,200,000	R	$1,200,000	R
28 Urban and Regional Program Provides increased funding for the State Maintenance Assistance Program which helps regional and urban areas pay for public transportation fixed-route and dial-a-ride services not covered by federal funding.	$2,000,000	R	$2,000,000	R
Rail Division				
29 Grants to Short-Line Railroads Provide funds to continue the grant program supporting short-line railroad companies. The funds are used to rehabilitate and strengthen North Carolina's short-line infrastructure.	$1,000,000	NR		
30 Freight Rail Operations Streamlining Provides funds to relocate or construct new tracks and rail interchange facilities to streamline freight traffic flows.	$3,850,000	NR	$3,850,000	NR

	FY 07-08		FY 08-09	
Small Construction				
31 Economic Development Provides additional nonrecurring funds for economic development, spot safety, and transportation improvement projects.	$9,338,404	NR		
State Highway Patrol				
32 Helicopter for Aviation Unit Provides funds to replace an obsolete helicopter and establish a dedicated airborne unit that can perform search and rescue operations during disasters.	$3,600,000	NR		
33 VIPER Network Support Creates additional positions to support the Voice Interoperability Plan for Emergency Responders (VIPER).	$2,261,839 24.00	R	$2,795,624 34.00	R
34 Trooper Positions Funds five additional trooper positions in each fiscal year of the biennium, for a total of 10 new trooper positions.	$266,988 $229,870 5.00	R NR	$547,326 $229,870 10.00	R NR
Statutory Adjustments				
35 Leaking Underground Storage Tank Fund Adjusts budget for the Leaking Underground Storage Tank Fund based on projections for the gasoline inspection fee in accordance with G.S. 119-18. Total budget for the Department of Revenue (tax collection), the Department of Agriculture (inspection) and the Leaking Underground Storage Tank Funds is $15,100,000 in FY07-08 and $15,110,000 in FY08-09.	$300,000	R	$350,000	R
36 Secondary Maintenance Increases funds for Secondary Maintenance Program and eliminates the designation of Urban Maintenance as required by HB747 in 2005 Session.	$16,512,027	R	$16,512,027	R
37 Primary Maintenance Increases funds for Primary Maintenance Program and eliminates the designation of Urban Maintenance as required by HB747 in the 2005 Session.	$24,768,040	R	$24,768,040	R
38 Urban Maintenance Eliminates funding in the category of Urban Maintenance and moves it to Primary and Secondary Maintenance. This change is required per HB747 from 2005 Session.	($41,280,067)	R	($41,280,067)	R
39 Aid to Municipalities Adjusts funding for Aid to Municipalities based on revised projections in accordance with G.S. 136-41.1. Funding will be $93,046,035 in FY07-08 and $93,073,049 in FY08-09.	$818,587	R	$837,278	R

	FY 07-08		FY 08-09	
40 Secondary Road Construction Program Adjusts funding for secondary road construction based on revised projections in accordance with G.S. 136-44.2(a). Funding will be $93,046,035 in FY07-08 and $93,073,049 in FY08-09.	$818,587	R	$837,278	R
Transfers				
41 General Fund Transfer Transfers funds to the General Fund as required by G.S. 105-164.44D. The transfer is reimbursement to the General Fund for sales tax exemption for purchases by the Department of Transportation. The total amount transferred is $18,190,000 in FY07-08 and $17,610,000 in FY08-09.	$2,023,600	R	$1,443,600	R
42 Leaking Underground Storage Tank Fund Reduction Reduces funding to the Leaking Underground Storage Tank Fund to support one newly created position within the Department of Agriculture and Consumer Services. The position will be an LP-Gas Inspector	($41,014) ($26,056)	R NR	($41,014)	R
43 LP-Gas Inspector Position Transfers funds from the highway Fund to the Department of Agriculture and Consumer Services for the support of one LP-Gas and Equipment Inspector Position	$41,014 $26,056 1.00	R NR	$41,014 1.00	R
44 Chemical Test Program - Correction to Continuation Budget Provides funds for this program within Department of Health and Human Services.	$51,620	R	$51,620	R
45 Driver Education Program - Correction to Continuation Budget Provides funds for the Department of Public Instruction for the driver training program in FY2008-09.	$0	R	$77,913	R
Total Legislative Changes	**$45,974,734** **$15,062,004**	R NR	**$65,270,158** **($6,410,556)**	R NR
Total Position Changes	106.00		121.00	
Revised Budget	**$1,830,440,000**		**$1,831,580,000**	

Highway Trust Fund

	HIGHWAY TRUST FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$1,132,060,000**		**$1,149,270,000**	
Legislative Changes				
Highway Trust Fund				
46 Administration Reduces funds for Highway Trust Fund Administration to $42,722,640 in FY07-08 and $43,386,880 in FY08-09 consistent with new revenue estimates and statutory formula.	($196,840)	R	($182,780)	R
47 Transfer to General Fund Increases transfer to General Fund in fiscal year 2008-2009 consistent with new revenue estimates and statutory formula. Transfer is $172,543,306 in FY 07-08 and $172,619,554 in FY08-09.	$0	R	$20,290	R
48 Intrastate System Reduces funds for the Intrastate System to $540,326,825 in FY07-08 and $550,107,613 in FY08-09 consistent with new revenue estimates and statutory formula.	($4,048,922)	R	($3,905,382)	R
49 Urban Loops Reduces funds for the Urban Loops to $218,485,665 in FY07-08 and $222,440,608 in FY08-09 consistent with new revenue estimates and statutory formula.	($1,637,216)	R	($1,579,175)	R
50 Aid to Municipalities Reduces funds for Aid to Municipalities to $56,692,887 in FY07-08 and $57,719,120 in FY08-09 consistent with new revenue estimates and statutory formula.	($424,827)	R	($409,766)	R
51 Secondary Road Construction Reduces funds for Secondary Road Construction to $94,808,677 in FY07-08 and $96,786,225 in FY08-09 consistent with new revenue estimates and statutory formula.	($172,195)	R	($153,187)	R
Total Legislative Changes	**($6,480,000)**	R	**($6,210,000)**	R
Total Position Changes				
Revised Budget	**$1,125,580,000**		**$1,143,060,000**	

RESERVES/ DEBT SERVICE/ ADJUSTMENTS Section L

Statewide Reserves

GENERAL FUND

	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$666,637,384**		**$699,343,864**	

Legislative Changes

A. Employee Benefits

1 State Funded Compensation Increases

	$488,655,673	R	$488,655,673	R
	$8,029,850	NR		

Provide funds to support salary increases for employees of State agencies, departments and universities, community college institutions, and public schools.

2 Public School Salary Increases

Certified Teaching, School Based Administrators and Non-certified Personnel in local Public Schools, State agency based Public Schools, and the NC School of Science and Mathematics.

Teachers and Instructional Support - Funds are provided to support an experience based step increase for teachers and instructional support personnel (average salary increase of 1.83%) and a flat annual increase in the base teacher salary schedule of $1,240 for the 2007-09 biennium (total average increase of 5%). Teachers and instructional support who are at the top of the experienced based salary schedule will receive a one-time lump sum bonus.

Principals and Assistant Principals - Funds are provided to support an experience based step increase for school board administrators (average salary increase of 1.67%) and a flat annual increase in the school based administrators salary schedule for the 2007-09 biennium (total average increase of 4.44%). School based administrators who are at the top of the experience based salary schedule will receive a 2% one-time lump sum bonus.

All other Public School Personnel - Provide funds to support a 4% annual salary increase.

3 Community College Salary Increases

Faculty and Professional Staff - Provide funds to support a 5% annual salary increase.

All other Community College Personnel - Provide funds to support a 4% salary increase.

	FY 07-08		FY 08-09	
4 University Salary Increases EPA faculty - Provide funds to support a 5% annual salary increase. EPA non-faculty - Provide funds to support a 4% annual salary increase. All other University Personnel - Provide funds to support a 4% annual salary increase.				
5 State Agency/Department Salary Increases Provide funds to support a 4% annual salary increase for permanent employees of State agencies and departments.				
6 Additional Salary Increases to Judges Provides funds to support an additional one percent (1.0%) salary increase for judges (total increase of 5%).				
7 Add Additional Steps to the Judicial Longevity Schedule Provide funds to add two additional steps to the Judicial longevity schedule; a 25 years step at 24% and a 30 or more years step at 28.8%.	$717,577	R	$717,577	R
8 Retirement System Contributions Increases the State's contribution for the 2007-09 biennium to provide a 2% cost-of-living adjustment for retirees of the Teachers' and State Employees' Retirement System. This adjustment is funded in part with actuarial gains within the Retirement System.	$29,600,000	R	$29,600,000	R
9 Transfer Public Defenders to the Consolidated Judicial Retirement System Provide funds to transfer public defenders, the appellate defender, the capital defender, and the juvenile defender to the Consolidated Judicial Retirement System effective July 1, 2007. Also transfers service as a public defender, appellate defender, capital defender, or juvenile defender from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System.	$573,000	R	$573,000	R
10 Retirement System Payback Continue repayment of the funds withheld from the Retirement System in FY 2000-01 due to the budget crisis. These payments represent a fifth and sixth installment of the ongoing payback.	$10,000,000	NR	$10,000,000	NR

11 State Health Plan - Premium Increase & Eliminate Indemnity Plan $120,118,352 R $127,270,489 R

Provides funding based on the recommendations of the Executive Administrator of the State Health Plan. The Executive Administrator's recommendations include funding the Plan's additional financial requirements for the biennium through increased premiums paid by employing agencies and plan members with dependent coverage, certain benefit reductions and enhancements, cost containment actions recommended by the Plan's staff, and elimination of the self-insured Indemnity plan effective July 1, 2008.

The funding appropriated supports, effective October 1, 2007, an 11.5% premium increase for the PPO programs to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the General Fund for the biennium. The funding appropriated also supports, effective October 1, 2007, a 13.3% premium increase for the Indemnity plan to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the General Fund during the 2007-2008 fiscal year.

B. Debt Service

12 Adjustments to Debt Service Requirements $24,588,387 R

Provides additional funding to cover proposed capital improvement projects to be financed with Certificates of Participation.

C. Information Technology

13 BEACON - HR/Payroll System Replacement

Provides funding to complete the new HR/Payroll System to meet the January 1, 2008, implementation date. Total requirements are $22,964,346, of which $2,964,346 can be supported from existing receipts received from the Highway Fund. $20,000,000 NR

14 BEACON - HR/Payroll System Additional Modules

Provides funds to implement the E-Recruitment and Learning Solutions/Training Management modules for the new HR/Payroll System. These modules will be implemented in SFY 2008-09 and can be supported from existing Highway Fund receipts in SFY 2007-08 in the amount of $7,390,000.

15 BEACON - Financial Systems Replacement

Provides funds to begin Phase 2 of the BEACON Project, which includes replacing the State's budget preparation, budget reporting, cash management, and accounting systems. Planning for the project would begin on SFY 2007-08 to capture the business requirements and develop a request for proposal. Planning can be supported from existing Highway Fund receipts in the amount of $1,500,000.

	FY 07-08		FY 08-09	
16 BEACON/Data Integration Funds Provides funding to the IT Fund to develop a plan for a statewide data integration initiative to be implemented under the governance of the BEACON Project Steering Committee.	$5,000,000	NR	$5,000,000	NR
D. Other Reserves				
17 Internal Auditing Provides funding for the Office of State Budget and Management to begin implementing improvements to the State's internal auditing system.	$1,000,000	R	$1,000,000	R
18 Reserve for Eliminated Positions Eliminates all positions vacant greater than six months on June 30, 2007 in State departments, agencies, and institutions, effective July 1, 2007. Does not eliminate vacant positions in the University of North Carolina System.	($34,403,179)	R	($34,403,179)	R
Total Legislative Changes	**$606,261,423**	**R**	**$638,001,947**	**R**
	$43,029,850	**NR**	**$15,000,000**	**NR**
Total Position Changes				
Revised Budget	**$1,315,928,657**		**$1,352,345,811**	

CAPITAL
Section M

Capital

GENERAL FUND

	FY 07-08	FY 08-09

A. Department of Administration

1 Deerfield Cottage Renovation

Provides capital funds for the comprehensive renovation of Deerfield Cottage. The building is currently part of John Umstead State Psychiatric Hospital. The facility will house a program for female inmates and their children through a proposed contract between a non-profit agency and the Department of Correction. The total project cost is $3.5 million.

$3,556,000 NR

B. Information Technology Services

2 Secondary Data Center Equipment

Provides equipment funds for completing the construction of the State's Secondary Data Center. The General Assembly authorized $25 million in special indebtedness for the construction of the Data Center in FY 2006-07. The total project cost is $35 million.

$9,000,000 NR

C. Crime Control and Public Safety

3 VIPER Phase 1

Provides capital funds for the first phase of constructing the Voice Interoperability Plan for Emergency Responders (VIPER) physical plant. The total project cost for the statewide communications system is $106 million.

The special provision authorizing the issuance of special indebtedness for various State capital projects includes a statement of intent to finance the cost of a VIPER through the use of special indebtedness provided that funds can be identified offset the cost of the debt.

$13,250,000 NR

D. Dept. of Natural and Environmental Resources

4 Water Resources Development Projects

Provides funds for the State's share of Water Resources Development Projects. Projects are specified in a special provision.

$20,000,000 NR

E. UNC System Board of Governors

5 UNC Reserve for Fire Suppression in Dormitories Phase 1 — $9,000,000 NR

Provides capital funds for the installation of fire sprinklers in dormitory buildings system-wide. The total project cost is $48 million to install sprinklers in all dormitory buildings. This is the first of five phases.

F. State Facilities Special Indebtedness

6 NC Correctional Institution for Women - Health Care Facility

Authorizes the issuance of certificates of participation for the construction of the Health Care Facility at the NCCIW. The facility will increase infirmary beds from 28 to 70 beds. Mental health beds will be increased from 28 to 80 beds. The size of the facility will be up to 106,815 square feet and a project cost of $41.4 million. The cost of the facility will be offset by $1.63 million in departmental receipts. The total debt authorized is $39,763,100.

7 Alexander Correctional Institution - Minimum Security Addition

Authorizes the issuance of certificates of participation for the design and construction of a 252 bed minimum security addition to Alexander Correctional Institution. The size of the facility will be up to 50,000 square feet and a project cost of $13.2 million. The total debt authorized is $13,191,300.

8 Scotland Correctional Institution Medium Security Addition

Authorizes the issuance of certificates of participation for the design and construction of a 504 bed medium security addition to Scotland Correctional Institution. The size of the facility will be up to 78,000 square feet and a project cost of $19.8 million. The total debt authorized is $19,816,500.

9 Scotland Correctional Institution Minimum Security Addition

Authorizes the issuance of certificates of participation for the design and construction of a 252 bed minimum security addition to Scotland Correctional Institution. The size of the facility will be up to 50,000 square feet and a project cost of $13.2 million. The total debt authorized is $13,191,300.

10 Bertie Correctional Institution Medium Security Addition

Authorizes the issuance of certificates of participation for the design and construction of a 504 bed medium security addition to Scotland Correctional Institution. The size of the facility will be up to 78,000 square feet and a project cost of $19.8 million. The total debt authorized is $19,816,500.

11 DJJDP - Five New Youth Development Centers

Authorizes the issuance of certificates of participation for the construction of five replacement youth development centers around the State. Sites for the proposed YDC's have not been selected. Total debt authorized is $37,500,000.

12 Appalachian State University - Education Building

Authorizes the issuance of certificates of participation for the construction of the College of Education building. The size of the facility will be up to 130,000 square feet and a project cost of $35.8 million. The General Assembly appropriated $1.82 million in FY 2006-07. Total debt authorized is $34,000,000.

13 East Carolina University - School of Dentistry Facilities

Authorizes the issuance of certificates of participation for the construction of the School of Dentistry building and 10 satellite clinics. The size of the main facility will be up to 112,500 square feet, and the project cost, including the clinics, is estimated at $90 million. The General Assembly appropriated $7 million in FY 2006-07 for the expansion of dental education in the University System. $3 million of these capital planning funds were allocated to ECU for the School of Dentistry. Total debt authorized is $87,000,000.

14 Elizabeth City State University - Education Building

Authorizes the issuance of certificates of participation for the construction of the School of Education building. The size of the facility will be up to 45,000 square feet and a project cost of $20 million. Total debt authorized is $20,000,000.

15 Fayetteville State University Science and Technology Complex

Authorizes the issuance of certificates of participation for the construction of a Science and Technology Complex at FSU. The size of the facility will be up to 75,000 square feet and a project cost of $23.6 million. The General Assembly appropriated $1 million for this project in FY 2006-07. Total debt authorized is $22,587,000.

16 NC Agricultural and Technical University General Classroom Building

Authorizes the issuance of certificates of participation for the construction of a general classroom and instructional building. The size of the facility will be up to 71,200 square feet and a project cost of $26.8 million. The General Assembly appropriated $1 million for this project in FY 2006-07. Total debt authorized is $25,787,000.

17 North Carolina Central University Nursing Building

Authorizes the issuance of certificates of participation for the construction of the School of Nursing building. The size of the facility will be up to 65,000 square feet and a project cost of $24 million. Total debt authorized is $24,000,000.

18 NC School of the Arts Library

Authorizes the issuance of certificates of participation for the construction of a campus library at NCSA. The size of the facility will be up to 97,000 square feet and a project cost of $25.9 million. The General Assembly appropriated $1 million for this project in FY 2006-07. Total debt authorized is $24,920,000.

19 NC State University - College of Engineering, Phase 1

Authorizes the issuance of certificates of participation for the construction of phase 1 of the proposed College of Engineering facilities at Centennial Campus. The project consists of a 65,000 square foot addition to Engineering Building III at a project cost of $34 million. Total debt authorized is $34,000,000.

20 NC State University - Centennial Campus Library

Authorizes the issuance of certificates of participation for the construction of the James B. Hunt Library on Centennial Campus. The size of the facility will be up to 279,000 square feet and a project cost of $114 million. Total debt authorized is $114,000,000.

21 UNC-Asheville - Rhoades Hall and Rhoades Tower Renovation

Authorizes the issuance of certificates of participation for the comprehensive renovation of Rhoades Hall and Rhoades Tower. The total cost for this project is $8.9 million. The General Assembly appropriated $416,000 in repair and renovation funds for this project in FY 2006-07. Total debt authorized is $8,687,000.

22 UNC-Asheville - Carmichael Hall Renovation

Authorizes the issuance of certificates of participation for the comprehensive renovation of Carmichael Hall. The total cost for this project is $9.3 million. Total debt authorized is $9,305,000.

23 UNC-Chapel Hill Genomics Science Building

Authorizes the issuance of certificates of participation for the construction of phase II of the Genomics Science Building in the Science Complex South. The size of project will be up to 210,000 square feet and a project cost of $160 million. The General Assembly appropriated $28.4 million to this project in FY 2006-07. The project cost will be offset by $12 million in receipts from the University. Total debt authorized is $119,608,225.

24 UNC-Chapel Hill - School of Dentistry Addition

Authorizes the issuance of certificates of participation for an addition to the School of Dentistry. The addition will be up to 216,414 square feet and an estimated project cost $125 million. The General Assembly appropriated $7 million in FY 2006-07 for the expansion of dental education in the University System. $3 million of these capital planning funds were allocated to UNC-CH for the School of Dentistry. The project cost will be offset by $26 million in receipts from the University. Total debt authorized is $96,000,000.

25 UNC-Charlotte Energy Production Infrastructure Center

Authorizes the issuance of certificates of participation for the construction of the Energy Production Infrastrusture Center (EPIC). The size of the facility will be up to 200,000 square feet and a project cost of $76.2 million. Total debt authorized is $76,218,000.

26 UNC-Greensboro Education Building

Authorizes the issuance of certificates of participation for the construction of a 120,000 square foot Education classroom and office building at UNCG. The total project cost is $47.5 million. The General Assembly appropriated $2.3 million for this project in FY 2006-07. Total debt authorized is $45,167,000.

27 UNC-Pembroke Nursing Building Suppliment

Authorizes the issuance of certificates of participation to suppliment the construction of a Nursing and Allied Health Building at UNCP. Special indebtedness was first authorized for this capital project through S.L.2006-146 at $10 million. The size of the facility will be up to 50,000 square feet and a project cost of $30.2 million. Total debt authorized is $19,000,000.

28 UNC-Wilmington Teaching Laboratory Building

Authorizes the issuance of certificates of participation for the construction of a teaching laboratory building to house the Psychology and Earth Science Departments. The size of the facility will be up to 80,000 square feet and a project cost of $34.5 million. Total debt authorized is $34,525,440.

29 Western Carolina University - Health and Gerontological Building

Authorizes the issuance of certificates of participation for the construction of the Health and Gerontological building. The size of the facility will be up to 145,200 square feet and a project cost of $46.2 million. The General Assembly appropriated $2.4 million in FY 2006-07. Total debt authorized is $43,805,000.

30 Winston Salem State University - Student Activities Center

Authorizes the issuance of certificates of participation for the construction of a Student Activities Center at WSSU. The size of the facility will be up to 90,000 square feet and a project cost of $32.5 million. The General Assembly appropriated $768,225 for this project in FY 2006-07. WSSU will offset $12.9 million of the project cost through student fees. Total debt authorized is $18,708,000.

31 Winston Salem State University - Science and General Office Building

Authorizes the issuance of certificates of participation for the construction of the Science and General Office building. The size of the facility will be up to 69,000 square feet and a project cost of $28.2 million. Total debt authorized is $28,212,000.

32 Millenium Campus - Nanoscience and Nanoengineering Building

Authorizes the issuance of certificates of participation for the construction of the Joint Graduate School of Nanoscience and Nanoengineering building at the Millenium Campus. The School will be jointly operated between NC A&T and UNCG. The size of the facility will be up to 95,000 square feet and a project cost of $58 million. Total debt authorized is $58,000,000.

33 Coastal Studies Institute

Authorizes the issuance of certificates of participation for the construction of facilities for the Coastal Studies Institute. The Institute will be jointly operated between ECU, ECSU, NCSU, UNC-CH, and UNCW. The cumulative size of the facilities will be up to 90,400 square feet and a project cost of $32.5 million. Total debt authorized is $32,500,000.

34 NC School of Science and Mathematics - Infrastructure Improvements

Authorizes the issuance of certificates of participation for improvements to the infrastructure of the NC School of Science and Math campus. Improvements include new steam, water and wastewater lines, and upgrades to electrical distribution. Total debt authorized is $17,500,000.

35 Improvements to 4-H Camps

Authorizes the issuance of certificates of participation for the repair and renovation of 4-H camp facilities throughout the State. Eligible facilities are located on 4-H camps owned by the State and allocated to NCSU. The project cost is $34 million. Total debt authorized is $34,000,000.

36 UNC Reserve for Land Acquisition

Authorizes the issuance of certificates of participation for the establishment of a Reserve for Land Acquisition in UNC General Administration to be used, at the discretion of the President, for the acquiring State land for campuses throughout the system. Total debt authorized is $25,000,000.

37 UNC Reserve for Capital Planning

Authorizes the issuance of certificates of participation for the establishment of a Reserve for Capital Planning in UNC General Administration to be used, at the discretion of the President, for the planning and design of facilities for campuses throughout the system. Total debt authorized is $25,000,000.

Total Appropriation to Capital **$54,806,000** **NR**

INFORMATION TECHNOLOGY SERVICES

Section N

Information Technology Services

INTERNAL SERVICE FUND

Recommended Budget Adjustments	FY 2007-08 $0		FY 2008-09 $0	
Legislative Changes				
A. Information Technology Operations				
1 State Chief Information Officer (SCIO) Office Provides funding to support the operations of the State CIO's office.	$1,090,104	R	$1,090,104	R
2 Statewide Procurement-Legal Provides funding for three attorneys, two assigned to the Department of Justice and one assigned to ITS.	$369,650	R	$369,650	R
3 ISO/Security Initiatives Provides funding to continue support for statewide security initiatives.	$2,103,121	R	$2,103,121	R
4 Information Technology Asset Management Provides funding to support the implementation of a statewide asset management system by the Office of Information Technology Services.	$451,634 $1,626,000	R NR	$451,634 $1,626,000	R NR
5 Enterprise Project Management Office Continues operation of office responsible for overseeing the development and implementation of IT systems within State agencies.	$1,502,793	R	$1,502,793	R
6 Enterprise Technology Strategies Office Provides statewide engineering and architecture support.	$1,009,533	R	$1,009,533	R
7 Start-up Funding: Enterprise Services Provide funding to support the implementation of new enterprise-wide applications to support State agency operations.	$1,300,000	NR		
B. Information Technology Projects				
8 Portfolio Management Continues operation of Project Portfolio Management System to track agency IT projects.	$420,946	R	$420,946	R
9 Legacy Applications Provides funding to continue the oversight of legacy applications.	$589,428	R	$589,428	R

	FY 2007-08		FY 2008-09	
10 **State Portal** Provides funding for the State portal.	$422,426	R	$422,426	R
11 **NCID** Provides the state with technology to support identity management, authentication, and authorization of users.	$1,585,031	R	$1,585,031	R
12 **Information Technology Consolidation** Provides funding to continue the Information Technology Consolidation program, adding the Department of Cultural Resources, Office of the State Controller, Department of Commerce, Department of Juvenile Justice and Delinquency Prevention, and the Industrial Commission.	$265,334 $1,214,000	R NR	$265,334 $1,214,000	R NR
13 **BEACON/Data Integration Funds** Provides funding to develop a plan for a statewide data integration initiative implemented under the governance of the BEACON Project Steering Committee.	$5,000,000	NR	$5,000,000	NR
Total Legislative Changes	**$9,810,000** **$9,140,000**	**R** **NR**	**$9,810,000** **$7,840,000**	**R** **NR**
Total Position Changes				
Total Budget Adjustments	**$18,950,000**		**$17,650,00**	

HOUSE BILL 1473: SENATE PCS TO 4TH EDITION
Tax, Fee, and Special Indebtedness Provisions

Section	Name	Explanation
29.10	Authorize special indebtedness for various State facilities	• DIFFERENT PROVISIONS • Authorizes a total of $1.2 billion over a four-year period • 26 projects related to The University of North Carolina, School of the Arts, and the School of Science & Mathematics • 5 prison projects • 5 new youth development centers
30.1	Increase fee for Erosion & Sedimentation Control Plan applications	• Recommended by Appropriations Subcommittee • Paid once. Pay for 7 additional erosion control inspectors. • $472,500 • SAME AS HOUSE PROVISION
30.2	Increase mining permit fees and renewal fees	• Recommended by Appropriations Subcommittee • Support 5 new mining inspectors. • $286,088 • SENATE VERSION ADDS FISCAL RESEARCH DIVISION AND MINING COMMISSION TO THE LIST OF ENTITIES THAT RECEIVE ANNUAL REPORT
30.3	Increase annual water quality permit fees	• Recommended by Appropriations Subcommittee • Support 9 new positions. • $997,945 • SAME AS HOUSE PROVISION
30.4	Increase application fee for CON	• Recommended by Appropriations Subcommittee • Support new positions in Division of Facility Services • $1 million • SAME AS HOUSE PROVISION
30.5	Increase application fee for review of construction plans for healthcare facility	• Recommended by Appropriations Subcommittee • Support new positions in Division of Facility Services • $1.2 million • SAME AS HOUSE PROVISION

Section	Name	Explanation
30.6	Establish $18 fee for corporate annual report filed electronically; increase annual report fee from $20 to $25	• Recommended by Appropriations Subcommittee • $563,016 • SAME AS HOUSE PROVISION
30.7	Increase primary forest products assessment rates	• NEW IN THE SENATE BUDGET • Recommended by Appropriations Subcommittee • Doubles the current fees, which have not been increased for 20 years. • Fee revenue finances the Forest Development Program, which is a cost-sharing program with private landowners. • The increase will generate approximately $2 million. The current General Fund appropriation of $589,000 will be eliminated.

30.8	Increase Court Fees and Amend the Access to Civil Justice Act	• NEW IN THE SENATE BUDGET
		• District court costs increased: (last increased in 2005)
		  ○ Civil -- $64 to $73
		  ○ Magistrates -- $53 to $63
		  ○ Criminal -- $85.50 to $95.50
		• Superior court costs increased: (last increased in 2005)
		  ○ Civil -- $79 to $93
		  ○ Criminal -- $92.50 to $102.50
		• Superior Court Estates -- $40 to $50 (last increased in 2005)
		• 20 day failure fee (Traffic) -- $50 to $100
		• 20-day failure fee (New) -- $100
		• Commercial License Violation Reporting Fee (New) -- $100
		• Criminal record check -- $10 to $15
		• Fee for foreclosures -- $60 to $75
		Increase maximum fee from $300 to $500
		• Out-of-State Attorney Fee -- $125 to $225
		• Increases earmarking for legal services program by approximately $1 million. Makes changes to the legal services program
		• The provision increases revenues by approximately $40 million. The additional revenue will be used to increase staff at the district and superior court levels, to increase judicial salaries, and to replace outdated technology.
		• Recommended by Appropriations Subcommittee

Section	Name	Explanation
30.9	Collection of Outstanding Fines and Fees by the Courts	• NEW IN SENATE BUDGET • Authorizes a collection assistance fee for fines, fees, and costs that remain unpaid for 30 days. The fee many not exceed the average cost of collecting the debt or 20% of the amount past due, whichever is less • Authorizes the Judicial Department to enter into contracts with a collection agency. • Acknowledges that the Department may use the Setoff Debt Collection Program • Recommended by Appropriations Subcommittee
30.10	Increase and Clarify Certain Court Costs	• NEW IN SENATE BUDGET • Clarifies that court costs in civil actions apply to additional and subsequent actions filed by amendment to cases brought under the Domestic Violence statute. • The fee applicable to estates applies to the value of newly acquired assets. • The $2.00 per first page copying cost applies to the first page of a document. • Increases the fee for restoration of a license revoked for implied consent offenses from $50 to $100. • Repeals the $2 maximum fee applicable to establishing facts relating to birth by persons who do not have a birth certificate and by persons of unknown parentage. These cases are considered 'special proceedings'. The court costs associated with special proceedings would become applicable: approximately $50. • Recommended by Appropriations Subcommittee.
31.12	Set insurance regulatory fee at 5.5%	• No change from previous year • SAME AS HOUSE PROVISION
31.13	Set public utility regulator fee at 0.12%	• No change from previous year • SAME AS HOUSE PROVISION

Senate Special Indebtedness Plan - Issuance Schedule

6% Average Interest Rate - 20 year Maturity - Fixed Principal Payments

	A	B	C	D	E	F	G	H
1	Dept	Project	Total Requirem	FY2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Total
2	UNC	ASU - Education Building	$34,000,000	$3,000,000	$31,000,000			$34,000,000
3	UNC	ECU - Dental School	$87,000,000	$10,000,000	$42,000,000	$35,000,000		$87,000,000
4	UNC	ECSU - School of Education Building	$20,000,000	$2,000,000	$4,000,000	$14,000,000		$20,000,000
5	UNC	FSU - Science & Tech Complex	$22,587,000	$5,000,000	$17,587,000			$22,587,000
6	UNC	NC A&T - General Classroom Building	$25,787,000	$5,000,000	$20,787,000			$25,787,000
7	UNC	NCCU - School of Nursing	$24,000,000	$2,500,000	$3,750,000	$17,750,000		$24,000,000
8	UNC	NCSA - Library	$24,920,000	$1,775,600	$12,598,000	$10,546,400		$24,920,000
9	UNC	NCSU - Engineering Addition	$34,000,000	$8,500,000	$17,000,000	$8,500,000		$34,000,000
10	UNC	NCSU - Centennial Library	$114,000,000	$2,325,000	$5,583,333	$56,091,667	$50,000,000	$114,000,000
11	UNC	UNCA - Rhoades Hall Renov	$8,687,000	$1,000,000	$7,687,000			$8,687,000
12	UNC	UNCA - Carmichael Hall Renov	$9,305,000	$1,000,000	$8,305,000			$9,305,000
13	UNC	UNCCH - Genomics Science Building	$119,608,225	$25,272,225	$94,336,000			$119,608,225
14	UNC	UNCCH - School of Dentistry	$96,000,000	$30,000,000	$57,000,000	$9,000,000		$96,000,000
15	UNC	UNCC - Energy Production Infr. Center (EPIC)	$76,218,000	$7,000,000	$15,000,000	$35,000,000	$19,218,000	$76,218,000
16	UNC	UNCG - Education Building	$45,167,000	$6,000,000	$39,167,000			$45,167,000
17	UNC	UNCP - Nursing Building (suppliment)	$19,000,000	$5,000,000	$14,000,000			$19,000,000
18	UNC	UNCW - Teaching Lab	$34,525,000	$2,500,000	$6,131,250	$25,893,750		$34,525,000
19	UNC	WCU - Health and Gerontological Building	$43,805,000	$2,200,000	$20,802,500	$20,802,500		$43,805,000
20	UNC	WSSU - Student Activities Center	$18,708,000	$2,000,000	$3,000,000	$13,708,000		$18,708,000
21	UNC	WSSU - Science & General Classroom Bldg	$28,212,000	$4,000,000	$15,000,000	$9,212,000		$28,212,000
22	UNC	Millenium Campus - Nanoscience Building	$58,000,000	$10,000,000	$28,000,000	$20,000,000		$58,000,000
23	UNC	4H Campuses Statewide	$34,000,000	$4,000,000	$10,000,000	$10,000,000	$10,000,000	$34,000,000
24	UNC	Coastal Studies	$32,500,000	$8,000,000	$24,500,000			$32,500,000
25	UNC	NCSSM - Infrastructure Improvements	$17,500,000	$17,500,000				$17,500,000
26	UNC	UNC Reserve for Land Acquisition	$25,000,000	$25,000,000				$25,000,000
27	UNC	UNC Reserve for Advance Capital Planning	$25,000,000	$25,000,000				$25,000,000
28		**Subtotal**	**$1,077,529,225**	**$215,572,825**	**$497,234,083**	**$285,504,317**	**$79,218,000**	**$1,077,529,225**
29	DOC	NCCIW Health Care Facility	$39,763,100	$5,000,000	$27,000,000	$7,763,100		$39,763,100
30	DOC	Alexander CI Minimum Security Addition	$13,191,300	$3,000,000	$10,191,300			$13,191,300
31	DOC	Scotland CI Medium Security Addition	$19,816,500	$5,000,000	$14,816,500			$19,816,500
32	DOC	Scotland CI Minimum Security Addition	$13,191,300	$3,000,000	$10,191,300			$13,191,300
33	DOC	Bertie CI Medium Security Addition	$19,816,500	$5,000,000	$14,816,500			$19,816,500
34		**Subtotal**	**$105,778,700**	**$21,000,000**	**$77,015,600**	**$7,763,100**	**$0**	**$105,778,700**
35	P	5 New Youth Development Centers	$37,500,000	$15,000,000	$15,000,000	$7,500,000		$37,500,000
36		**Subtotal**	**$37,500,000**	**$15,000,000**	**$15,000,000**	**$7,500,000**	**$0**	**$37,500,000**
37								
38		**Grand Total**	**$1,183,307,925**	**$251,572,825**	**$589,249,683**	**$300,767,417**	**$79,218,000**	**$1,220,807,925**

ate Budget Special Indebtedness Authorization - Debt Se e Schedules House Bill 1473 - Section 29.10

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	**Project**	**Debt Principal**	**2008-09**	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2019-20**
2	ASU - Education Building	$34,000,000	$325,500	$3,680,000	$3,578,000	$3,476,000	$3,374,000	$3,272,000	$3,170,000	$3,068,000	$2,966,000	$2,864,000	$2,762,000	$2,660,000
3	ECU - Dental School	$87,000,000	$1,085,000	$5,612,000	$9,253,500	$8,992,500	$8,731,500	$8,470,500	$8,209,500	$7,948,500	$7,687,500	$7,426,500	$7,165,500	$6,904,500
4	ECSU - School of Education Building	$20,000,000	$217,000	$645,000	$2,146,000	$2,086,000	$2,026,000	$1,966,000	$1,906,000	$1,846,000	$1,786,000	$1,726,000	$1,666,000	$1,606,000
5	FSU - Science & Tech Complex	$22,587,000	$542,500	$2,435,690	$2,367,929	$2,300,168	$2,232,407	$2,164,646	$2,096,885	$2,029,124	$1,961,363	$1,893,602	$1,825,841	$1,758,080
6	NC A&T - General Classroom Building	$25,787,000	$542,500	$2,782,890	$2,705,529	$2,628,168	$2,550,807	$2,473,446	$2,396,085	$2,318,724	$2,241,363	$2,164,002	$2,086,641	$2,009,280
7	NCCU - School of Nursing	$24,000,000	$271,250	$2,537,875	$4,450,750	$4,386,700	$4,319,400	$4,258,250	$4,192,650	$4,127,150	$4,066,000	$3,998,600	$3,934,350	$3,867,500
8	NCSA - Library	$24,920,000	$192,624	$1,554,182	$2,655,347	$2,580,589	$2,505,831	$2,431,072	$2,356,314	$2,281,556	$2,206,798	$2,132,040	$2,057,281	$1,982,523
9	NCSU - Engineering Addition	$34,000,000	$922,250	$2,741,250	$3,587,000	$3,485,000	$3,383,000	$3,281,000	$3,179,000	$3,077,000	$2,975,000	$2,873,000	$2,771,000	$2,669,000
10	NCSU - Centennial Library	$114,000,000	$252,263	$851,079	$6,913,300	$12,146,300	$11,804,300	$11,462,300	$11,120,300	$10,778,300	$10,436,300	$10,094,300	$9,752,300	$9,410,300
11	UNCA - Rhoades Hall Renov	$8,687,000	$108,500	$939,540	$913,479	$887,418	$861,357	$835,296	$809,235	$783,174	$757,113	$731,052	$704,991	$678,930
12	UNCA - Carmichael Hall Renov	$9,305,000	$108,500	$1,006,593	$978,678	$950,763	$922,848	$894,933	$867,018	$839,103	$811,188	$783,273	$755,358	$727,443
13	UNCCH - Genomics Science Building	$119,608,225	$2,742,036	$12,901,676	$12,542,851	$12,184,026	$11,825,202	$11,466,377	$11,107,552	$10,748,728	$10,389,903	$10,031,078	$9,672,254	$9,313,429
14	UNCCH - School of Dentistry	$96,000,000	$3,255,000	$9,349,500	$9,088,500	$8,827,500	$8,566,500	$8,305,500	$8,044,500	$7,783,500	$7,522,500	$7,261,500	$7,000,500	$6,739,500
15	UNCC - Energy Production Infr. Center	$76,218,000	$759,500	$2,366,000	$6,097,500	$8,011,653	$7,782,999	$7,554,345	$7,325,691	$7,097,037	$6,868,383	$6,639,729	$6,411,075	$6,182,421
16	UNCG - Education Building	$45,167,000	$651,000	$4,882,620	$4,747,119	$4,611,618	$4,476,117	$4,340,616	$4,205,115	$4,069,614	$3,934,113	$3,798,612	$3,663,111	$3,527,610
17	UNCP - Nursing Building (suppliment)	$19,000,000	$542,500	$2,046,500	$1,989,500	$1,932,500	$1,875,500	$1,818,500	$1,761,500	$1,704,500	$1,647,500	$1,590,500	$1,533,500	$1,476,500
18	UNCW - Teaching Lab	$34,525,000	$271,250	$928,991	$3,716,514	$3,613,029	$3,509,544	$3,406,059	$3,302,574	$3,199,089	$3,095,604	$2,992,119	$2,888,634	$2,785,149
19	VCU - Health and Gerontological Buildin	$43,805,000	$238,700	$2,489,171	$4,677,235	$4,545,820	$4,414,405	$4,282,990	$4,151,575	$4,020,160	$3,888,745	$3,757,330	$3,625,915	$3,494,500
20	WSSU - Student Activities Center	$18,708,000	$217,000	$536,500	$2,008,818	$1,952,694	$1,896,570	$1,840,446	$1,784,322	$1,728,198	$1,672,074	$1,615,950	$1,559,826	$1,503,702
21	WSSU - Science & General Classroom	$28,212,000	$434,000	$2,049,500	$2,992,002	$2,907,366	$2,822,730	$2,738,094	$2,653,458	$2,568,822	$2,484,186	$2,399,550	$2,314,914	$2,230,278
22	Millenium Campus - Nanoscience Buildi	$58,000,000	$1,085,000	$4,093,000	$6,149,000	$5,975,000	$5,801,000	$5,627,000	$5,453,000	$5,279,000	$5,105,000	$4,931,000	$4,757,000	$4,583,000
23	4H Campuses Statewide	$34,000,000	$434,000	$1,507,000	$2,550,000	$3,563,000	$3,461,000	$3,359,000	$3,257,000	$3,155,000	$3,053,000	$2,951,000	$2,849,000	$2,747,000
24	Coastal Studies	$32,500,000	$868,000	$3,502,250	$3,404,750	$3,307,250	$3,209,750	$3,112,250	$3,014,750	$2,917,250	$2,819,750	$2,722,250	$2,624,750	$2,527,250
25	NCSSM - Infrastructure Improvements	$17,500,000	$1,898,750	$1,846,250	$1,793,750	$1,741,250	$1,688,750	$1,636,250	$1,583,750	$1,531,250	$1,478,750	$1,426,250	$1,373,750	$1,321,250
26	UNC Reserve for Land Acquisition	$25,000,000	$2,712,500	$2,637,500	$2,562,500	$2,487,500	$2,412,500	$2,337,500	$2,262,500	$2,187,500	$2,112,500	$2,037,500	$1,962,500	$1,887,500
27	UNC Reserve for Advance Capital Plan	$25,000,000	$2,712,500	$2,637,500	$2,562,500	$2,487,500	$2,412,500	$2,337,500	$2,262,500	$2,187,500	$2,112,500	$2,037,500	$1,962,500	$1,887,500
28	NCCIW Health Care Facility	$39,763,100	$542,500	$3,457,000	$4,203,296	$4,084,007	$3,964,718	$3,845,428	$3,726,139	$3,606,850	$3,487,561	$3,368,271	$3,248,982	$3,129,693
29	Alexander CI Minimum Security Additior	$13,191,300	$325,500	$1,422,256	$1,382,682	$1,343,108	$1,303,534	$1,263,960	$1,224,387	$1,184,813	$1,145,239	$1,105,665	$1,066,091	$1,026,517
30	Scotland CI Medium Security Addition	$19,816,500	$542,500	$2,135,090	$2,075,641	$2,016,191	$1,956,742	$1,897,292	$1,837,843	$1,778,393	$1,718,944	$1,659,494	$1,600,045	$1,540,595
31	Scotland CI Minimum Security Addition	$13,191,300	$325,500	$1,422,256	$1,382,682	$1,343,108	$1,303,534	$1,263,960	$1,224,387	$1,184,813	$1,145,239	$1,105,665	$1,066,091	$1,026,517
32	Bertie CI Medium Security Addition	$19,816,500	$542,500	$2,135,090	$2,075,641	$2,016,191	$1,956,742	$1,897,292	$1,837,843	$1,778,393	$1,718,944	$1,659,494	$1,600,045	$1,540,595
33	5 New Youth Development Centers	$37,500,000	$1,627,500	$3,210,000	$3,933,750	$3,821,250	$3,708,750	$3,596,250	$3,483,750	$3,371,250	$3,258,750	$3,146,250	$3,033,750	$2,921,250
34														
35	**Grand Total**	**$1,220,807,925**	**$27,295,622**	**$92,341,746**	**$121,485,740**	**$126,691,165**	**$123,060,533**	**$119,436,051**	**$115,807,119**	**$112,178,287**	**$108,553,806**	**$104,923,074**	**$101,295,492**	**$97,665,310**

[redacted]ate Budget Special Indebtedness Authorization - Debt Se[redacted]e Schedules House Bill 1473 - Section 29.10

	A	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA
1	**Project**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**2026-27**	**2027-28**	**2028-29**	**2029-30**	**2030-31**		**Avg.**
2	ASU - Education Building	$2,558,000	$2,456,000	$2,354,000	$2,252,000	$2,150,000	$2,048,000	$1,946,000	$1,844,000	$1,596,500				$2,590,476
3	ECU - Dental School	$6,643,500	$6,382,500	$6,121,500	$5,860,500	$5,599,500	$5,338,500	$5,077,500	$4,816,500	$4,070,500	$1,802,500			$6,327,273
4	ECSU - School of Education Building	$1,546,000	$1,486,000	$1,426,000	$1,366,000	$1,306,000	$1,246,000	$1,186,000	$1,126,000	$969,000	$721,000			$1,454,545
5	FSU - Science & Tech Complex	$1,690,319	$1,622,558	$1,554,797	$1,487,036	$1,419,275	$1,351,514	$1,283,753	$1,215,992	$905,731				$1,720,914
6	NC A&T - General Classroom Building	$1,931,919	$1,854,558	$1,777,197	$1,699,836	$1,622,475	$1,545,114	$1,467,753	$1,390,392	$1,070,531				$1,964,724
7	NCCU - School of Nursing	$3,807,150	$3,742,400	$3,672,650	$3,607,000	$3,544,250	$3,478,350	$3,418,100	$3,352,300	$1,160,500	$914,125			$3,413,968
8	NCSA - Library	$1,907,765	$1,833,007	$1,758,249	$1,683,490	$1,608,732	$1,533,974	$1,459,216	$1,384,458	$1,223,576	$543,140			$1,812,353
9	NCSU - Engineering Addition	$2,567,000	$2,465,000	$2,363,000	$2,261,000	$2,159,000	$2,057,000	$1,955,000	$1,853,000	$1,338,750	$437,750			$2,472,727
10	NCSU - Centennial Library	$9,068,300	$8,726,300	$8,384,300	$8,042,300	$7,700,300	$7,358,300	$7,016,300	$6,674,300	$6,219,538	$5,613,721	$2,575,000		$7,930,435
11	UNCA - Rhoades Hall Renov	$652,869	$626,808	$600,747	$574,686	$548,625	$522,564	$496,503	$470,442	$395,881				$661,867
12	UNCA - Carmichael Hall Renov	$699,528	$671,613	$643,698	$615,783	$587,868	$559,953	$532,038	$504,123	$427,708				$708,952
13	UNCCH - Genomics Science Building	$8,954,604	$8,595,780	$8,236,955	$7,878,130	$7,519,306	$7,160,481	$6,801,656	$6,442,832	$4,858,304				$9,113,008
14	UNCCH - School of Dentistry	$6,478,500	$6,217,500	$5,956,500	$5,695,500	$5,434,500	$5,173,500	$4,912,500	$4,651,500	$2,935,500				$6,628,571
15	UNCC - Energy Production Infr. Center	$5,953,767	$5,725,113	$5,496,459	$5,267,805	$5,039,151	$4,810,497	$4,581,843	$4,353,189	$3,785,035	$2,849,881	$989,727		$5,302,122
16	UNCG - Education Building	$3,392,109	$3,256,608	$3,121,107	$2,985,606	$2,850,105	$2,714,604	$2,579,103	$2,443,602	$2,017,101				$3,441,295
17	UNCP - Nursing Building (suppliment)	$1,419,500	$1,362,500	$1,305,500	$1,248,500	$1,191,500	$1,134,500	$1,077,500	$1,020,500	$721,000				$1,447,619
18	UNCW - Teaching Lab	$2,681,664	$2,578,179	$2,474,694	$2,371,209	$2,267,724	$2,164,239	$2,060,754	$1,957,269	$1,732,534	$1,339,183			$2,515,273
19	VCU - Health and Gerontological Buildin	$3,363,085	$3,231,670	$3,100,255	$2,968,840	$2,837,425	$2,706,010	$2,574,595	$2,443,180	$2,205,065	$1,071,329			$3,185,818
20	WSSU - Student Activities Center	$1,447,578	$1,391,454	$1,335,330	$1,279,206	$1,223,082	$1,166,958	$1,110,834	$1,054,710	$901,586	$705,962			$1,360,582
21	WSSU - Science & General Classroom	$2,145,642	$2,061,006	$1,976,370	$1,891,734	$1,807,098	$1,722,462	$1,637,826	$1,553,190	$1,274,554	$474,418			$2,051,782
22	Millenium Campus - Nanoscience Buildi	$4,409,000	$4,235,000	$4,061,000	$3,887,000	$3,713,000	$3,539,000	$3,365,000	$3,191,000	$2,532,000	$1,030,000			$4,218,182
23	4H Campuses Statewide	$2,645,000	$2,543,000	$2,441,000	$2,339,000	$2,237,000	$2,135,000	$2,033,000	$1,931,000	$1,635,000	$1,060,000	$515,000		$2,365,217
24	Coastal Studies	$2,429,750	$2,332,250	$2,234,750	$2,137,250	$2,039,750	$1,942,250	$1,844,750	$1,747,250	$1,261,750				$2,476,190
25	NCSSM - Infrastructure Improvements	$1,268,750	$1,216,250	$1,163,750	$1,111,250	$1,058,750	$1,006,250	$953,750	$901,250					$1,400,000
26	UNC Reserve for Land Acquisition	$1,812,500	$1,737,500	$1,662,500	$1,587,500	$1,512,500	$1,437,500	$1,362,500	$1,287,500					$2,000,000
27	UNC Reserve for Advance Capital Plan	$1,812,500	$1,737,500	$1,662,500	$1,587,500	$1,512,500	$1,437,500	$1,362,500	$1,287,500					$2,000,000
28	NCCIW Health Care Facility	$3,010,403	$2,891,114	$2,771,825	$2,652,535	$2,533,246	$2,413,957	$2,294,668	$2,175,378	$1,813,589	$399,800			$2,891,862
29	Alexander CI Minimum Security Additior	$986,943	$947,369	$907,795	$868,221	$828,648	$789,074	$749,500	$709,926	$524,852				$1,005,051
30	Scotland CI Medium Security Addition	$1,481,146	$1,421,696	$1,362,247	$1,302,797	$1,243,348	$1,183,898	$1,124,449	$1,064,999	$763,050				$1,509,829
31	Scotland CI Minimum Security Addition	$986,943	$947,369	$907,795	$868,221	$828,648	$789,074	$749,500	$709,926	$524,852				$1,005,051
32	Bertie CI Medium Security Addition	$1,481,146	$1,421,696	$1,362,247	$1,302,797	$1,243,348	$1,183,898	$1,124,449	$1,064,999	$763,050				$1,509,829
33	5 New Youth Development Centers	$2,808,750	$2,696,250	$2,583,750	$2,471,250	$2,358,750	$2,246,250	$2,133,750	$2,021,250	$1,181,250	$386,250			$2,727,273
34														
35	**Grand Total**	**$94,041,628**	**$90,413,546**	**$86,780,464**	**$83,151,482**	**$79,525,400**	**$75,896,168**	**$72,272,586**	**$68,643,454**	**$50,808,283**	**$19,349,058**	**$4,079,727**		

SENATE FINANCE COMMITTEE
Tuesday, May 29, 2007
6:50 pm in Room 643

MINUTES

The Senate Finance Committee met at 6:50 p.m. on Tuesday, May 29, 2007, in room 643 of the Legislative Office Building. Thirty-two members of the committee were present. Senator David Hoyle presided.

H.B. 1473 – 2007 Appropriations Act.

Senator Clodfelter made a motion to adopt the proposed committee substitute for discussion and the motion carried. Senator Clodfelter was recognized to explain his amendment and motioned for adoption. The motion carried. Senator Jenkins was recognized to explain his amendment and motioned for adoption. The motion carried. Senator Rand was recognized to explain his perfecting amendment. He moved to adopt the amendment and the motion carried. Senator Clodfelter made a motion to adopt the proposed committee substitute as amended. Copies of each amendment are attached.

The meeting adjourned at 7:00 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1473

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1473-ARB-40 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
PCS30492-LTxf-5

Senator Cloodfelter

moves to amend the bill on page 271, line 23 by adding a new section to read:

"**SECTION 31.15.(a)** Section 24.3 of S.L. 2006-66 reads as rewritten:

'**SECTION 24.3.(a)** Notwithstanding G.S. 105-449.80(a), ~~for the period July 1, 2006, through June 30, 2007,~~ the variable wholesale component of the motor fuel excise tax rate may not exceed twelve and four-tenths cents (12.4¢) a gallon.'

SECTION 31.15.(b) This section is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

"MAKE MOTOR FUEL TAX RATE CAP PERMANENT"

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1473

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1473-ARB-38 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
PCS30492-LTxf-5

Senator Jenkins

moves to amend the bill on page 7, line 43, by inserting a new section to read:

"**SECTION 3.3.** The appropriations from the Highway Fund and the availability statement for the Highway Fund shall be adjusted to reflect the revenue estimated to be allocated to it from the motor fuel excise tax.";

And on page 8, line 17, by inserting a new section to read:

"**SECTION 4.3.** The appropriations from the Highway Trust Fund and the availability statement for the Highway Trust Fund shall be adjusted to reflect the revenue estimated to be allocated to it from the motor fuel excise tax."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1477 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Rand
) _____
Sen.)

1 moves to amend the bill on page and and #7, line _____
2 ( ) WHICH CHANGES THE TITLE
3 by Pg 1, line 9
4 deleting "Capitol Square" and
5 substituting "the Capitol Complex".
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

SENATE FINANCE COMMITTEE
Wednesday, June 6, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, June 6, 2007, in room 544 of the Legislative Office Building. Thirty-two members of the committee were present. Senator David Hoyle presided. Carter Malmo sponsored by Senator Brunstetter, Reddin Woltz sponsored by Senator Kerr, Emmie Perry and Hal Cooley, sponsored by Senator Hunt, and Bo Brandy sponsored by Senator Cowell served as pages.

H.B. 537 – Norwood Satellite Annexations.

Rep. Almond was recognized to explain the bill. Senator Purcell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 538 – Regulation of Golf Carts in Town of Badin.

Rep. Almond was recognized to explain the bill. Senator Purcell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 568 – Garner, Holly Springs, Rolesville MV Tax.

Rep. Avila was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

H.B. 621 – Beech Mountain Deannexation.

Rep. Frye was recognized to explain the bill. Senator Smith moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1166 – High Point/Jamestown Boundary Adjustment.

Rep. Wiley was recognized to explain the bill. Senator Hartsell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 238 – Modify Tax on Property Coverage.

Senator Kerr was recognized to explain the bill and motioned to adopt the proposed committee substitute for discussion. The motion carried. Senator Smith moved for a favorable report and the motion carried. A copy of the bill, the proposed committee substitute, the fiscal note and the summary is attached. A memo in favor of the bill from Jim Long, Insurance Commissioner and State Fire Marshal is also attached.

S.B. 1240 – Sales Tax Exemption for Baked Goods.

Senator Kerr was recognized to explain the bill and motioned to adopt the proposed committee substitute for discussion. The motion carried. Senator Preston moved for a

favorable report and the motion carried. A copy of the bill, the proposed committee substitute, the fiscal note and the summary is attached.

S.B. 242 – Review of Disputed Tax Matters.

Senator Clodfelter was recognized to explain the bill and motioned to adopt the proposed committee substitute for discussion. The motion carried. Barry Boardman, a fiscal analyst with the Fiscal Research Division, and Trina Griffin, an attorney with the Research Division, were available to answer questions. Norris Tolson, Secretary of the Department of Revenue, and Linda Millsaps, Assistant Secretary for Tax Administration, Department of Revenue, were recognized to speak in opposition of the bill. A copy of the proposed committee substitute and the summary is attached.

The meeting adjourned at 2:58 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

S1529 is a PCS for Sen. Clodfelter's Medicaid Proposal and is for discussion only – no vote.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 6, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 537	Norwood Satellite Annexations.	Representative Almond, Jr.
HB 538	Regulation of Golf Carts in the Town of Badin.	Representative Almond, Jr.
HB 568	Garner, Holly Springs, Rolesville, MV Tax.	Representative Ross Representative Coleman Representative Avila Representative Stam
HB 578	Greensboro Deannexation.	Representative Adams Representative Jeffus
HB 621	Beech Mountain Deannexation.	Representative Tarleton Representative Frye
HB 1166	High Point/Jamestown Boundary Adjustment.	Representative Wiley
SB 238	Modify Tax on Property Coverage Contract.	Senator Kerr
SB 242	Uniform Tax Refund Procedure.	Senator Clodfelter
SB 1240	Sales Tax Exemption for Baked Goods.	Senator Kerr
SB 1529	Implement Modernization Commission Recommend.	Senator Clodfelter

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, June 06, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **537** Norwood Satellite Annexations.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #2) **538** Regulation of Golf Carts in the Town of Badin.
Sequential Referral: None
Recommended Referral: None

H.B. **568** Garner, Holly Springs, Rolesville, MV Tax.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **621** Beech Mountain Deannexation.
Sequential Referral: None
Recommended Referral: None

H.B. **1166** High Point/Jamestown Boundary Adjustment.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **238** Modify Tax on Property Coverage Contract.
Draft Number: 75422
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **1240** Sales Tax Exemption for Baked Goods.
Draft Number: 65261
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 7

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 6, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Leanne Winner	NCSBA
Bill McNeal	NCASA
Katherine Joyce	NCASA
Angie Harris	William Mullen
Christie Barbee	CHPI
Russell Crowe	MGM
Andy Munn	REBIC
Jim Scoggin	KCC
Jon Poletto	NCBA
DAVID BARNES	Tanner + Syrnill
Katherine Davis	Elected Cities

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 6, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dana Simpson	Smith Anders
Sandy Sanft	WCSR
Kathryn Sawyer	ACEC/NC
Chip Killian	Nelson Mullins
[illegible]	JDAL
Cam Crawley	E+Y
Boyd Cuthbertson	City of Charlotte
Brent Coppell	Ambell

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 6, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
L C Perryman	OLC
Michelle C. Vaught	Weyerhaeuser
Bob Rucker	NCFA
BN ABLY	WMMT
John McAlister	NC Chamber
Nancy Rendleman	WMMT
Wm Nelson	Smith Anderson
	"
JOHN GOODMAN	NC CHAMBER
Bo Heath	McGuire Woods
	Public School Forum

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 6, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Janet L. Shires	NC DOR
Julian Mann	OAH
Joe L. Webster	OAH
FRANK W. FOLGER	HELMS MULLISS WICKER
Rose Williams	NCDOI
Tim BRADLEY	NCDOI
Janice W. Davidson	NC DOR
GAIL H. Beamon	NC DOR
Amy Schilder	HANC
Linda Millsaps	NCDOR
Terence D. Friedman	NCDOR

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 6, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Karl Knapp	NC DOR
Lennie Collins	NCDOR
Greg Radford	NCDOR
Nancy Pomerance	NCDOR
Tom M Smith	NC DOJ
J. D. Jones	NC DOJ
Alex Lieberman	NC DOJ
Rick Parrotte	NC DOJ
Mary Bethel	AARP, NC
SEAN CAFFEY	BTC
Christine Wunsche	IOG - Daily Bulletin

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 6, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Butch Gunnells	NC BA
David Heinen	NC Center for Nonprofits
Andy Sabol	NC DOR
Anna Mitchell	NC DOR
Jim Johnson	BSA
Patrick Buffkin	Nelson Mullins
Jeff Mixon	Civitas
Brian Balfour	Civitas
[illegible]	CAA
Susanne Steeds	NCRLA
Preston Howard	MCIC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 6, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Richard O'Brien	PFFPNC
Andy Fraser	TWC

Senate Finance Committee
Wednesday, June 6, 2007, 2:00 PM
544 LOB

AGENDA

Welcome

Introduction of Pages

Bills

HB 537	Norwood Satellite Annexations.	Rep. Almond
HB 538	Regulation of Golf Carts in the Town of Badin.	Rep. Almond
HB 568	Garner, Holly Springs, Rolesville, MV Tax.	Rep. Avila
HB 621	Beech Mountain Deannexation.	Rep. Frye
HB 1166	High Point/Jamestown Boundary Adjustment.	Rep. Wiley
SB 238	Modify Tax on Property Coverage Contract.	Sen. Kerr
SB 242	Uniform Tax Refund Procedure.	Sen. Clodfelter
SB 1240	Sales Tax Exemption for Baked Goods.	Sen. Kerr

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 537*

Short Title:	Norwood Satellite Annexations.	(Local)
Sponsors:	Representative Almond.	
Referred to:	Local Government I, if favorable, Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT MODIFYING THE STANDARDS FOR SATELLITE ANNEXATIONS FOR THE TOWN OF NORWOOD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~ten percent (10%)~~ twenty-five percent (25%) of the area within the primary corporate limits of the annexing city.

..."

SECTION 2. This act applies to the Town of Norwood only.

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

HOUSE BILL 537:
Norwood Satellite Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 6, 2007
Introduced by:	Rep. Almond	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 537[1] would modify for the Town of Norwood only the requirement limiting the area of a city's satellite annexations from 10% to 25%.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[2] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 537 would permanently modify for the Town of Norwood the 5th requirement for satellite annexation, which requires that the proposed area for satellite annexation, when added to the area within all other satellite corporate limits, not exceed 10% of the area within the primary corporate limits of the annexing city. This bill would change the requirement so that the proposed area for annexation may not exceed 25% of the area within the primary corporate limits of the annexing city.

The Town currently knows of or anticipates at least three requests for annexation in the near future which, if all annexed, would exceed the 10% limit: (1) a large residential development; (2) a single residential tract owned by one property owner; (3) a biotech energy plant.

The purpose of the 5th requirement is designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. In practice, however, the standard has proved to be a problem for many smaller cities, because one large development by itself

[1] Companion Bill, SB 398, received a favorable report from Senate Finance Committee on March 14, 2007 and is currently in House Local Government II Committee.

[2] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

may easily exceed the 10% limit. Because of this, the General Assembly has exempted over 70 cities and towns entirely from this 10% rule by local act. For an additional 18 municipalities, the limit has been increased from 10% to 20%.

EFFECTIVE DATE: This act is effective when it becomes law.

H0537e1-SMRE

Trina Griffin, Counsel to Senate Finance Committee substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 4

HOUSE BILL 538

Committee Substitute Favorable 3/29/07
Committee Substitute #2 Favorable 4/5/07
Fourth Edition Engrossed 4/17/07

Short Title: Regulation of Golf Carts by Various Towns. (Local)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF BADIN, CAROLINA BEACH, EMERALD ISLE, FREMONT, FAISON, INDIAN BEACH, KINGS MOUNTAIN, KURE BEACH, SHELBY AND WRIGHTSVILLE BEACH TO ADOPT ORDINANCES REGULATING GOLF CARTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2006-27 reads as rewritten:

"**SECTION 1.** This act applies to the City of Saluda and the ~~Town of Faison~~Towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Shelby and Wrightsville Beach only."

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

HOUSE BILL 538:
Regulation of Golf Carts by Various Towns

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 6, 2007
Introduced by:	Rep. Almond	**Summary by:**	Judy Collier
Version:	Fourth Edition		Research Assistant

SUMMARY: ***House Bill 538[1] amends S.L. 2006-27 to add the Towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Shelby and Wrightsville Beach to the list of municipalities authorized to regulate the operation of golf carts on any public street within their corporate limits or on any property owned or leased by the municipality. The act is effective when it becomes law.***

CURRENT LAW: Under current law, vehicles intended to be operated on the streets and highways of the State must be registered (G.S. 20-50). Golf carts may not be registered (G.S. 20-54), and therefore, may not operate on the streets and highways.

G.S. 20-4.01.(12a) defines a golf cart as a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

BILL ANALYSIS: House Bill 538 amends S.L. 2006-27 (copy on summary page 3) to include the Towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Shelby and Wrightsville Beach. Under this provision, the municipalities are authorized to enact an ordinance regulating the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the city. In regulating golf carts, the municipality may by ordinance:

- Require registrations,
- Charge a fee for the registration,
- Specify who is authorized to operate golf carts,
- Specify the required equipment,
- Specify load limits,
- Specify the hours and methods of operation.

EFFECTIVE DATE: The act is effective when it becomes law.

BACKGROUND:

- The General Assembly has enacted legislation regulating golf carts in the following locations:

1)	Town of Lake Waccamaw	S.L. 2001-356
2)	Town of Cary	S.L. 2001-485; S.L. 2005-117
3)	Village of Whispering Pines	S.L. 2002-82
4)	Seven Lakes Community	S.L. 2002-82
5)	Village of Bald Head Island	S.L. 2002-129

[1] HB 538, as originally introduced, applied only to the Town of Badin. The PCS to the 1st Edition added the Towns of Emerald Isle and Indian Beach. The PCS to the 2nd Edition added the City of Wilmington and the Towns of Carolina Beach, Kure Beach and Wrightsville Beach. House Amendment No. 1 deleted the City of Wilmington. House Amendment No. 2 added Fremont, Kings Mountain, and Shelby.

6) Town of Bladenboro	S.L. 2005-11; S.L. 2007-18
7) Town of Elizabethtown	S.L. 2005-11; S.L. 2007-18
8) Town of Rose Hill	S.L. 2005-11; S.L. 2007-18
9) Town of Caswell Beach	S.L. 2005-58
10) City of Saluda	S.L. 2006-27
11) Town of Faison	S.L. 2006-27
12) Town of Benson	S.L. 2006-149; S.L. 2007-18
13) Town of Caswell Beach	S.L. 2006-149
14) Town of Chadbourn	S.L. 2006-149; S.L. 2007-18
15) Town of Tabor City	S.L. 2006-149; S.L. 2007-18
16) Town of Clarkton	S.L. 2006-152; S.L. 2007-18
17) Town of Four Oaks	S.L. 2007-18

- The General assembly has enacted legislation regulating golf carts and utility vehicles in:

1) Town of Beach Mountain	S.L. 2003-124
2) Town of Seven Devils	S.L. 2004-58

IN THE CURRENT SESSION, HB 181, REGULATE GOLF CARTS, chaptered on April 19, 2007 as S.L. 2007-18, removes the limitation on the authority of the Towns of Benson, Bladenboro, Chadbourn, Clarkton, Elizabethtown, Rose Hill and Tabor City to regulate only electric powered golf carts and allows those towns to regulate the operation of golf carts, regardless of how they are powered—gasoline or electric. The bill also adds the Town of Four Oaks to the list of municipalities authorized to regulate the operation of golf carts.

H0538e4-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2006-27
SENATE BILL 1328

AN ACT TO AUTHORIZE THE CITY OF SALUDA AND THE TOWN OF FAISON TO REGULATE GOLF CARTS ON PUBLIC STREETS OR HIGHWAYS WITHIN THE CITY OR ON PROPERTY OWNED OR LEASED BY THE CITY.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the City of Saluda and the Town of Faison only.

SECTION 2. Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a town may, by ordinance, regulate the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the city.

By ordinance, a city may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

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

In the General Assembly read three times and ratified this the 28th day of June, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

H0538e4-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 568

Short Title: Garner, Holly Springs, Rolesville, MV Tax. (Local)

Sponsors: Representatives Avila, Coleman, Ross, and Stam (Primary Sponsors).

Referred to: Local Government I, if favorable, Finance.

March 12, 2007

AN ACT TO PERMIT THE TOWNS OF GARNER, HOLLY SPRINGS, ROLESVILLE, AND KNIGHTDALE TO LEVY A MOTOR VEHICLE PRIVILEGE TAX OF UP TO FIFTEEN DOLLARS FOR EACH RESIDENT VEHICLE LOCATED IN THE TOWNS.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the Towns of Garner, Holly Springs, Rolesville, and Knightdale only.

SECTION 2. G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ fifteen dollars ($15.00) per year upon any vehicle resident in the city or town. The proceeds of the tax up to five dollars ($5.00) may be used for any lawful purpose. The proceeds of these taxes derived from any levy above five dollars ($5.00) and up to fifteen dollars ($15.00) shall be used exclusively for transportation-related purposes, including sidewalks."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

HOUSE BILL 568:
Garner, Holly Springs, Rolesville, MV Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 6, 2007
Introduced by:	Reps. Avila, Coleman, Ross, Stam	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 568 would increase the amount of the general municipal tax the Towns of Garner, Holly Springs, Rolesville, and Knightdale may impose from $5 to $15. The proceeds of the additional tax may be used only for transportation-related purposes, including sidewalks.

This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

CURRENT LAW: Under general law, counties may not impose a license or privilege tax on motor vehicles[1] and municipalities are limited in the taxes they may impose on motor vehicles to the taxes listed below:

- **General Municipal Vehicle Tax.** – A tax not to exceed $5 a year on a motor vehicle resident in the municipality. The revenue generated by this tax may be used for any lawful purpose. By local acts, the amount of the tax has been increased for several cities and towns. The cities of Durham, Henderson, and Oxford and the towns of Ahoskie, Cary, Chapel Hill, Creedmoor, and Hillsborough may levy a tax of up to $10. The cities of Gastonia, Kinston, and Raleigh may levy a tax up to $15. The cities of Charlotte, Greenville, and Winston-Salem; the towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, Murfreesboro, and Pineville; and the municipalities located wholly or partially in Cabarrus County may levy a tax up to $20. The town of Carrboro may levy a tax of up to $25. This vehicle tax is shown on the bill for vehicle taxes sent by the county.
- **Local Public Transportation.** – A tax not to exceed $5 a year on a motor vehicle resident in the municipality. Only municipalities that operate a public transportation system may impose this tax and the proceeds from the tax may be used only for local public transportation systems.[2]
- **Tax on Taxicabs.** – A tax not to exceed $15 a year on each vehicle operated in the municipality as a taxicab. The proceeds of this tax may be used for any lawful purpose.

BILL ANALYSIS: House Bill 568 would authorize the Towns of Garner, Holly Springs, Rolesville, and Knightdale to increase its motor vehicle tax from $5 to $15, effective for taxes imposed for taxable years beginning on or after July 1, 2007. The proceeds of the additional taxes must be used exclusively for transportation-related purposes, including sidewalks.

EFFECTIVE DATE: This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

H0568e1-SMRE

Martha Walston, counsel to House Finance Committee substantially contributed to this summary.

[1] By local acts modifying G.S. 20-97, Alleghany, Caswell, and Pamlico Counties may impose an annual motor vehicle tax. The amounts vary from $5 to $15.

[2] This tax may not be imposed by the city of Durham or by any cities and towns in Gaston County.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 6, 2007

TO: Senate Finance

FROM: Rodney Bizzell
Fiscal Research Division

RE: House Bill 568 (Unknown Edition)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
General Fund	* No General Fund Impact *				
Town of Garner	* See Assumptions and Methodology *				
Town of Holly Springs	* See Assumptions and Methodology *				
Town of Rolesville	* See Assumptions and Methodology *				
Town of Knightdale	* See Assumptions and Methodology *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Towns of Garner, Holly Springs, Rolesville and Knightdale

EFFECTIVE DATE: July 1, 2007

BILL SUMMARY:
House Bill 568 would authorize the towns of Garner, Holly Springs, Rolesville and Knightdale to increase their motor vehicle taxes from $5 to $15, effective for taxes imposed for taxable years beginning on or after July 1, 2007. The proceeds of the additional taxes must be used exclusively for transportation-related purposes, including sidewalks.

ASSUMPTIONS AND METHODOLOGY:
Currently, cities and towns may levy a tax of not more than $5.00 per year upon vehicles in the city or town. By local acts, the amount of the tax has been increased for several cities and towns. The proceeds of the tax may be used for any lawful purpose. This bill would authorize each specified municipality to levy a fee of up to $15 dollars per vehicle. According to the Division of Motor Vehicles, the following are the numbers of vehicles located in each municipality and the potential additional revenue available for each from the $10 increase:

Municipality	**Number of Vehicles Registered**	**Potential Additional Revenue**
Garner	23,419	$234,190
Holly Springs	16,391	$163,910
Knightdale	15,126	$151,260

No data was available for the number of vehicles registered in the Town of Rolesville however, based on revenue from the current $5 tax, the additional fee is estimated to generate approximately $50,000 annually.

SOURCES OF DATA: North Carolina Division of Motor Vehicles, NC Department of State

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 621

Committee Substitute Favorable 4/19/07

Short Title: Beech Mountain Deannexation. (Local)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE TOWN OF BEECH MOUNTAIN.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Beech Mountain:

1. Tract 11 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
2. Tract 13 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
3. Tract 14 of the property of Stephen Galvin and Timothy J. Galvin, formerly the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 7, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
4. Tract 15 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
5. Tract 16 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
6. Tracts 17 and 18 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
7. Tract 19 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 22, Watauga County Registry.

SECTION 2. This act has no effect upon the validity of any liens of the Town of Beech Mountain for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of Beech Mountain.

SECTION 3. This act becomes effective July 1, 2007.

HOUSE BILL 621:
Beech Mountain Deannexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 6, 2007
Introduced by:	Reps. Frye, Tarleton	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 621 is a local bill that de-annexes seven (7) described tracts from the corporate limits of the Town of Beech Mountain in Watauga County. The act becomes effective July 1, 2007. The removal from the corporate limits will not affect the validity of any municipal liens for ad valorem taxes or special assessments outstanding prior to the effective date of this act.

CURRENT LAW: While a city or town has statutory authority to annex property, either voluntarily or involuntarily depending upon certain circumstances, there is no statutory authority to de-annex property. Deannexation requires an act of the General Assembly.

BILL ANALYSIS: House Bill 621 de-annexes seven (7) described tracts from the corporate limits of the Town of Beech Mountain. The bill provides that removal from the corporate limits will not affect the validity of any municipal liens for ad valorem taxes or special assessments outstanding prior to the effective date of this act.

EFFECTIVE DATE: This act becomes effective July 1, 2007.

BACKGROUND: The Beech Mountain Town Council received a request for deannexation from seven property owners along an area known locally as Seminole Trail. These property owners are situated within the Beech Mountain corporate limits but do not feel they receive the same municipal service as others because their property is not accessible from a Town owned and maintained street. The Town Council has no opposition to attempts by the property owners to have their property de-annexed.

H0621e2-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1166

Short Title:	High Point/Jamestown Boundary Adjustment.	(Local)
Sponsors:	Representative Wiley.	
Referred to:	Local Government II.	

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO EXCHANGE CERTAIN DESCRIBED TERRITORY BETWEEN THE CITY OF HIGH POINT AND THE TOWN OF JAMESTOWN, AND TO DESCRIBE THE COMMON BOUNDARY LINE.

The General Assembly of North Carolina enacts:

SECTION 1. The following territory is removed from the corporate limits of the Town of Jamestown and added to the corporate limits of the City of High Point:

Tract 1

BEGINNING at a point, said point being on the southern right-of-way of Greensboro Road at Penny Road where the High Point/Jamestown municipal boundary intersects; thence along said right-of-way N 58° 34' 16" E, 210.27 feet to a point; thence along the property line N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at page 1933 S 37° 33' 19" E, 328.84 feet to a point where the High Point/Jamestown municipal boundary intersects; thence along said boundary N 68° 26' 15" W, to the place of BEGINNING; containing 0.79 acres ±.

SECTION 2. The following territory is removed from the corporate limits of the City of High Point and added to the corporate limits of the Town of Jamestown:

Tract 2

BEGINNING at a point, said point being on the property line N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at page 1933, and being a bearing and distance of S 37° 33' 19" E, 328.84 feet from the northernmost corner of said property; thence along the same bearing, 365.21 feet to a point; thence continuing along the boundary of Ragsdale Brothers, LLC N 56° 54' 27" E, 229.41 feet to a point where the High Point/Jamestown municipal boundary intersects; thence along said boundary N 68° 26' 15" W, to the place of BEGINNING; containing 0.92 acres ±.

Tract 3

BEGINNING at a point on the High Point/Jamestown municipal boundary, said point being a concrete monument with brass disk at N 816,083.97 E 1,718,442.28 in the western right-of-way of N. Scientific Street south of Kearns Street; thence N 68° 26' 15"

W, following said boundary a distance of 1080 ± feet, to the first point of intersection with the property line N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at page 1933; thence following said property line S 61° 17' 19" E, 575 ± feet to a point, being also on the rear property line of Lot 81 of the Kerns Heights subdivision as recorded in Plat Book 18, Page 94; thence continuing along the property line of Ragsdale Brothers, LLC S 57° 27' 15" E, 420.06 ± feet to a point, being the southwest corner of property N/F Robert Lee Lloyd; thence along the west property line of Robert Lee Lloyd N 7° 53' 16" E, 50.16 feet to a point, being the northwest corner of the Lloyd property; thence along the north property line of Lloyd S 81° 49' 42" E, 150.01 feet to a point, being the southeast corner of property N/F Roosevelt and Jean Y. Rorie; thence N 7° 45' 00" E following property line of Rorie to the point of BEGINNING; containing 1.91 acres ±.

SECTION 3. The boundary line between the City of High Point and the Town of Jamestown from Greensboro Road to N. Scientific Street is as follows:
BEGINNING at a point on the southern right-of-way of Greensboro Road where the High Point/Jamestown municipal boundary intersects; thence along said right-of-way N 58° 34' 16" E, 210.27 feet to a point, being the northernmost corner of property N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at page 1933, S 37° 33' 19" E, 694.04 feet to a point; thence along said property line N 56° 54' 27" E, 232.49 feet to a point; thence continuing along said property line S 61° 17' 19" E, 605.40 feet to a point, being also on the rear property line of Lot 81 of Kerns Heights subdivision as recorded in Plat Book 18, Page 94; thence along the property line of Ragsdale Brothers, LLC, S 57° 27' 15" E, 420.06 ± feet to a point, being the southwest corner of property N/F Robert Lee Lloyd; thence along the west property line of Lloyd N 7° 53' 16" E, 50.16 feet to a point, being the northwest corner of Lloyd; thence along the north property line of Lloyd S 81° 49' 42" E, 150.01 feet to a point; thence N 7° 45' 00" E along the right-of-way of N Scientific Street to a concrete monument with brass disk set on the High Point/Jamestown municipal boundary at N 816,083.97 E 1,718,442.28

SECTION 4. Sections 1 and 2 of this act have no effect upon the validity of any liens of the Town of Jamestown or the City of High Point for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the municipality from which the property was removed.

SECTION 5. This act becomes effective June 30, 2007.

HOUSE BILL 1166:
High Point/Jamestown Boundary Adjustment

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 6, 2007
Introduced by:	Rep. Wiley	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: ***House Bill 1166 would remove certain described property from the corporate limits of the Town of Jamestown and add it to the corporate limits of the City of High Point. It would also remove two described tracts from the corporate limits of the City of High Point and add them to the corporate limits of the Town of Jamestown, effectively providing for an exchange of territory between the municipalities. The bill also provides a metes and bounds description of the common boundary line between the City of High Point and the Town of Jamestown from Greensboro Road to North Scientific Street. The removal from the respective corporate limits will not affect the validity of any municipal liens for ad valorem taxes or special assessments outstanding prior to the effective date of this act.***

BILL ANALYSIS: House Bill 1166 would:

- Remove one (1) specifically described tract, containing 0.79 acres, more or less, from the corporate limits of the Town of Jamestown and add it to the corporate limits of the City of High Point.
- Remove two (2) specifically described tracts, containing 0.92 acres, more or less and 1.91 acres, more or less, respectively, from the corporate limits of the City of High Point and add them to the corporate limits of the Town of Jamestown.
- Provide a metes and bounds description of the common boundary line between the City of High Point and the Town of Jamestown from Greensboro Road to North Scientific Street.

EFFECTIVE DATE: This act would become effective June 30, 2007.

BACKGROUND: This issue is the end result of an application by a property owner to the City of High Point, requesting rezoning for a planning development of property known locally as the Wrenn Farm property. The Wrenn Farm property is situated within the corporate limits of both the Town of Jamestown and the City of High Point. Currently, within the development, the houses are inside Jamestown, and taxed accordingly but the rear lot lines are in High Point. The process of detailing the rezoning maps related to the application for rezoning highlighted a jagged northern boundary for the City of High Point. After the rezoning took place, municipal staff at Jamestown and High Point began discussion about the possibility of adjusting the property boundaries.

The City of High Point and the Town of Jamestown have passed Resolutions requesting the General Assembly to approve an exchange of incorporated property between the municipalities that would adjust a portion of the common boundary to follow current property lines. This legislative request would help clear up jurisdictional boundary issues as well as service delivery issues.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 238*
PROPOSED COMMITTEE SUBSTITUTE S238-CSRB-22 [v.1]

5/25/2007 8:43:06 AM

Short Title: Modify Tax on Property Coverage Contract. (Public)

Sponsors:

Referred to:

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE ADDITIONAL TAX RATE ON PROPERTY COVERAGE CONTRACTS TO BE REVENUE NEUTRAL BASED ON AN EXPANSION OF THE TAX BASE ENACTED IN S.L. 2006-196, TO INCREASE THE DISTRIBUTION OF THE TAX PROCEEDS TO THE VOLUNTEER FIRE DEPARTMENT FUND, TO AMEND THE VOLUNTEER FIRE DEPARTMENT GRANT PROGRAM TO ALLOW MORE DEPARTMENTS TO QUALIFY FOR GRANTS, AND TO MODIFY THE DISTRIBUTION OF TAX PROCEEDS TO THE LOCAL FIREMEN'S RELIEF FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.5(d)(3), as amended by Section 3 of S.L. 2006-196, reads as rewritten:

"(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of ~~eighty-five hundredths percent (.85%)~~ seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Twenty percent (20%)~~ Thirty percent (30%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty-five percent (25%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. The remaining net proceeds must be credited to the General Fund.

The following definitions apply in this subdivision:

a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.

b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners

multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery. The term also includes insurance contracts for wind damage.

c. NAIC. – National Association of Insurance Commissioners."

SECTION 2. G.S. 58-84-25, as amended by Section 7 of S.L. 2006-196, reads as rewritten:

"**§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall ~~pay~~ distribute the remaining tax proceeds to the treasurer of each fire district as provided in subsections (b) and (c) of this section.

(b) Allocation to Counties. – ~~on a per capita basis, using the most recent annual population estimates certified by the State Budget Officer.~~ The Insurance Commissioner shall allocate to each county an amount of tax proceeds based upon the amount allocated to it in the previous year. If the amount allocable in the current year is less than the amount allocated in the previous year, then the Commissioner shall reduce the amount allocated to each county. The amount of the reduction is equal to the difference in the amount allocated in the previous year and the amount allocable in the current year multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State. If the amount allocable in the current year is greater than the amount allocated in the previous year, then the Commissioner shall increase the amount allocated to each county. The amount of the increase is equal to the excess proceeds multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State.

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations to the fire districts in that county. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by January 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(d) Administration. – These funds shall be held by the treasurer of a fire district as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the firemen's local relief fund in each fire district, which board shall be composed of five members, residents of the fire district as hereinafter provided for, to be used by it for the purposes provided in G.S. 58-84-35."

SECTION 3. G.S. 58-87-1, as amended by Section 8 of S.L. 2006-196, reads as rewritten:

"**§ 58-87-1. Volunteer Fire Department Fund.**

(a) Fund. – The Volunteer Fire Department Fund is created as an interest-bearing, nonreverting fund in the Department to provide matching grants to volunteer fire departments to purchase equipment and make capital improvements. The Commissioner shall administer the Fund. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.

(a1) Grant Program. – An eligible fire department may apply to the Commissioner for a grant under this section. In awarding grants under this section, the Commissioner must, to the extent possible, select applicants from all parts of the State based upon need. The Commissioner must award the grants on May 15 of each year subject to the following limitations:

(1) The size of a grant may not exceed ~~twenty thousand dollars ($20,000);~~thirty thousand dollars ($30,000).

(2) The applicant shall match the grant on a dollar-for-dollar ~~basis;~~basis.

(3) The grant may be used only for equipment purchases, payment of highway use taxes on those purchases, or capital expenditures necessary to provide fire protection ~~services; and~~services.

(4) An applicant may receive no more than one grant per fiscal year.

(b) Eligible Fire Department. – A fire department is eligible for a grant under this section if it meets all of the conditions of this subsection. No fire department may be declared ineligible for a grant solely because it is classified as a municipal fire department.

(1) It serves a response area of ~~6,000~~12,000 or less in population. In making the population determination, the Department must use the most recent annual population estimates certified by the State Budget Officer.

(2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of ~~three~~ six full-time paid positions.

(3) It has been certified by the Department of Insurance.

(c) Report. – The Commissioner must submit a written report to the General Assembly within 60 days after the grants have been made. This report must contain the amount of the grant and the name of the recipient."

SECTION 4. Notwithstanding G.S. 58-84-25, as amended by this section, for the initial allocation of tax proceeds after January 1, 2008, the Insurance Commissioner shall calculate the allocation by setting the previous year's allocation as the amount of tax proceeds distributed in the previous year to the fire districts located in each county. If a fire district is located in more than one county, the Commissioner must allocate the distribution between those counties in proportion to the tax value of the property in the district located in each county.

SECTION 5. Section 1 act is effective for taxable years beginning on or after January 1, 2008. The remainder of this section becomes effective January 1, 2008.

SENATE BILL 238:
Modify Tax on Property Coverage Contract

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 25, 2007
Introduced by:	Sen. Kerr	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S238-CSRB		Committee Counsel

SUMMARY: ***Senate Bill 238 is a recommendation of the Revenue Laws Study Committee. The provisions of this bill are also in Section 31.11 of the House version of the budget, HB 1473, 5th Edition. The bill does the following:***

- ***It reduces the additional tax rate applicable to gross premiums on insurance contracts for property coverage from .85% to .74%, effective January 1, 2008. Last session the General Assembly broadened the base for this tax and directed the Revenue Laws Study Committee to determine the revenue neutral tax rate.***
- ***It increases the percentage of the tax proceeds derived from the additional fire & lightning tax rate allocated to the Volunteer Fire Department Fund from 20% to 30%. This change reduces the amount of the tax proceeds allocated to the General Fund.***
- ***It increases the cap on the grants from the Volunteer Fire Department Fund and it changes the qualifications for grants from the Volunteer Fire Department Grant Program to enable more volunteer fire departments to qualify for grants.***
- ***It modifies the distribution of money to the local firemen's relief grant funds so that the distribution more closely resembles the current distribution. The proposed committee substitute modified this part of the bill upon the suggestion of the Department of Insurance.***

CURRENT LAW AND BACKGROUND: North Carolina imposes a 1.9% tax rate on the gross premiums of most insurance policies.[1] In addition to the general rate, there is a 1.33% rate applied to the gross premiums on insurance policies that provide fire and lightning coverage. The taxable percentage of the different types of policies varies. Twenty-five percent of the net proceeds of this additional tax are credited to the Volunteer Fire Department Fund,[2] and the remainder is credited to the General Fund. There is also a 0.5% rate applied to gross premiums on insurance policies that provide fire and lightning coverage within fire districts. The statute authorizing the 0.5% rate does not provide any exceptions from this tax. The net proceeds of this tax are credited to the Department of Insurance and most of the proceeds are distributed to the fire districts.[3]

[1] Workers' compensation policies are taxed at 2.5%.

[2] Funds in the Volunteer Fire Department Fund provide matching grants to volunteer fire departments to purchase equipment and make capital improvements. In 2005, the Department received 567 applications for grants requesting matching funds of $6,577,455. The available monies in the Fund totaled only $4,369,976. The Department approved 500 applications totaling $4,365,489.

[3] Three percent (3%) of the tax proceeds are credited to the State Firemen's Association for general purposes. Two percent (2%) of the proceeds are used by the Department of Insurance for the purpose of administering the disbursement. The remaining funds are allocated among the fire districts in proportion to the amount of business done in the district and used by the local district for firemen's local relief purposes. *See Article 84 of Chapter 58 of the General Statutes.*

Last session, in S.L. 2006-196, the General Assembly changed the law, effective January 1, 2008, upon the recommendation of the Revenue Laws Study Committee. The Committee recommended a change in the law because the Department of Revenue informed the Committee that the taxable percentages applied under the previous law were neither statutory nor imposed by administrative rule. S.L. 2006-196 set the percentages for the 2007 taxable year, and it established a new method of taxing insurance policies that provide property coverage effective for taxable years beginning on or after January 1, 2008. Effective 2008, there will be one additional rate applicable to policies covering all types of property damage, not just fire and lightning coverage. The reason for the base expansion to include all types of property coverage is that volunteer fire departments must respond to more than just fire calls; they are often the first responders to many types of calls that involve property damage. To keep the changes revenue neutral, the legislation reduced the tax rate to 0.85%, and it directed the Revenue Laws Study Committee to continue studying this issue to ensure a revenue neutral tax rate.

The base broadening of the 2006 legislation also eliminated the 0.5% tax imposed on contracts of insurance applicable to fire and lightning coverage within fire districts. By applying the tax broadly, it made unnecessary the accounting by insurance companies of the amount of premiums written in fire districts. The removal of this accounting greatly reduces the administrative compliance burden for the companies. The 2006 legislation established a new method of distribution based upon a per capita allocation among fire districts, effective January 1, 2008, and directed the Revenue Laws Study Committee to study the distribution to the local fire districts.

BILL ANALYSIS: Senate Bill 238 reflects the continued study of this area. The proposed committee substitute makes the following changes to the law:

- It reduces the additional tax rate on property coverage contracts from 0.85% to 0.74% to ensure a revenue neutral tax rate. It also clarifies that the tax rate includes wind-only premiums.
- It changes the distribution formula for the funds distributed to local fire districts. The 2006 legislation provided that the funds would be distributed on a per capita basis. Further study revealed that this distribution formula would be significantly different from the current distribution formula. This section changes the distribution formula so that the amounts distributed under it more closely follow the current distribution patterns.
- It increases the percentage of the tax proceeds allocated to the Volunteer Fire Department Fund from 20% to 30%. This change reduces the amount allocated to the General Fund from 55% to 45%.
- It increases the cap on the grants from the Volunteer Fire Department Fund and it changes the qualifications for grants from the Fund so that more volunteer fire departments may qualify for grants:
    - It increases the cap on the grants from $20,000 to $30,000.
    - It provides that a volunteer fire department may qualify for a grant if it serves a response area of no more than 12,000 people (current law is 6,000).
    - It provides that a volunteer fire department may qualify for a grant if it has no more than six full-time paid positions (current law is three).

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 25, 2007

TO: Senator Kerr

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to SB 238

FISCAL IMPACT ($ millions)

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
General Fund	**($1.49)**	**($3.07)**	**($3.28)**	**($3.52)**	**($3.76)**
Vol. Fire Dept. Fund	**$1.49**	**$3.07**	**$3.28**	**$3.52**	**$3.76**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Insurance

EFFECTIVE DATE: January 1, 2008

BACKGROUND:
During the 2005-06 Session, the General Assembly enacted HB 1891, which simplified the additional tax on gross premiums for fire and lightning coverage. The bill combined the existing statewide and local taxes on this coverage and clarified the types and percentages of premiums subject to the tax. The bill also established percentages for distribution of the proceeds under the combined tax that were proportional to the distributions under the separate state and local taxes. The bill also established a tax rate for the statewide tax distribution and a new method for

distributing the Firemen's Relief Fund portion of the tax. The existing method of distribution required insurance companies to document premiums written by fire district and a simpler method was created under HB1891 to eliminate the need to track premiums by district.

BILL SUMMARY:

The Proposed Committee Substitute for SB 238 establishes a revenue neutral rate of 0.74% for the combined statewide tax established under HB1891. The bill also reduces the percentage of collections going to the General Fund to allow additional funding for the Volunteer Fire Department Fund. The distribution established under HB 1891 for the tax is: General Fund - 55%; Firemen's Relief Fund - 25%; and Volunteer Fire Department Fund - 20%. The PCS to SB 238 would reduce the General Fund allocation by 10% and increase the Volunteer Fire Department Fund allocation by 10%. This PCS also establishes the distribution method for the portion of the tax that is distributed for the Firemen's Relief Fund. The new distribution method provides for each county to receive the same amount it received in the previous fiscal year as a base distribution. The incremental change in the total allocation for the relief fund would be distributed to each county based on population and distributed to fire districts within each county based on property values. Finally, the bill changes the criteria the Department of Insurance uses in providing grants to volunteer fire departments by increasing the maximum size of the grants to $30,000; increasing the maximum population of eligible districts to 12,000; and increasing the maximum number of allowed paid firefighters on staff from three to six.

ASSUMPTIONS AND METHODOLOGY:

The revenue neutral rate in the bill is derived by dividing annual collections by the taxable premiums. Information on calendar year premiums for 2005 was available from the Department of Insurance. The NC Department of Revenue provided tax collections for the period of April 2005 through March 2006, the time period for which collections most closely correspond to 2005 premiums. The rate resulting from this calculation is 0.74%.

To determine the amount of revenue loss to the General Fund related to the change in percentage allocations, fire and lightning tax collections were projected for the next five fiscal years based on the relationship between gross premiums collections and North Carolina personal income, for which projections are available from Moody's Economy.com. Both the current and proposed allocation percentages are applied to the projected fiscal year collections. The differences between the current and proposed allocations represent the annual loss and gain for the General Fund and Volunteer Fire Department Fund, respectively. Because the effective date is January 1, 2008, the impact for FY 2007-08 is partial. The new allocations would apply to installments made in April and June, which represent approximately 52% of fiscal year collections. Therefore, the General Fund revenue loss for FY 2007-08 was calculated by applying the new percentage allocation to 52% of the fiscal year revenue and applying the current allocation to the remaining portion.

Current Allocation Fire and Lightning Tax (Included in HB 1891) ($ millions)					
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
General Fund 55%	$15.79	$16.87	$18.07	$19.35	$20.70
Volunteer Fire Fund 20%	$5.74	$6.13	$6.57	$7.04	$7.53
Firemen's Relief Fund 25%	$7.18	$7.67	$8.21	$8.80	$9.41
Total	$28.71	$30.67	$32.85	$35.19	$37.64

Proposed Allocation under PCS to SB 238 - Fire and Lightning Tax ($ millions)					
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
General Fund 45%	$14.29	$13.80	$14.78	$15.83	$16.94
Volunteer Fire Fund 30%	$7.23	$9.20	$9.85	$10.56	$11.29
Firemen's Relief Fund 25%	$7.17	$7.67	$8.21	$8.80	$9.41
Total	$28.71	$30.67	$32.85	$35.19	$37.64

SOURCES OF DATA: NC Department of Revenue; NC Department of Insurance; Moody's Economy.com

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 238*

Short Title:	Modify Tax on Property Coverage Contract.	(Public)
Sponsors:	Senators Kerr, Clodfelter, Hartsell, Hoyle, and Dalton.	
Referred to:	Finance.	

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE ADDITIONAL TAX RATE ON PROPERTY COVERAGE CONTRACTS TO BE REVENUE NEUTRAL BASED ON AN EXPANSION OF THE TAX BASE ENACTED IN S.L. 2006-196, TO INCREASE THE DISTRIBUTION OF THE TAX PROCEEDS TO THE VOLUNTEER FIRE DEPARTMENT FUND, TO AMEND THE VOLUNTEER FIRE DEPARTMENT GRANT PROGRAM TO ALLOW MORE DEPARTMENTS TO QUALIFY FOR GRANTS, AND TO MODIFY THE DISTRIBUTION OF TAX PROCEEDS TO THE LOCAL FIREMEN'S RELIEF FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.5(d)(3), as amended by Section 3 of S.L. 2006-196, reads as rewritten:

"(3) **(Effective for taxable years beginning on or after January 1, 2008)** Additional Rate on Property Coverage Contracts. – An additional tax at the rate of ~~eighty-five hundredths percent (.85%)~~ seventy-four hundredths percent (.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Twenty percent (20%)~~ Thirty percent (30%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty-five percent (25%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. The remaining net proceeds must be credited to the General Fund.

The following definitions apply in this subdivision:

a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.

b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery. The term also includes insurance contracts for wind damage.

c. NAIC. – National Association of Insurance Commissioners."

SECTION 2. G.S. 58-84-25, as amended by Section 7 of S.L. 2006-196, reads as rewritten:

"**§ 58-84-25. (Effective January 1, 2008) Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall pay the remaining tax proceeds to the treasurer of each fire district as provided in subsection (b) of this section.

(b) Local Fire Districts. – ~~on a per capita basis, using the most recent annual population estimates certified by the State Budget Officer.~~ The Insurance Commissioner must distribute to the fire districts the amount each district received under this section in the previous year. If the amount distributable in a year is less than the amount distributed in the previous year, then the amount each fire district receives is reduced proportionally. If the amount distributable in a year is greater than the amount distributed in the previous year, then the excess proceeds must be distributed to the counties in proportion to the premiums collected on insurance contracts for property coverage in each county compared to the total premiums collected on insurance contracts for property coverage in this State. The county must distribute any funds it receives under this section to the fire districts in its county. The amount each fire district receives is its proportionate share based upon the property tax values in its district compared to the property tax values in all the fire districts of that county.

These funds shall be held by the treasurer as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the firemen's local relief fund in each fire district, which board shall be composed of five

members, residents of the fire district as hereinafter provided for, to be used by it for the purposes provided in G.S. 58-84-35."

SECTION 3. G.S. 58-87-1, as amended by Section 8 of S.L. 2006-196, reads as rewritten:

"**§ 58-87-1. (Effective January 1, 2008) Volunteer Fire Department Fund.**

(a) Fund. – The Volunteer Fire Department Fund is created as an interest-bearing, nonreverting fund in the Department to provide matching grants to volunteer fire departments to purchase equipment and make capital improvements. The Commissioner shall administer the Fund. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.

(a1) Grant Program. – An eligible fire department may apply to the Commissioner for a grant under this section. In awarding grants under this section, the Commissioner must, to the extent possible, select applicants from all parts of the State based upon need. The Commissioner must award the grants on May 15 of each year subject to the following limitations:

(1) The size of a grant may not exceed ~~twenty thousand dollars ($20,000);~~thirty thousand dollars ($30,000).

(2) The applicant shall match the grant on a dollar-for-dollar ~~basis;~~basis.

(3) The grant may be used only for equipment purchases, payment of highway use taxes on those purchases, or capital expenditures necessary to provide fire protection ~~services; and~~services.

(4) An applicant may receive no more than one grant per fiscal year.

(b) Eligible Fire Department. – A fire department is eligible for a grant under this section if it meets all of the conditions of this subsection. No fire department may be declared ineligible for a grant solely because it is classified as a municipal fire department.

(1) It serves a response area of ~~6,000~~12,000 or less in population. In making the population determination, the Department must use the most recent annual population estimates certified by the State Budget Officer.

(2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of ~~three~~ six full-time paid positions.

(3) It has been certified by the Department of Insurance.

(c) Report. – The Commissioner must submit a written report to the General Assembly within 60 days after the grants have been made. This report must contain the amount of the grant and the name of the recipient."

SECTION 4. Section 1 of this act is effective for taxable years beginning on or after January 1, 2008. The remainder of this act becomes effective January 1, 2008.

NORTH CAROLINA
DEPARTMENT OF INSURANCE

OSFM

OFFICE OF STATE FIRE MARSHAL

Jim Long
Commissioner of Insurance
State Fire Marshal

1201 Mail Service Center
Raleigh, NC 27699-1201
(919) 733-3362 x 206 / fax (919) 733-6495

MEMO

TO: **Members of Senate Finance Committee**
FROM: **Jim Long, Insurance Commissioner and State Fire Marshal**
DATE: **June 6, 2007**
RE: **Today in Senate Finance – SB 238 – Property Contracts/Fire Dept Grants**

Please note a very important piece of legislation of interest to firefighters, rescue workers, firemen's relief fund boards, local governments, insurance companies, and legislators.

Specifically, Senators Kerr and Hoyle filed Senate Bill 238 after detailed hearings and a unanimous recommendation by the Revenue Laws Committee.

The bill does several things: *First*, SB 238 clarifies and corrects some inadequacies in legislation last year that, if not passed this year, will cause serious disruption in the ability of the Department of Insurance to distribute the appropriate amount of fire grant funds and firemen's relief funds in 2008 forward. *Second*, it further streamlines the process without raising gross premiums taxes or lessening grant awards – i.e., the bill is revenue neutral. *Third*, it raises the current annual cap of $20,000 for fire grant funds to $30,000, a move which, because of the matching funds requirement, adds buying $20,000 more buying power annually for volunteer fire departments needing new and updated equipment and supplies and helps keep up with the cost of inflation that has eroded the current cap's value. *Fourth*, it raises the cap for fire departments eligible for fire grants from 6,000 people to 12,000. *Fifth*, it raises the cap for fire departments eligible for fire grants from three full-time equivalent employees to six full-time equivalent employees. *Sixth*, SB 238 adjusts the formula so that more of the funds go towards grants as originally intended and not sent to unrelated purposes in the legislature's General Fund.

On the whole, these proposals will expand the pool of volunteer fire departments eligible for grants for equipment and supplies. New equipment and supplies most often translate into better ISO ratings for fire departments, which in turn directly result in lower homeowners' insurance premiums for homeowners in your fire districts. Though it should go without saying, these bills are also beneficial to your local governments because the increased availability of fire department grants and the increased amounts of grants themselves help cities and counties that often have tight budgets as it is.

You have probably received copies of resolutions in favor of these bills from your local fire chiefs, cities and counties. I have attached one (1) example of the hundreds of resolutions considered.

For your personal reference, I have also attached a spreadsheet detailing how much the counties in your respective districts have received during the 18 years of the program. Whereas every fire district in every county receives funds for the Firemen's Relief Funds, the spreadsheet only provides information on the Fire Grants, which are for vital equipment and supplies.

Without passage of one of these bills this year, awarding grants in 2008 will be seriously impaired and we will face a surge of fire departments who cannot receive these grants because of a lack of funds in the program. We see this legislation as one of the best and most direct ways to support the work and duties of first responders in every county. I know of no opposition. (FYI: The companion bill filed by House Speaker Pro Tem Wainwright was incorporated into the House budget. The Senate has indicated that it would rather have the bill as a standalone item, and did not include it in the Senate version of the recent proposed State budget.)

I applaud the leadership of Senators Hoyle and Kerr in filing this legislation, as requested by the Revenue Laws Committee and my office. I respectfully request your full support and sincerely appreciate your help. Thank you.

###

c: Mr. Wayne Goodwin
Assistant Commissioner of Insurance
and Assistant State Fire Marshal

Mr. Tim Bradley
Senior Deputy State Fire Marshal

Mr. Paul Miller
N.C. State Firemens' Association

Ms. Patrice Roesler
N.C. Association of County Commissioners

Mr. Andy Romanet
N.C. League of Municipalities

Representative William Wainwright
House Speaker Pro Tem

Speaker Joe Hackney

President Pro Tem Marc Basnight

A RESOLUTION IN SUPPORT OF HOUSE BILL 262 AND SENATE BILL 238, LEGISLATION THAT PROVIDES NECESSARY, ADDITIONAL FUNDS FOR AND IMPROVES ELIGIBILITY OF FIRE DEPARTMENTS FOR STATEWIDE GRANTS

WHEREAS, the Commissioner of Insurance of North Carolina is also the State Fire Marshal;

WHEREAS, as Insurance Commissioner and State Fire Marshal he and the North Carolina Department of Insurance administer the volunteer fire department grant funds and firemen's relief funds;

WHEREAS, fire departments in every county have counted on these annual fire grants for many years to purchase necessary equipment and supplies up to $20,000 (with an additional match of $20,000);

WHEREAS, there are approximately 1,400 volunteer fire departments in the State, a number which translates each year into greater grant requests than the current grant formula is able to bear;

WHEREAS, the current grant formula is also inadequate in that more and more volunteer fire departments are becoming ineligible due to the current caps on population in the respective fire districts, the number of employees in a fire department, and the overall grant cap of $20,000 annually has not kept up with inflation;

WHEREAS, adjusting the formula and statutes for these grant funds would ensure that more departments are eligible and, furthermore, that they are eligible for larger matching grants, facts which will translate into better ratings for those fire departments and lower homeowners' insurance premiums for homes within the respective fire districts;

WHEREAS, these changes can be accomplished without raising taxes on insurance companies or citizens;

WHEREAS, legislators this year filed House Bill 262 and Senate Bill 238 upon request of the Commissioner of Insurance and the recommendation of the Revenue Laws Committee of the North Carolina General Assembly, legislation that is necessary for the proper administration of these grant funds and for the vitally needed improvements above; and,

WHEREAS, the Department of Insurance and the Office of State Fire Marshal estimate that more than 200 additional fire departments may become eligible for fire grants by this legislation alone.

THEREFORE BE IT RESOLVED that the West End Fire & Rescue Board of Commissioners expresses its strong support for House Bill 262 and Senate Bill 238 and respectfully requests and fervently encourages that its legislative delegation do all in its might to attain passage of either or both bills during the 2007 session of the North Carolina General Assembly.

BE IT FURTHER RESOLVED that the West End Fire Board of Commissioners, because of pending deadlines for legislative action this session, will hereby notify its legislative delegation in the State House and State Senate by fax, email or by hand delivery, whichever method provides the most prompt communication of this resolution.

This the 7th day of May, 2007.

Chairman, West End Fire & Rescue Board of Commissioners

SUSAN M. HUSTER NOTARY PUBLIC MOORE COUNTY, N.C.

WEST END FIRE/RESCUE, INC. CORPORATE SEAL N.C.

Susan Huster, Notary Public
My Commission expires 2/8/10

Re SB 238 - Recipients of Volunteer Fire Dept Grants by County - for Senate Finance Committee

	SENATOR	POSITION	COUNTY	TOTAL VFD GRANT DOLL RECEIVED, 1988-2007
Clodfelter	Sen. Daniel G. Clodfelter	Co-Chairman	Mecklenburg	37,788.79
Hoyle	Sen. David W. Hoyle	Co-Chairman	Gaston	355,244.11
Kerr	Sen. John H. Kerr, III	Co-Chairman	Greene	871,931.98
			Pitt	355,244.11
			Wayne	1,654,404.42
Hartsell	Sen. Fletcher L. Hartsell, Jr.	Vice Chairman	Cabarrus	352,641.66
			Iredell	3,285.00
Shaw	Sen. Larry Shaw	Vice Chairman	Cumberland	125,267.71
Albertson	Sen. Charles W. Albertson	Member	Duplin	1,331,448.99
			Lenoir	227,210.82
			Sampson	867,742.94
Allran	Sen. Austin M. Allran	Member	Catawba	53,554.44
			Iredell	3,285.00
Apodaca	Sen. Tom Apodaca	Member	Buncombe	41,285.13
			Henderson	155,875.37
			Polk	218,086.25
Atwater	Sen. Bob Atwater	Member	Chatham	91,218.12
			Durham	0.00
			Lee	100,809.04
Berger P.	Sen. Philip E. Berger	Member	Guilford	346,681.70
			Rockingham	370,489.71
Blake	Sen. Harris Blake	Member	Harnett	134,585.09
			Moore	156,875.12
Boseman	Sen. Julia Boseman	Member	New Hanover	5,950.00
Brock	Sen. Andrew C. Brock	Member	Davie	950,356.65
			Rowan	699,925.52
Brown	Sen. Harry Brown	Member	Jones	586,034.46
			Onslow	1,719,187.20
Brunstetter	Sen. Peter S. Brunstetter	Member	Forsyth	104,129.65
Cowell	Sen. Janet Cowell	Member	Wake	16,328.00
Dalton	Sen. Walter H. Dalton	Member	Cleveland	572,178.08
			Rutherford	258,220.73
Dannelly	Sen. Charlie S. Dannelly	Member	Mecklenburg	37,788.79
Garrou	Sen. Linda Garrou	Member	Forsyth	104,129.65
Goodall	Sen. W. Edward (Eddie) Goodall	Member	Mecklenburg	37,788.79
			Union	657,658.63
Goss	Sen. Steve Goss	Member	Alexander	472,204.23
			Ashe	818,787.71
			Watauga	960,022.46
			Wilkes	1,526,873.86
Hagan	Sen. Kay R. Hagan	Member	Guilford	346,681.70
Hunt	Sen. Neal Hunt	Member	Wake	16,328.00

	SENATOR	POSITION	COUNTY	TOTAL VFD GRANT DOLLARS RECEIVED, 1988-2007
Jenkins	Sen. Clark Jenkins	Member	Edgecombe	763,609.92
			Martin	315,705.34
			Pitt	355,244.11
Kinnaird	Sen. Eleanor Kinnaird	Member	Orange	15,970.00
			Person	523,185.45
McKissick	Sen. Floyd B. McKissick, Jr.	Member	Durham	0
Nesbitt	Sen. Martin L. Nesbitt, Jr.	Member	Buncombe	41,285.13
Pittenger	Sen. Robert Pittenger	Member	Mecklenburg	37,788.79
Preston	Sen. Jean Preston	Member	Carteret	403,289.03
			Craven	449,361.05
			Pamlico	314,369.43
Purcell	Sen. William R. Purcell	Member	Anson	683,728.99
			Richmond	325,309.52
			Scotland	448,267.14
			Stanly	1,069,856.86
Queen	Sen. Joe Sam Queen	Member	Avery	717,166.99
			Haywood	200,547.30
			Madison	250,643.95
			McDowell	774,745.74
			Mitchell	651,710.79
			Yancey	524,316.41
Rand	Sen. Tony Rand	Member	Bladen	1,018,538.49
			Cumberland	125,267.71
Smith	Sen. Fred Smith	Member	Johnston	1,052,037.65
			Wayne	1,654,404.42
Soles	Sen. R.C. Soles, Jr.	Member	Brunswick	545,778.23
			Columbus	840,597.07
			Pender	658,595.09
Stevens	Sen. Richard Stevens	Member	Wake	16,328.00
Swindell	Sen. A. B Swindell	Member	Nash	443,670.93
			Wilson	477,998.29
Tillman	Sen. Jerry W. Tillman	Member	Montgomery	475,444.64
			Randolph	349,532.56
Weinstein	Sen. David F. Weinstein	Member	Hoke	582,303.50
			Robeson	1,769,910.19
				Total VFD grants ($) to Counties Represented by Senate Finance Committee members:
				36,622,038.32

Information courtesy of N.C. Fire & Rescue Division
N.C. Dept. of Insurance, 29 May 2007
Jim Long, Commissioner of Insurance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 242
PROPOSED COMMITTEE SUBSTITUTE S242-CSSVxf-30 [v.21]

6/6/2007 1:09:33 PM

Short Title: Reform Tax Appeals/Close REIT Loophole. (Public)

Sponsors:

Referred to:

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO REFORM THE PROCESS FOR ADMINISTRATIVE AND JUDICIAL REVIEW OF DISPUTED TAX MATTERS AND TO LIMIT A CORPORATION'S ABILITY TO USE REAL ESTATE INVESTMENT TRUSTS TO AVOID STATE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 105 is amended by adding the following new sections to read:

"**§ 105-241.6. Statute of limitations for refunds.**

(a) General. – The general statute of limitations for obtaining a refund of an overpayment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for obtaining a refund of an overpayment is the later of the following:

(1) Three years after the due date of the return.

(2) Two years after payment of the tax.

(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for requesting a refund is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later.

(2) Waiver. – A taxpayer's waiver of the statute of limitations for making a proposed assessment extends the period in which the taxpayer can obtain a refund to the end of the period extended by the waiver.

(3) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4

of this Chapter to the extent the overpayment is attributable to either of the following:

a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.

b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.

(4) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.

"**§ 105-241.7. Procedure for obtaining a refund.**

(a) Initiated by Department. – The Department must refund an overpayment made by a taxpayer when the Department processes a return and finds all of the following:

(1) The statute of limitations for obtaining a refund has not expired.

(2) The amount shown due on the return is not correct.

(3) The correction of the amount due shows that the taxpayer has overpaid the tax.

(b) Initiated by Taxpayer. – A taxpayer may request a refund of an overpayment made by the taxpayer by taking one of the following actions within the statute of limitations for obtaining a refund:

(1) Filing an amended return reflecting an overpayment due the taxpayer.

(2) Filing a claim for refund. The claim must identify the taxpayer, the type and amount of tax overpaid, the filing period to which the overpayment applies, and the basis for the claim. The taxpayer's statement of the basis of the claim does not limit the taxpayer from changing the basis.

(c) Action on Request. – When a taxpayer files an amended return or a claim for refund, the Department must take one of the actions listed in this subsection within six months after the date the amended return or claim for refund is filed. If the Department does not take one of these actions within this time limit, the inaction is considered a proposed denial of the requested refund.

(1) Send the taxpayer a refund of the amount shown due on the amended return or claim for refund.

(2) Adjust the amount of the requested refund by increasing or decreasing the amount shown due on the amended return or claim for refund and send the taxpayer a refund of the adjusted amount. If the adjusted amount is less than the amount shown due on the amended return or claim for refund, the adjusted refund must include a reason for the adjustment. The adjusted refund is considered a notice of proposed

denial for the amount of the requested refund that is not included in the adjusted refund.

(3) Deny the refund and send the taxpayer a notice of proposed denial.

(4) Send the taxpayer a letter requesting additional information concerning the requested refund. If a taxpayer does not respond to a request for information, the Department may deny the refund and send the taxpayer a notice of proposed denial. If a taxpayer provides the requested information, the Department must take one of the actions listed in this subsection within the later of the following:

a. The remainder of the six-month period.

b. 30 days after receiving the information.

c. A time period mutually agreed upon by the Department and the taxpayer.

(d) Notice. – A notice of a proposed denial of a request for refund must contain the following information:

(1) The basis for the proposed denial. The statement of the basis of the denial does not limit the Department from changing the basis.

(2) The circumstances under which the proposed denial will become final.

(e) Restrictions. – The Department may not refund any of the following:

(1) Until a taxpayer files a final return for a tax period, an amount paid before the final return is filed.

(2) An overpayment set off under Chapter 105A, the Setoff Debt Collection Act, or under another setoff debt collection program authorized by law.

(3) An income tax overpayment the taxpayer has elected to apply to another purpose as provided in this Article.

(4) An individual income tax overpayment of less than one dollar ($1.00) or another tax overpayment of less than three dollars ($3.00), unless the taxpayer files a written claim for the refund.

(f) Effect of Denial or Refund. – A proposed denial of a refund by the Secretary is presumed to be correct. A refund does not absolve a taxpayer of a tax liability that may in fact exist. The Secretary may propose an assessment for any deficiency as provided in this Article.

"**§ 105-241.8. Statute of limitations for assessments.**

(a) General. – The general statute of limitations for proposing an assessment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for proposing an assessment is the later of the following:

(1) Three years after the due date of the return.

(2) Three years after the taxpayer filed the return.

(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is

one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is three years after the date the Secretary received the final report of the federal determination.

(2) Failure to File or Filing False Return. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if any of the following applies:

a. The taxpayer did not file a return.

b. The taxpayer filed a fraudulent return.

c. The taxpayer attempted in any manner to fraudulently evade or defeat the tax.

(3) Tax Forfeiture. – If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the period for proposing an assessment of any tax due as a result of the forfeiture is three years after the date of the forfeiture.

(4) Nonrecognition of Gain. – If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the period for proposing an assessment of any tax due as a result of the conversion or election is the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code.

"**§ 105-241.9. Procedure for proposing an assessment.**

(a) Authority. – The Secretary may propose an assessment against a taxpayer for tax due from the taxpayer. The Secretary must base a proposed assessment on the best information available. A proposed assessment of the Secretary is presumed to be correct.

(b) Time Limit. – The Secretary must propose an assessment within the statute of limitations for proposed assessments unless the taxpayer waives the limitations period in writing. A taxpayer may waive the limitations period for either a definite or an indefinite time. If the taxpayer waives the limitations period, the Secretary may propose an assessment at any time within the time extended by the waiver.

(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(3) The circumstances under which the proposed assessment will become final and collectible.

"**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, as appropriate. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability.

"**§ 105-241.11. Requesting review of proposed denial of refund or proposed assessment.**

(a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a proposed assessment of tax may request a Departmental review of the proposed action by filing a request for review. The request must be filed with the Department within 45 days after the following:

(1) The date the notice of the proposed denial of the refund or proposed assessment was mailed to the taxpayer, if the notice was delivered by mail.

(2) The date the notice of the proposed denial of the refund or proposed assessment was delivered to the taxpayer, if the notice was delivered in person.

(3) The date that inaction by the Department on a request for refund was considered a proposed denial of the refund.

(b) Filing. – A request for a Departmental review of a proposed denial of a refund or a proposed assessment is considered filed on the following dates:

(1) For a request that is delivered in person, the date it is delivered.

(2) For a request that is not delivered in person, the date the Department receives it.

"**§ 105-241.12. Result when taxpayer does not request a review.**

(a) Refund. – If a taxpayer does not file a timely request for a Departmental review of a proposed denial of a refund, the proposed denial is final and is not subject to further administrative or judicial review. A taxpayer whose proposed denial becomes final may not file another amended return or claim for refund to obtain the denied refund.

(b) Assessment. – If a taxpayer does not file a timely request for a Departmental review of a proposed assessment, the proposed assessment is final and is not subject to further administrative or judicial review. Upon payment of the tax, the taxpayer may request a refund of the tax.

Before the Department collects a proposed assessment that becomes final when the taxpayer does not file a timely request for a Departmental review, the Department must send the taxpayer a notice of collection. A notice of collection must contain the following information:

(1) A statement that the proposed assessment is final and collectible.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

"**§ 105-241.13. Action on request for review.**

(a) Action on Request. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund or a proposed assessment, the Department must conduct a review of the proposed denial or proposed assessment and take one of the following actions:

(1) Grant the refund or remove the assessment.

(2) Schedule a conference with the taxpayer.

(3) Request additional information from the taxpayer concerning the requested refund or proposed assessment.

(b) Conference. – When the Department reviews a proposed denial of a refund or a proposed assessment and does not grant the refund or remove the assessment, the Department must schedule a conference with the taxpayer. The Department must set the time and place for the conference and must send the taxpayer notice of the designated time and place. The Department must send the notice at least 30 days before the date of the conference or, if the Department and the taxpayer agree, within a shorter period.

The conference is an informal proceeding at which the taxpayer and the Department must attempt to resolve the case. Testimony under oath is not taken, and the rules of evidence do not apply. A taxpayer may designate a representative to act on the taxpayer's behalf. The taxpayer may present any objections to the proposed denial of refund or proposed assessment at the conference.

(c) After Conference. – One of the following must occur after the Department conducts a conference on a proposed denial of a refund or a proposed assessment:

(1) The Department and the taxpayer agree on a settlement.

(2) The Department and the taxpayer agree that additional time is needed to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment.

(3) The Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment. If a taxpayer fails to attend a scheduled conference on the proposed denial of a refund or a proposed assessment without prior notice to the Department, the Department and the taxpayer are considered to be unable to resolve the taxpayer's objection.

"**§ 105-241.14. Final determination after Departmental review.**

(a) Refund. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund and the Department and the taxpayer are unable to resolve

the taxpayer's objection to the proposed denial, the Department must send the taxpayer a notice of final determination concerning the refund. The notice of final determination must state the basis for the determination and inform the taxpayer of the procedure for contesting the determination. The statement of the basis for the determination does not limit the Department from changing the basis.

(b) Assessment. – If a taxpayer files a timely request for a Departmental review of a proposed assessment and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed assessment, the Department must send the taxpayer a notice of final determination concerning the assessment. A notice of final determination concerning an assessment must contain the following information:

(1) The basis for the determination. This information may be stated on the notice or be set out in a separate document. The statement of the basis for the determination does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) The procedure the taxpayer must follow to contest the final determination.

(4) A statement that the amount payable stated on the notice is collectible by the Department unless the taxpayer contests the final determination.

(5) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

(c) Time Limit. – The process set out in G.S. 105-241.13 for reviewing and attempting to resolve a proposed denial of a refund or a proposed assessment must conclude and a final determination must be issued within nine months after the date the taxpayer files a request for review. The Department and the taxpayer may extend this time limit by mutual agreement. Failure to issue a notice of final determination within the required time does not affect the validity of a proposed assessment.

"**§ 105-241.15. Contested case hearing on final determination.**

A taxpayer who disagrees with a notice of final determination issued by the Department may contest the determination by filing a petition for a contested case hearing at the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes. A taxpayer may file a petition for a contested case hearing only if the taxpayer has exhausted the prehearing remedy. A taxpayer's prehearing remedy is exhausted when the Department issues a final determination after conducting a review and a conference.

"**§ 105-241.16. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). A taxpayer who files a petition for judicial review must pay the amount of tax, penalties, and interest the final decision states is due. A taxpayer

may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52.

"**§ 105-241.17. Civil action challenging statute as unconstitutional.**

A taxpayer who claims that a tax statute is unconstitutional may bring a civil action in the Superior Court of Wake County to determine the taxpayer's liability under that statute if all of the conditions in this section are met. In filing an action under this section, a taxpayer must follow the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). The conditions for filing a civil action are:

(1) The taxpayer exhausted the prehearing remedy by receiving a final determination after a review and a conference.

(2) The taxpayer commenced a contested case at the Office of Administrative Hearings.

(3) The Office of Administrative Hearings dismissed the contested case petition for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.

(4) The taxpayer has paid the amount of tax, penalties, and interest the final determination states is due.

(5) The civil action is filed within two years of the dismissal.

"**§ 105-241.18. Class actions.**

(a) Authority. – An action brought under G.S. 105-241.17 challenging the constitutionality of a statute may be maintained against the State by a taxpayer for and on behalf of the taxpayer or other taxpayers similarly situated only in accordance with this section.

(b) Opt-In Requirement. – A taxpayer must opt in to become a party to a class action brought under this section. A taxpayer opts in by filing a request for a refund with the Department in accordance with G.S. 105-241.7 and by filing a copy of the request for a refund with the court. A taxpayer must opt in within the time period set by the court.

(c) Refund Claim Required. – The court may not allow a taxpayer who does not follow the procedure in this section to opt in to a class action brought under this section.

(d) Tolling. – The period set in G.S. 105-241.6 for filing a request for refund is tolled by the filing of a class action under this section for any taxpayer who, at the time the class action was commenced, could timely file a request for refund with the Secretary.

"**§ 105-241.19. Declaratory judgments, injunctions, and other actions prohibited.**

The remedies in G.S. 105-241.11 through G.S. 105-241.18 set out the exclusive remedies for disputing the denial of a requested refund, a taxpayer's liability for a tax, or the constitutionality of a tax statute. Any other action is barred. Neither an action for declaratory judgment, an action for an injunction to prevent the collection of a tax, nor any other action is allowed.

"**§ 105-241.20. Delivery of notice to the taxpayer.**

(a) Scope. – This section applies to the following notices:

(1) A proposed denial of a refund.

(2) A proposed assessment.

(3) A notice of collection.

(4) A final determination.

(b) Method. – The Secretary must deliver a notice listed in subsection (a) of this section to a taxpayer either in person or by United States mail sent to the taxpayer's last known address. A notice mailed to a taxpayer is presumed to have been received by the taxpayer unless the taxpayer makes an affidavit to the contrary within 90 days after the notice was mailed. If the taxpayer makes this affidavit, the notice is considered to have been delivered on the date the taxpayer makes the affidavit and any time limit affected by the notice is extended to the date the taxpayer makes the affidavit.

"**§ 105-241.21. Interest on taxes.**

(a) Rate. –The interest rate set by the Secretary applies to interest that accrues on overpayments and assessments of tax. On or before June 1 and December 1 of each year, the Secretary must establish the interest rate to be in effect during the six-month period beginning on the next succeeding July 1 and January 1, respectively. In determining the interest rate, the Secretary must give due consideration to current market conditions and to the rate that will be in effect on that date pursuant to the Code. If no new rate is established, the rate in effect during the preceding six-month period continues in effect. The rate established by the Secretary may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year.

(b) Accrual on Underpayments.– Interest accrues on an underpayment of tax from the date set by statute for payment of the tax until the tax is paid. Interest accrues only on the principal of the tax and does not accrue on any penalty.

(c) Accrual on Refund.– Interest accrues on an overpayment of tax from the time set in the following subdivisions until the refund is paid.

(1) Franchise, Income, and Gross Premiums. – Interest on an overpayment of a tax levied under Article 3 of this Chapter and payable on an annual basis or of a tax levied under Article 4 or 8B of this Chapter accrues from a date 45 days after the latest of the following dates:

a. The date the final return was filed.

b. The date the final return was due to be filed.

c. The date of the overpayment. The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter is determined in accordance with section 6611(d), (f), (g), and (h) of the Code.

(2) All Other Taxes. – Interest on an overpayment of a tax that is not included in subdivision (1) of this subsection accrues from a date that is 90 days after the date the tax was paid.

(d) When Refund Is Paid. – A refund sent to a taxpayer is considered paid on a date determined by the Secretary that is no sooner than five days after a refund check is mailed. A refund set off against a debt pursuant to Chapter 105A of the General Statutes is considered paid five days after the Department mails the taxpayer a notice of the setoff, unless G.S. 105A-5 or G.S. 105A-8 requires the agency that requested the setoff to return the refund to the taxpayer. In this circumstance, the refund that was set off is

not considered paid until five days after the agency that requested the refund mails the taxpayer a check for the refund.

"**§ 105-241.22. Collection of tax.**

The Department may collect a tax in the following circumstances:

(1) When a taxpayer files a return showing tax due with the return and does not pay the amount shown due.

(2) When the Department sends a notice of collection after a taxpayer does not file a timely request for a Departmental review of a proposed assessment of tax.

(3) When a taxpayer and the Department agree on a settlement concerning the amount of tax due.

(4) When the Department sends a notice of final determination concerning an assessment of tax and the taxpayer does not file a timely petition for a contested case hearing on the assessment.

(5) When a final decision is issued on a proposed assessment of tax after a contested case hearing.

(6) When the Office of Administrative Hearings dismisses a petition for a contested case for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.

"**§ 105-241.23. Jeopardy assessment and collection.**

(a) Action. –The Secretary may at any time within the statute of limitations immediately assess and collect any tax the Secretary finds is due from a taxpayer if the Secretary determines that collection of the tax is in jeopardy and immediate assessment and collection are necessary in order to protect the interest of the State. In making a jeopardy collection, the Secretary may use any of the collection remedies in G.S. 105-242 and is not required to wait any period of time before using these remedies. Within 30 days after initiating a jeopardy collection, the Secretary must give the taxpayer the notice of proposed assessment required by G.S. 105-241.9.

(b) Review by Department. – Within five days after initiating a jeopardy collection that is not the result of a criminal investigation or of a liability for a tax imposed under Article 2D of this Chapter, the Secretary must provide the taxpayer with a written statement of the information upon which the Secretary relied in initiating the jeopardy collection. Within 30 days after receipt of this written statement or, if no statement is received, within 30 days after the statement was due, the taxpayer may request the Secretary to review the action taken. After receipt of this request, the Secretary must determine whether initiating the jeopardy collection was reasonable under all the circumstances and whether the amount assessed and collected was reasonable under all the circumstances. The Secretary must give the taxpayer written notice of this determination within 30 days after the request.

(c) Judicial Review. – Within 90 days after the earlier of the date a taxpayer received or should have received a determination of the Secretary concerning a jeopardy collection under subsection (b) of this section, the taxpayer may bring a civil action seeking review of the jeopardy collection. The taxpayer may bring the action in the Superior Court of Wake County or of the county in North Carolina in which the

taxpayer resides. Within 20 days after the action is filed, the court must determine whether the initiation of the jeopardy collection was reasonable under the circumstances. If the court determines that an action of the Secretary was unreasonable or inappropriate, the court may order the Secretary to take any action the court finds appropriate. If the taxpayer shows reasonable grounds why the 20-day limit on the court should be extended, the court may grant an extension of not more than 40 additional days."

SECTION 2. The following statutes are repealed:

G.S. 20-91.1
G.S. 20-91.2
G.S. 20-98
G.S. 20-99
G.S. 105-104
G.S. 105-122(c)
G.S. 105-130.4(t)
G.S. 105-164.43
G.S. 105-239
G.S. 105-241.1
G.S. 105-241.2
G.S. 105-241.3
G.S. 105-241.4
G.S. 105-241.5
G.S. 105-266
G.S. 105-266.1
G.S. 105-267
G.S. 105-269.2
G.S. 143A-38
G.S. 150B-1(e)(6).

SECTION 3. G.S. 1-52(15) reads as rewritten:

"**§ 1-52. Three years.**

Within three years an action -

...

(15) For the recovery of taxes paid as provided in ~~G.S. 105-267 and~~ G.S. 105-381.

..."

SECTION 4. G.S. 7A-45.4 reads as rewritten:

"**§ 7A-45.4. Designation of mandatory ~~complex~~ business cases.**

(a) Definitions. – The following definitions apply in this section:

(1) ~~A mandatory complex~~ Complex business case. – ~~is an~~ An action that involves a material issue related to:

~~(1)~~a. The law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, limited liability companies, and limited liability partnerships, including issues concerning

governance, involuntary dissolution of a corporation, mergers and acquisitions, breach of duty of directors, election or removal of directors, enforcement or interpretation of shareholder agreements, and derivative actions.

~~(2)~~b. Securities law, including proxy disputes and tender offer disputes.

~~(3)~~c. Antitrust law, except claims based solely on unfair competition under G.S. 75-1.1.

~~(4)~~d. State trademark or unfair competition law, except claims based solely on unfair competition under G.S. 75-1.1.

~~(5)~~e. Intellectual property law, including software licensing disputes.

~~(6)~~f. The Internet, electronic commerce, and biotechnology.

(2) Mandatory business case. – A complex business case or a tax case.

(3) Tax case. – An action that involves a material issue related to:

a. A petition for judicial review of a final decision under G.S. 105-241.15.

b. A civil action under G.S. 105-241.17.

(b) Any party may designate a civil action or a petition for judicial review under G.S. 105-241.16 as a mandatory ~~complex~~ business case by filing a Notice of Designation in the Superior Court in which the action has been filed and simultaneously serving the notice on each opposing party or counsel and on the ~~Special Superior Court Judge for Complex Business Cases who is then the~~ senior Business Court Judge. A copy of the notice shall also be sent contemporaneously by e-mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of the designation of the action as a mandatory complex business case and assignment to a specific Business Court Judge.

(c) The Notice of Designation shall, in good faith and based on information reasonably available, succinctly state the basis of the designation and include a certificate by or on behalf of the designating party that the civil action meets the criteria for designation as a mandatory complex business case pursuant to subsection (a) of this section.

(d) The Notice of Designation shall be filed:

(1) By the ~~plaintiff or third-party plaintiff~~ plaintiff, the third-party plaintiff, or the petitioner for judicial review contemporaneously with the filing of the ~~complaint or third-party complaint~~ complaint, the third-party complaint, or the petition for judicial review in the action.

(2) By any intervenor when the intervenor files a motion for permission to intervene in the action.

(3) By any defendant or any other party within 30 days of receipt of service of the pleading seeking relief from the defendant or party.

(e) Within 30 days after service of the Notice of Designation, any other party may, in good faith, file and serve an opposition to the designation of the action as a mandatory business ~~case.~~ case, but only if the case is a complex business case and not a tax case. Based on the opposition or ex mero motu, the Business Court Judge may

determine that the action should not be designated as a mandatory complex business case. If a party disagrees with the decision, the party may appeal to the Chief Justice of the Supreme Court.

(f) Once a designation is filed under subsection (d) of this section, and after preliminary approval by the Chief Justice, a case shall be designated and administered a ~~complex~~ mandatory business case. All proceedings in the action shall be before the Business Court Judge to whom it has been assigned unless and until an order has been entered under subsection (e) of this section ordering that the case not be designated a mandatory ~~complex~~ business case or the Chief Justice revokes approval. If ~~complex~~ mandatory business case status is revoked or denied, the action shall be treated as any other civil action, unless it is designated as an exceptional civil case or a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts."

SECTION 5. G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of seventy-nine dollars ($79.00) in the superior court, except that if a case is assigned to a special superior court judge as a ~~complex~~ mandatory business case under G.S. 7A-45.3, an additional two hundred dollars ($200.00) shall be paid upon its assignment, and the sum of sixty-four dollars ($64.00) in the district court except that if the case is assigned to a magistrate the sum shall be fifty-three dollars ($53.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents ($1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 6. G.S. 20-64(f) reads as rewritten:

"(f) The owner or transferor of a registered vehicle who surrenders the registration plate to the division may secure a refund for the unexpired portion of such plate prorated on a monthly basis, beginning the first day of the month following surrender of the plate to the division, provided the annual fee of such surrendered plate is sixty dollars ($60.00) or more. This refund may not exceed one half of the annual license fee. No refund shall be made unless the owner or transferor furnishes proof of financial responsibility on the registered vehicle effective until the date of the surrender of the plate. Proof of financial responsibility shall be furnished in a manner prescribed by the Commissioner. ~~Any unauthorized refund may be recovered in the manner set forth in G.S. 20-99.~~"

SECTION 7. G.S. 105-32.8 reads as rewritten:

"**§ 105-32.8. Federal determination that changes the amount of tax payable to the State.**

If the federal government corrects or otherwise determines the gross estate tax imposed under section 2001 of the Code or the amount of the maximum state death tax

credit allowed an estate under section 2011 of the Code, the personal representative must, within six months after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within six months after being notified of the correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must ~~assess and collect~~ propose an assessment for any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 8. G.S. 105-109(b) reads as rewritten:

"(b) License Required. – Before a person may engage in a business, trade, or profession for which a license is required under this Article, the person must be licensed by the ~~Department pursuant to G.S. 105-104.~~ Department. To obtain a license, a person must submit an application to the Department for the license and pay the required tax. An application for a license is considered a return.

The Department must issue a license to a person who files a completed application and pays the required tax. A license must be displayed conspicuously at the location of the licensed business, trade, or profession."

SECTION 9. G.S. 105-113.111 reads as rewritten:

"**§ 105-113.111. Assessments.**

Notwithstanding any other provision of law, an assessment against a dealer who possesses an unauthorized substance to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Secretary shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Secretary. The Secretary shall notify the dealer in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice and demand shall be either mailed to the dealer at the dealer's last known address or served on the dealer in person. If the dealer does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Secretary shall collect the tax, penalty, and interest pursuant to the ~~procedure set forth~~ jeopardy collection procedures in G.S. 105-241.23 or the general collection procedures in G.S. 105-242, ~~105-241.1(g) for jeopardy assessments or the procedure set forth in G.S. 105-242,~~ including causing execution to be issued immediately against the personal property of the dealer, unless the dealer files with the Secretary a bond in the amount of the asserted liability for the tax, penalty, and interest. The Secretary shall use all means available to collect the tax, penalty, and interest from any property in which the dealer has a legal, equitable, or beneficial interest. The dealer may seek review of the assessment as provided in Article 9 of this Chapter."

SECTION 10. G.S. 105-113.113 reads as rewritten:

"**§ 105-113.113. Use of tax proceeds.**

(a) Special Account. – The Unauthorized Substances Tax Account is established as a special nonreverting account. The Secretary shall credit the proceeds of the tax levied by this Article to ~~a special nonreverting account, to be called the State Unauthorized Substances Tax Account, until the tax proceeds are unencumbered. The Secretary shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis. Tax proceeds are unencumbered when either of the following occurs:~~

~~(1) The tax has been fully paid and the taxpayer has no current right under G.S. 105-267 to seek a refund.~~

~~(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.~~

the Account.

(b) Distribution. – The Secretary shall distribute unencumbered tax proceeds in the Unauthorized Substances Tax Account on a quarterly or more frequent basis. Tax proceeds in the Account are unencumbered when they are collectible under G.S. 105-241.22. The Secretary shall ~~remit~~ distribute seventy-five percent (75%) of the ~~part of the~~ unencumbered tax proceeds in the Account that ~~was~~ were collected by assessment to the State or local law enforcement agency that conducted the investigation of a dealer that led to the assessment. If more than one State or local law enforcement agency conducted the investigation, the Secretary shall determine the equitable share for each agency based on the contribution each agency made to the investigation. The Secretary shall credit the remaining unencumbered tax proceeds in the Account to the General Fund.

(c) Refunds. – The refund of a tax that has already been distributed shall be drawn initially from the ~~State~~ Unauthorized Substances Tax Account. The amount of refunded taxes that ~~had been~~ were distributed to a law enforcement agency under this section and any interest shall be subtracted from succeeding distributions from the Account to that law enforcement agency. The amount of refunded taxes that ~~had been~~ were credited to the General Fund under this section and any interest shall be subtracted from succeeding credits to the General Fund from the Account."

SECTION 11. G.S. 105-122 is amended by adding a new subsection to read:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

(1) Statutory. – A corporation that is subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it applies in apportioning its income under

that Article. A corporation that is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it would be required to apply in apportioning its income if it were subject to that Article. The apportionment method set out in this subdivision is considered the statutory method of apportionment and is presumed to be the best method of determining the amount of a corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

(2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State and that the the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subdivision. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method."

SECTION 12. G.S. 105-130.4 is amended by adding a new subsection to read:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. "

SECTION 13. G.S. 105-130.6A(e) reads as rewritten:

"(e) Cap for Bank Holding Companies. – After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.

The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.

If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. ~~105-241.1(e).~~ 105-241.8. The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member

whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under ~~105-241.1(i),~~ G.S. 105-241.21 computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 14. G.S. 105-130.20 reads as rewritten:

"**§ 105-130.20. Federal corrections.**

If a taxpayer's federal taxable income is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income. The Secretary ~~shall determine from all available evidence the taxpayer's correct tax liability for the income year. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by reason of the determination."

SECTION 15. G.S. 105-159 reads as rewritten:

"**§ 105-159. Federal corrections.**

If a taxpayer's federal taxable income is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income. The Secretary ~~shall determine from all available evidence the taxpayer's correct tax liability for the taxable year. As used in this section, the term "all available evidence' means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 16. G.S. 105-163.6A reads as rewritten:

"**§ 105-163.6A. Federal corrections.**

If the amount of taxes an employer is required to withhold and pay under the Code is corrected or otherwise determined by the federal government, the employer must, within ~~two years~~ six months after being notified of the correction or final determination by the federal government, file a return with the Secretary reflecting the corrected or determined amount. The Secretary ~~shall determine from all available evidence the~~

~~correct amount the employer should have paid under this Article for the period covered by the federal determination. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the employer as provided in Article 9 of this Chapter. If there has been an overpayment of the tax, the Secretary ~~shall~~ must either refund the overpayment to the employer in accordance with G.S. 105-163.9 or credit the amount of the overpayment to the individual in accordance with G.S. 105-163.10. An employer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination. Failure of an employer to comply with this section does not, however, affect an individual's right to a credit under G.S. 105-163.10."

SECTION 17. G.S. 105-163.9 reads as rewritten:

"**§ 105-163.9. Refund of overpayment to withholding agent.**

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing ~~an application~~ a request for a refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the wages or compensation of the agent's employees or contractors. A withholding agent must file ~~an application~~ a request for a refund within the time period set in G.S. ~~105-266.~~ G.S. 105-241.6. Interest accrues on a refund as provided in ~~G.S. 105-266.~~G.S. 105-241.21."

SECTION 18. G.S. 105-164.29(d) reads as rewritten:

"(d) Revocation. ~~Whenever~~ The failure of a wholesale merchant or retailer ~~fails~~ to comply with this Article or ~~violates G.S. 14-401.18, the Secretary, upon hearing, after giving 10 days' notice in writing, specifying the time and place of hearing and requiring the wholesale merchant or retailer to show cause why the certificate of registration should not be revoked, may revoke or suspend the certificate of registration. The notice may be served personally or by registered mail directed to the last known address of the wholesale merchant or retailer. All provisions with respect to review and appeals of the Secretary's decisions as provided by G.S. 105-241.2, 105-241.3, and 105-241.4 apply to this section.~~ G.S. 14-401.18 is grounds for revocation of the wholesale merchant's or retailer's certificate of registration. Before the Secretary revokes a wholesale merchant's or retailer's certificate of registration, the Secretary must notify the wholesale merchant or retailer that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the wholesale merchant or retailer objects to the proposed revocation and files a request for a Departmental review within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of a proposed revocation. "

SECTION 19. G.S. 105-164.38(c) reads as rewritten:

"(c) Assessment. – The period of limitations for assessing liability against the buyer of a business or the stock of goods of a business and for enforcing the lien against the property expires one year after the end of the period of limitations for assessment against the person who sold the business or the stock of goods. Except as otherwise provided in this section, the assessment procedures in Article 9 of this Chapter apply to a person who buys a business or the stock of goods of a business ~~and that person's liability for unpaid taxes are subject to the provisions of G.S. 105-241.1, 105-241.2, 105-241.3, and 105-241.4 and to other remedies for the collection of taxes~~ to the same extent as if the person had incurred the original tax liability."

SECTION 20. G.S. 105-187.10(b) reads as rewritten:

"(b) Unpaid Taxes. – The remedies for collection of taxes in ~~G.S. 20-99~~ Article 9 of this Chapter apply to the taxes levied by this Article and collected by the Commissioner. In applying these remedies, the Commissioner has the same authority as the Secretary."

SECTION 21. G.S. 105-197.1 reads as rewritten:

"§ 105-197.1. Federal corrections.

If the amount of a taxpayer's net gifts is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file a gift tax return with the Secretary ~~of Revenue~~ reflecting the corrected or determined net gifts. The Secretary ~~of Revenue shall determine from all available evidence the taxpayer's correct tax liability for the taxable year. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 22. G.S. 105-228.5(f) reads as rewritten:

"(f) **(Effective for taxable years beginning on or after January 1, 2008)** Installment Payments Required. – Taxpayers that are subject to the tax imposed by this section and have a premium tax liability of ten thousand dollars ($10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

The Secretary of Revenue may permit an insurance company to pay less than the required estimated payment when the insurer reasonably believes that the total estimated payments made for the current year will exceed the total anticipated tax liability for the year.

An underpayment or an overpayment of an installment payment required by this subsection ~~shall bear interest at the rate established under G.S. 105-241.1(i). Any overpayment shall bear interest as provided in G.S. 105-266(b) and, together with the interest,~~ accrues interest in accordance with G.S. 105-241.21. An overpayment of tax shall be credited to the company and applied against the taxes imposed upon the company under this Article."

SECTION 23. G.S. 105-228.37 reads as rewritten:

"**§ 105-228.37. Refund of overpayment of tax.**

(a) Refund Request. – A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(b) Hearing by County. – A board of county commissioners must ~~review~~ conduct a hearing on a request for refund ~~and must follow the time limitations set in G.S. 105-266.1 for holding a hearing and making a decision.~~ in accordance with the procedures that apply to a hearing held by a board of equalization and review on an appeal concerning the listing or appraisal of property. If the board decides that a refund is due, it must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. If the board finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may ~~ask the Secretary to review the decision. The board must send the Secretary a copy of a decision on a request for refund.~~appeal the decision to the Property Tax Commission.

(c) Review by ~~Secretary.~~ Commission. ~~A taxpayer whose request for a refund is denied by a board of county commissioners may obtain a review of the board's decision by the Secretary. The request must be made in writing and must be filed within 30 days after the taxpayer receives the board's decision denying the refund. The Secretary must send the board of county commissioners a copy of the Secretary's decision made on the request. If the Secretary~~ The procedure in G.S. 105-290 for the appeal to the Property Tax Commission of a decision of a board of equalization and review concerning the listing or appraisal of property applies to the appeal of a denial by a board of county commissioners of a request for a refund of tax paid under this Article. If the Commission determines that a refund is due, the board of county commissioners must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. A decision of the Commission is binding on the Secretary ~~is binding~~ and on a board of county commissioners.

(d) Judicial Review. – A ~~taxpayer who disagrees with a~~ decision of the ~~Secretary~~ Property Tax Commission ~~may bring an action against the county and the State to recover the disputed overpayment. The action may be brought in the Superior Court of Wake County or in the superior court of the county where the tax was paid.~~is subject to judicial review in accordance with G.S. 7A-29.

(e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document

stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. – An overpayment of tax bears interest at the rate established in G.S. ~~105-241.1(i)~~ 105-241.21 from the date that interest begins to accrue. Interest begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners."

SECTION 24. G.S. 105-228.90(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(7) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter, the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the ~~terms "tax" and "additional tax" include~~ term "tax" includes penalties and interest as well as the principal amount.

..."

SECTION 25. G.S. 105-236(a)(4) reads as rewritten:

"(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the tax, ~~except that the penalty shall in no event be less than~~ subject to a minimum of five dollars ($5.00). This penalty does not apply in any of the following circumstances:

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When ~~a tax due but not shown on a return is assessed by~~ the Secretary proposes an assessment for tax due but not shown on a return and the tax due ~~and~~ is paid within ~~30~~45 days after the date of the ~~proposed~~ notice of proposed assessment of the tax."

SECTION 26. G.S. 105-239.1 reads as rewritten:

"**§ 105-239.1. Transferee liability.**

(a) Lien and Liability. – Property transferred for an inadequate consideration to a donee, heir, legatee, devisee, distributee, stockholder of a liquidated corporation, or any other person at a time when the transferor is insolvent or is rendered insolvent by reason of the transfer ~~shall be~~ is subject to a lien for any taxes owing by the transferor to the State of North Carolina at the time of the transfer whether or not the amount of the taxes

has been ascertained or assessed at the time of the transfer. G.S. 105-241 applies to this tax lien. In the event the transferee has disposed of the property so that it cannot be subjected to the State's tax lien, the transferee ~~shall be~~ is personally liable for the difference between the fair market value of the property at the time of the transfer and the actual consideration, if any, paid to the transferor by the transferee.

~~Upon a foreclosure of the State's tax lien upon property in the hands of a transferee, the value of any consideration that the transferee proves has been given to the transferor shall be paid to the transferee out of the proceeds of the foreclosure sale before applying the proceeds toward the satisfaction of the State's tax lien.~~

~~In order to proceed against the transferee or property in the transferee's hands, the Secretary shall cause to be docketed in the office of the clerk of the superior court of the county wherein the transferee resides or the property is located, as the case may be, a certificate of tax liability as provided in G.S. 105-242 or a lien certificate which shall set forth the amount of the lien as determined by the Secretary or as finally determined upon appeal and a description of the property subject to the lien. Thereafter, execution may be issued against the transferee as in the case of other money judgments except that no homestead or personal exemption shall be allowable or, upon a lien certificate, an execution may be issued directing the sheriff to seize the property subject to the lien and sell same in the same manner as property is sold under execution. Such procedure and collection shall be subject to the provisions of subsection (c) of this section.~~

(b) Procedure. – The Department may proceed to enforce a lien that arises under this section against property transferred by a taxpayer to another person or to hold that person liable for the tax due by sending the person a notice of proposed assessment in accordance with G.S. 105-241.9. The Department has the burden of establishing that a person to whom property was transferred is liable. The period of limitations for assessment of any liability against a transferee or enforcing the lien against the transferred property ~~shall expire~~ expires one year after the expiration of the period of limitations for assessment against the transferor.

(c) Proceeds. – When property transferred by a taxpayer to another person is sold to satisfy the lien that arises under this section, the person is entitled to receive from the proceeds of the sale the amount of consideration, if any, the person paid for the property. The proceeds must be applied for this purpose before they are applied to satisfy the lien. ~~The provisions of G.S. 105-241.1, 105-241.2, 105-241.3, 105-241.4, 105-266.1 and 105-267 with respect to assessment procedure, demand for refund, review, and appeal shall apply to the liability of any transferee assessed under this section or of any property subject to the liability imposed by this section and to the assertion of a lien upon property in the hands of the transferee.~~

~~(d) In any proceeding before the Tax Review Board or in any court of the State the burden of proof shall be upon the Secretary of Revenue to show that a person is liable as a transferee of property of a taxpayer under this section.~~"

SECTION 27. G.S. 105-242(a) reads as rewritten:

"(a) ~~Warrants for Collection of Taxes.~~ Levy and Sale. ~~If any tax levied by the State and payable to the Secretary has not been paid within 30 days after the taxpayer was given a notice of final assessment of the tax under G.S. 105-241.1(d1).~~ If a taxpayer

does not pay a tax within 30 days after it is collectible under G.S. 105-241.22, the Secretary may take either of the following actions to collect the tax:

(1) ~~The Secretary may issue~~ Issue a warrant ~~or an order under the Secretary's hand and official seal, directed to~~ directing the sheriff of any county of the ~~State, commanding him~~ State to levy upon and sell the real and personal property of the taxpayer found within the county for the payment of the ~~tax, including penalties and interest,~~ tax and the cost of executing the warrant and to return to the Secretary the money collected, within a time to be specified in the ~~warrant,~~ warrant but not less than 60 days from the date of the ~~warrant; the sheriff upon receipt of the warrant shall proceed in all respects with like effect and in the same manner prescribed by law in respect to~~ warrant. The procedure for executions issued against property upon judgments of a ~~court of record, and shall be entitled to the same fees for services in executing the warrant, to be collected in the same manner.~~ court apply to executions under a warrant.

(2) ~~The Secretary may issue~~ Issue a warrant ~~or order under the Secretary's hand and seal~~ to any revenue officer or other employee of the Department ~~of Revenue~~ charged with the duty to collect taxes, commanding the officer or employee to levy upon and sell the taxpayer's personal ~~property, including that described in G.S. 105-366(d),~~ property found within the State for the payment of the ~~tax, including penalties and interest.~~ tax. Except as otherwise provided in this subdivision, the levy upon ~~the~~ and sale of personal property ~~shall be governed by~~ by an officer or employee of the Department is subject to and must be conducted in accordance with the laws ~~regulating levy and~~ governing the sale of property levied upon under execution. The ~~person to whom the warrant is directed shall proceed to levy upon and sell the personal property subject to levy in the same manner and with the same powers and authority normally exercised by sheriffs in levying upon and selling personal property under execution, except that the property may be sold in any county, in the discretion of the Secretary. In addition to the notice of sale required by the laws governing sale of property levied upon under execution, the~~ Secretary may sell the property levied upon in any county and may advertise the sale in any reasonable manner and for any reasonable period of time to produce an adequate bid for the property. Levy and sale fees, plus actual advertising costs, ~~shall~~ must be added to and collected in the same manner as taxes. The Secretary is not required to file a report of sale with the clerk of superior court, ~~as required by the laws governing sale of property levied upon under execution,~~ if the sale is otherwise publicly reported."

SECTION 28. G.S. 105-242(b) reads as rewritten:

"(b) Garnishment and Attachment. – ~~Bank deposits, rents, salaries, wages, and all other choses in action or property incapable of manual levy or delivery, including property held in the Escheat Fund, hereinafter called the intangible, belonging, owing, or to become due to any taxpayer subject to any of the provisions of this Subchapter, or which has been transferred by such taxpayer under circumstances which would permit it to be levied upon if it were tangible, shall be subject to attachment or garnishment as herein provided, and the person owing said intangible, matured or unmatured, or having same in his possession or control, hereinafter called the garnishee, shall become liable for all sums due by the taxpayer under this Subchapter to the extent of the amount of the intangible belonging, owing, or to become due to the taxpayer subject to the setoff of any matured or unmatured indebtedness of the taxpayer to the garnishee; provided, however, the garnishee shall not become liable for any sums represented by or held pursuant to any negotiable instrument issued and delivered by the garnishee to the taxpayer and negotiated by the taxpayer to a bona fide holder in due course, and whenever any sums due by the taxpayer and subject to garnishment are so held or represented, the garnishee shall hold such sums for payment to the Secretary of Revenue upon the garnishee's receipt of such negotiable instrument, unless such instrument is presented to the garnishee for payment by a bona fide holder in due course in which event such sums may be paid in accordance with such instrument to such holder in due course. To effect such attachment or garnishment the Secretary of Revenue shall serve or cause to be served upon the taxpayer and the garnishee a notice as hereinafter provided, which notice may be served by any deputy or employee of the Secretary of Revenue or by any officer having authority to serve summonses or may be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall:~~

~~(1) Show the name of the taxpayer, and if known his Social Security number or federal tax identification number and his address;~~

~~(2) Show the nature and amount of the tax, and the interest and penalties thereon, and the year or years for which the same were levied or assessed, and~~

~~(3) Be accompanied by a copy of this subsection, and thereupon the procedure shall be as follows:~~

~~If the garnishee has no defense to offer or no setoff against the taxpayer, he shall within 10 days after service of said notice, answer the same by sending to the Secretary of Revenue by registered or certified mail a statement to that effect, and if the amount due or belonging to the taxpayer is then due or subject to his demand, it shall be remitted to the Secretary with said statement, but if said amount is to mature in the future, the statement shall set forth that fact and the same shall be paid to the Secretary upon maturity, and any payment by the garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under oath, and, within 10 days after service of said notice, shall send two copies of said statement to the Secretary by registered or certified mail; if the Secretary admits such defense or setoff, he shall so advise the garnishee in writing within 10 days after receipt of such statement and the~~

~~attachment or garnishment shall thereupon be discharged to the amount required by such defense or setoff, and any amount attached or garnished hereunder which is not affected by such defense or setoff shall be remitted to the Secretary as above provided in cases where the garnishee has no defense or setoff, and with like effect. If the Secretary shall not admit the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such further time as may be agreed on by the garnishee, and at the same time he shall file a copy of said notice, a copy of the garnishee's statement, and a copy of his objections thereto in the superior court of the county where the garnishee resides or does business where the issues made shall be tried as in civil actions.~~

~~If judgment is entered in favor of the Secretary of Revenue by default or after hearing, the garnishee shall become liable for the taxes, interest and penalties due by the taxpayer to the extent of the amount over and above any defense or setoff of the garnishee belonging, owing, or to become due to the taxpayer, but payments shall not be required from amounts which are to become due to the taxpayer until the maturity thereof, nor shall more than ten percent (10%) of any taxpayer's salary or wages be required to be paid hereunder in any one month as provided in subdivision (e)(4) of this section. The garnishee may satisfy said judgment upon paying said amount, and if he fails to do so, execution may issue as provided by law. From any judgment or order entered upon such hearing either the Secretary of Revenue or the garnishee may appeal as provided by law. If, before or after judgment, adequate security is filed for the payment of said taxes, interest, penalties, and costs, the attachment or garnishment may be released or execution stayed pending appeal, but the final judgment shall be paid or enforced as above provided. The taxpayer's sole remedies to question his liability for said taxes, interest, and penalties shall be those provided in this Subchapter, as now or hereafter amended or supplemented. If any third person claims any intangible attached or garnished hereunder and his lawful right thereto, or to any part thereof, is shown to the Secretary, he shall discharge the attachment or garnishment to the extent necessary to protect such right, and if such right is asserted after the filing of said copies as aforesaid, it may be established by interpleader as now or hereafter provided by law in cases of attachment and garnishment. In case such third party has no notice of proceedings hereunder, he shall have the right to file his petition under oath with the Secretary at any time within 12 months after said intangible is paid to him and if the Secretary finds that such party is lawfully entitled thereto or to any part thereof, he shall pay the same to such party as provided for refunds by G.S. 105-266.1, and if such payment is denied, said party may appeal from the determination of the Secretary under the provisions of G.S. 105-241.4; provided, that in taking an appeal to the superior court, said party may appeal either to the Superior Court of Wake County or to the superior court of the county wherein he resides or does business. The intangibles of a taxpayer shall be paid or collected hereunder only to the extent necessary to satisfy said taxes, interest, penalties, and costs. Except as hereinafter set forth, the remedy provided in this section shall not be resorted to unless a warrant for collection or execution against the taxpayer has been returned unsatisfied: Provided, however, if the Secretary~~

~~is of opinion that the only effective remedy is that herein provided, it shall not be necessary that a warrant for collection or execution shall be first returned unsatisfied, and in no case shall it be a defense to the remedy herein provided that a warrant for collection or execution has not been first returned unsatisfied.~~

~~This subsection shall be applicable with respect to the wages, salary or other compensation of officials and employees of this State and its agencies and instrumentalities, officials and employees of political subdivisions of this State and their agencies and instrumentalities, and also officials and employees of the United States and its agencies and instrumentalities insofar as the same is permitted by the Constitution and laws of the United States. In the case of State or federal employees, the notice shall be served upon such employee and upon the head or chief fiscal officer of the department, agency, instrumentality or institution by which the taxpayer is employed. In case the taxpayer is an employee of a political subdivision of the State, the notice shall be served upon such employee and upon the chief fiscal officer, or any officer or person charged with making up the payrolls, or disbursing funds, of the political subdivision by which the taxpayer is employed. Such head or chief officer or fiscal officer or other person as specified above shall thereafter, subject to the limitations herein provided, make deductions from the salary or wages due or to become due the taxpayer and remit same to the Secretary until the tax, penalty, interest and costs allowed by law are fully paid. Such deductions and remittances shall, pro tanto, constitute a satisfaction of the salary or wages due the taxpayer.~~ Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.

No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment."

SECTION 29. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-242.1. Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in

G.S. 105-241.20 or by registered or certified mail. The notice must contain all of the following information:

(1) The taxpayer's name, address, and social security number or federal identification number.

(2) The type of tax the taxpayer owes and the tax periods for which the tax is owed.

(3) The amount of tax, interest, and penalties the taxpayer owes.

(4) An explanation of the liability of a garnishee for tax owed by a taxpayer.

(5) An explanation of the garnishee's responsibility concerning the notice.

(b) Action. – Within 30 days after receiving a notice of garnishment, a garnishee must comply with the garnishment or file a written response to the notice. A written response must explain why the garnishee is not subject to garnishment and attachment. Upon receipt of the written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of garnishment."

SECTION 30. G.S. 105-242(c) reads as rewritten:

"(c) Certificate ~~or Judgment for Taxes.~~ of Tax Liability. ~~In addition to the remedy herein provided, the Secretary of Revenue is authorized and empowered to make a certificate setting forth the essential particulars relating to the said tax, including the amount thereof, the date when the same was due and payable, the person, firm, or corporation chargeable therewith, and the nature of the tax, and under his hand and seal transmit the same to the clerk of the superior court of any county in which the delinquent taxpayer resides or has property; whereupon, it shall be the duty of the clerk of the superior court of the county to docket the said certificate and index the same on the cross-index of judgments, and execution may issue thereon with the same force and effect as an execution upon any other judgment of the superior court (said tax shall become a lien on realty only from the date of the docketing of such certificate in the office of the clerk of the superior court and on personalty only from the date of the levy on such personalty and upon the execution thereon no homestead or personal property exemption shall be allowed except as provided in subdivision (c)(1) of this section).~~ The Department may file a certificate of tax liability to collect a tax that is owed by a taxpayer and is collectible under G.S. 105-241.22. A certificate of tax liability must state the taxpayer's name and the type and amount of tax owed. If the taxpayer resides in this State or has property in this State, the Department must file the certificate of tax liability with the clerk of the superior court of a county in which the taxpayer resides or

has property. If the taxpayer does not reside in this State or have property in this State, the Department must file the certificate of tax liability in Wake County.

The clerk of court must record a certificate of tax liability in the same manner as a judgment. A recorded certificate of tax liability is considered a judgment and is enforceable in the same manner as other judgments. The legal rate of interest set in G.S. 24-1 applies to the principal amount of tax stated on the certificate of tax liability. The tax stated on a certificate of tax liability is a lien on real and personal property from the date the certificate is recorded.

~~Except as provided in G.S. 105-241.2(e) for jeopardy levies, no sale of real or personal property shall be made under any execution issued on a certificate docketed pursuant to the provisions of this subsection before the administrative action of the Secretary of Revenue or the Tax Review Board is completed when a hearing has been requested of the Secretary or a petition for review has been filed with the Tax Review Board, nor shall such sale be made before the assessment on which the certificate is based becomes final when there is no request for a hearing before the Secretary or petition for review by the Tax Review Board. Neither the title to real estate nor to personal property sold under execution issued upon a certificate docketed under this subsection shall be drawn in question upon the ground that the administrative action contemplated by this paragraph was not completed prior to the sale of such property under execution. Nothing in this paragraph shall prevent the sheriff to whom an execution is issued from levying upon either real or personal property pending an administrative determination of tax liability and, in the case of personal property, the sheriff may hold such property in his custody or may restore the execution defendant to the possession thereof upon the giving of a sufficient forthcoming bond. Upon a final administrative determination of the tax liability being had, if the assessment or any part thereof is sustained, the sheriff shall, upon request of the Secretary of Revenue, proceed to advertise and sell the property under the original execution notwithstanding the original return date of the execution may have expired.~~

~~The owner of tangible property seized under this section may request the Secretary to authorize the sale of the property under execution within 60 or more days after the request is made. The Secretary shall authorize the sale unless the Secretary finds that selling the property would not be in the best interests of the State. When property is sold at the request of the owner, the Department shall receive from the sale of the property the administrative expenses it incurred in having the property sold.~~

~~A certificate or judgment in favor of the State or the Secretary of Revenue for taxes payable to the Department of Revenue, whether docketed before or after the effective date of this paragraph, shall be valid and enforceable for a period of 10 years from the date of docketing. When any such certificate or judgment, whether docketed before or after the effective date of this paragraph, remains unsatisfied for 10 years from the date of its docketing, the same shall be unenforceable and the tax represented thereby shall abate. Upon the expiration of said 10-year period, the Secretary of Revenue or his duly authorized deputy shall cancel of record said certificate or judgment. Any such certificate or judgment now on record which has been docketed for more than 10 years shall, upon the request of any interested party, be canceled of record by the Secretary of~~

~~Revenue or his duly authorized deputy; provided, in the event of the death of the judgment debtor or his absence from the State before the expiration of the 10-year period herein provided, the running of said 10-year period shall be stopped for the period of his absence from the State or during the pendency of the settlement of the estate and for one year thereafter, and the time elapsed during the pendency of any action or actions to set aside the judgment debtor's conveyance or conveyances as fraudulent, or the time during the pendency of any insolvency proceeding, or the time during the existence of any statutory or judicial bar to the enforcement of the judgment shall not be counted in computing the running of said 10-year period. And, provided further, that any execution sale which has been instituted upon any such judgment before the expiration of the 10-year period may be completed after the expiration of the 10-year period, notwithstanding the fact that resales may be required because of the posting of increased bids. Provided further, that, notwithstanding the expiration of the 10-year period provided and notwithstanding the fact that no proceedings to collect the judgment by execution or otherwise has been commenced within the 10-year period, the Secretary of Revenue may accept any payments tendered upon said judgments after the expiration of said 10-year period.~~A certificate of tax liability is enforceable for a period of 10 years from the date it is recorded. If the certificate is not satisfied within this period, the remaining liability of the taxpayer is abated and the Department must cancel the certificate. An execution sale initiated before the end of the 10-year period may be completed after the end of this period, regardless of whether resales are required because of the posting of increased bids. The Secretary may accept tax payments made after a certificate has expired, regardless of whether any collection actions were taken before the certificate expired. A taxpayer may waive the 10-year period for enforcement of the certificate for either a definite or an indefinite time.

The 10-year period in which a certificate of tax liability is enforceable is tolled during the following periods:

(1) While the taxpayer is absent from the State. The period is tolled during the taxpayer's absence plus one year after the taxpayer returns.

(2) Upon the death of the taxpayer. The period is tolled while the taxpayer's estate is administered plus one year after the estate is closed.

(3) While an action is pending to set aside a conveyance made by the taxpayer as a fraudulent conveyance.

(4) While an insolvency proceeding against the taxpayer is pending.

(5) During the period of any statutory or judicial bar to the enforcement of the certificate.

(6) The period for which a taxpayer has waived the 10-year period."

SECTION 31. G.S. 105-243 reads as rewritten:

"**§ 105-243. Taxes recoverable by action.**

~~Upon the failure of any corporation to pay the taxes, fees, and penalties prescribed by this Subchapter, the Secretary of Revenue may certify same to the sheriff of the county in which such company may own property, for collection as provided in this Subchapter; and if collection is not made, such taxes or fees and penalties thereon may be recovered in an action in the name of the State, which may be brought in the Superior~~

~~Court of Wake County, or in any county in which such corporation is doing business, or any county in which such corporation owns property. The Attorney General, on request of the Secretary of Revenue, shall institute such action in the Superior Court of Wake County, or of any such county as the Secretary of Revenue may direct. In any such action it shall be sufficient to allege that the tax, fee, or penalty sought to be recovered is delinquent, and that the same has been unpaid for the period of 30 days after due date.~~ When requested by the Secretary, the Attorney General must bring an action to recover the amount of tax that is due from a taxpayer and is collectible under G.S. 105-241.22. In the action, the taxpayer may not challenge the liability for the tax. A judgment in the action has the same priority as a tax lien. The judgment is not subject to a claim for a homestead exemption. The action must be brought in one of the following:

(1) The Superior Court of Wake County.
(2) The taxpayer's county of residence.
(3) A county where the taxpayer owns real property.
(4) The county in which the taxpayer has its principal place of business.
(5) A court of competent jurisdiction of another state."

SECTION 32. G.S. 105-243.1 reads as rewritten:

"**§ 105-243.1. Collection of tax debts.**

(a) Definitions. – The following definitions apply in this section:

(1) Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after ~~the notice of final assessment was mailed to the taxpayer.~~ it becomes collectible under G.S. 105-241.22. The term does not include a tax ~~debt, however, if~~ debt for which the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after ~~the notice of final assessment was mailed and~~ the tax debt became collectible, if the taxpayer has not failed to make any payments due under the installment agreement.

(2) Tax debt. – The total amount of tax, penalty, and interest ~~due for which a notice of final assessment has been mailed to a taxpayer after the taxpayer no longer has the right to contest the debt.~~collectible under G.S. 105-241.22.

(b) Outsourcing. – The Secretary may contract for the collection of tax debts owed by nonresidents and foreign entities. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(c) Secrecy. – A contract for the collection of tax debts is conditioned on compliance with G.S. 105-259. If a contractor violates G.S. 105-259, the contract is terminated, and the Secretary must notify the contractor of the termination. A contractor whose contract is terminated for violation of G.S. 105-259 is not eligible for an award of another contract under this section for a period of five years from the termination. These sanctions are in addition to the criminal penalties set out in G.S. 105-259.

(d) Fee. – A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice required by this subsection is

mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the Department must notify the taxpayer that the fee will be imposed if the tax debt is not paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The Department may not mail the fee notice earlier than 60 days after ~~the notice of final assessment for the tax debt was mailed to the taxpayer.~~ the tax debt becomes collectible under G.S. 105-241.22. The fee is collectible as part of the debt. The Secretary may waive the fee pursuant to G.S. 105-237 to the same extent as if it were a penalty.

The amount of the collection assistance fee is twenty percent (20%) of the amount of the overdue tax debt. If a taxpayer pays only part of an overdue tax debt, the payment is credited proportionally to fee revenue and tax revenue.

(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department may apply the fee proceeds for the following purposes:

(1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.

(2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.

(3) To pay for taxpayer locater services, not to exceed one hundred fifty thousand dollars ($150,000) a year.

(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed three hundred fifty-three thousand dollars ($353,000) a year.

(5) To pay for operating expenses for Project Collection Tax and the Taxpayer Assistance Call Center.

(6) To pay for expenses of the Examination and Collection Division directly and primarily relating to collecting overdue tax debts.

(f) Reports. – The report of Department activities required by G.S. 105-256 contains information on the Department's efforts to collect tax debts and its use of the proceeds of the collection assistance fee."

SECTION 33. G.S. 105-253(b) reads as rewritten:

"(b) Each responsible officer is personally and individually liable for all of the following:

(1) All sales and use taxes collected by a corporation or a limited liability company upon its taxable transactions.

(2) All sales and use taxes due upon taxable transactions of a corporation or a limited liability company but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.

(3) All taxes due from a corporation or a limited liability company pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.

(4) All income taxes required to be withheld from the wages of employees of a corporation or a limited liability company.

The liability of the responsible officer is satisfied upon timely remittance of the tax by the corporation or the limited liability company. If the tax remains unpaid after it is due and payable, the Secretary may ~~assess the tax against and collect the tax from any responsible officer in accordance with the procedures in this Article for assessing and collecting tax from a taxpayer.~~ proceed to enforce the responsible officer's liability for the tax by sending the responsible officer a notice of proposed assessment in accordance with G.S. 105-241.9. As used in this section, the term "responsible officer" means the ~~president and the treasurer~~ president, treasurer, and chief financial officer of a corporation, the manager of a limited liability company, and any other officer of a corporation or member of a limited liability company who has a duty to deduct, account for, or pay taxes listed in this subsection. Any penalties that may be imposed under G.S. 105-236 and that apply to a deficiency also apply to an assessment made under this section. ~~The provisions of this Article apply to an assessment made under this section to the extent they are not inconsistent with this section.~~

The period of limitations for assessing a responsible officer for unpaid taxes under this section expires one year after the expiration of the period of limitations for assessment against the corporation or limited liability company."

SECTION 34. The caption for G.S. 105-256 reads as rewritten:

"**§ 105-256. ~~Reports~~ Publications prepared by Secretary of Revenue.**"

SECTION 35. G.S. 105-256(a) reads as rewritten:

"(a) ~~Reports.~~ Publications. – The Secretary shall prepare and publish the following:

...

(9) A final decision of the Secretary in a contested tax case. The Secretary must redact identifying taxpayer information from a final decision prior to publication."

SECTION 36. G.S. 105-258.1(a) reads as rewritten:

"(a) Scope. – This section applies to in-person interviews between a taxpayer and an officer or employee of the Department relating to the determination or collection of a tax, other than an in-person interview concerning any of the following:

(1) A criminal investigation.

(2) The determination or collection of a tax imposed by Article 2D of this Chapter.

~~(3) The assessment under G.S. 105-241.1(g) of a tax whose collection is in jeopardy.~~

(4) ~~The levy or execution under G.S. 105-241.2(e) of an assessment whose collection is in jeopardy.~~A jeopardy assessment and collection."

SECTION 37. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(1a) To comply with a discovery request in accordance with G.S. 150B-28 in a contested tax case arising under G.S. 105-241.15.

..."

SECTION 38. G.S. 105-262(a) reads as rewritten:

"(a) The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. ~~The Tax Review Board shall review a new rule or a change to a rule before it is filed in the North Carolina Administrative Code~~. G.S. 150B-1 and Article 2A of Chapter 150B of the General Statutes set out the procedure for the adoption of rules by the Secretary."

SECTION 39. G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly report for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the report. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the ~~Secretary must refund the excess to the motor carrier in accordance with G.S. 105-266(a)(3).~~excess is refundable in accordance with G.S. 105-241.7."

SECTION 40. G.S. 105-449.119 reads as rewritten:

"**§ 105-449.119. ~~Hearing on~~ Review of civil penalty assessment.**

A person who denies liability for a penalty imposed under this Part must pay the penalty ~~under protest~~ and ~~make a written demand to the Department of Revenue for a refund. The written demand must be made within 30 days after the penalty is imposed and must explain why the person is not liable for the penalty. Upon receiving a demand for a refund, the Secretary must schedule a hearing on the matter before an employee or an agent of the Department. The hearing must be held within 30 days after receiving the written demand for a refund. If, after the hearing, the Department determines that the person was not liable for the penalty, the amount collected must be refunded. If, after the hearing, the Department determines that the person was liable for the penalty, the~~

~~person paying the penalty may appeal the imposition of the penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4.~~ file a request for a Departmental review of the penalty. The request must be filed within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of the penalty. The date the penalty was imposed is considered the date the notice of proposed assessment was delivered to the taxpayer."

SECTION 41. Article 3 of Chapter 150B is amended by adding the following new section:

"**§ 150B-31.1. Contested tax cases.**

(a) Application. – This section applies only to contested tax cases. A contested tax case is a case involving a disputed tax matter arising under G.S. 105-241.15. To the extent any provision in this section conflicts with another provision in this Article, this section controls.

(b) Simple Procedures. – The Chief Administrative Law Judge may limit and simplify the procedures that apply to a contested tax case involving a taxpayer who is not represented by an attorney. An administrative law judge assigned to a contested tax case must make reasonable efforts to assist a taxpayer who is not represented by an attorney in order to assure a fair hearing.

(c) Venue. – A hearing in a contested tax case must be conducted in Wake County, unless the parties agree to hear the case in another county.

(d) Law Enforcement Reports. – A report of a law enforcement agency is admissible without testimony from personnel of the law enforcement agency.

(e) Confidentiality. – The record, proceedings, and decision in a contested tax case are confidential until the final decision is issued in the case."

SECTION 42. G.S. 150B-45 reads as rewritten:

"**§ 150B-45. Procedure for seeking review; waiver.**

(a) Procedure. – To obtain judicial review of a final decision under this Article, the person seeking review must file a petition within 30 days after the person is served with a written copy of the decision. The petition must be filed as follows:

(1) Contested Tax Cases. – A petition for review of a final decision in a contested tax case arising under G.S. 105-241.15 must be filed in the Superior Court of Wake County.

(2) Other Final Decisions. – A petition for review of any other final decision under this Article must be filed in the Superior Court of Wake County or in the superior court of the county where the person resides.

~~The person seeking review must file the petition within 30 days after the person is served with a written copy of the decision.~~

(b) Waiver. – A person who fails to file a petition within the required time waives the right to judicial review under this Article. For good cause shown, however, the superior court may accept an untimely petition."

SECTION 43. In the General Statutes, references to the following statutes repealed by this act are deleted and substituted as provided in this section. The Revisor

of General Statutes is authorized to change the references in accordance with this section.

(1) References to the following statutory provisions repealed by this act are substituted with a reference to G.S. 105-241.21:
a. G.S. 105-241.1(i).
b. G.S. 105-241.1 in G.S. 105-160.4, G.S. 105-187.10, and G.S. 150B-2.
c. G.S. 105-266 in G.S. 105-266.2, G.S. 105A-5, and G.S. 105A-8.

(2) References to former G.S. 105-241.1(g) and G.S. 105-241.2(e) are substituted with a reference to G.S. 105-241.23.

SECTION 44. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

'(19) The dividend paid deduction allowed under the Code to a captive REIT, as defined in G.S. 105-130.12.'

SECTION 45. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

'(23) A dividend received from a captive REIT, as defined in G.S. 105-130.12.'

SECTION 46. G.S. 105-130.12 reads as rewritten:

'**§ 105-130.12. ~~Regulated investment companies and real~~ Real estate investment trusts.**

~~Any organization or trust which, in the opinion of the Secretary of Revenue of North Carolina, qualifies as either a "regulated investment company" under section 851 of the Code or as a "real estate investment trust" under section 856 of the Code and which files with the North Carolina Department of Revenue its election to be treated as a "regulated investment company," or as a "real estate investment trust" shall be taxed under this Part upon only that part of its net income which is not distributed or declared for distribution to shareholders during the income year or by the time required by law for the filing of the return for the income year including the period of any extension of time granted for filing such return.~~

(a) Definitions. – The following definitions apply in this section:

(1) Captive REIT. – A REIT whose shares or certificates of beneficial interest are not regularly traded on an established securities market and are owned or controlled, at any time during the last half of the tax year, by a person that is subject to tax under this Part and is not a REIT or a listed Australian property trust.

(2) Own or control. – To own or control directly , indirectly, beneficially, or constructively more than fifty percent (50%) of the voting power or value of an entity. The attribution rules of section 318 of the code, as modified by section 856(d)(5) of the Code, apply in determining ownership and control.

(3) REIT. – A trust or another entity that qualifies as a real estate investment trust under section 856 of the Code.

(b) Tax. – The income of a REIT is taxable under this Part in accordance with the Code, unless the REIT is a captive REIT. A captive REIT is required to add to its federal taxable income the amount of a dividend paid deduction allowed under the Code, as provided in G.S. 105-130.5.'

SECTION 47. G.S. 105-241.10, as enacted by Section 1 of this act, and Sections 7, 14, 15, 16, 21, 44, 45, and 46 are effective for taxable years beginning on or after January 1, 2007. The remainder of this act becomes effective January 1, 2008. The procedures for review of disputed tax matters enacted by this act apply to assessments of tax that are not final as of the effective date of this act and to claims for refund pending on or filed on or after the effective date of this act. This act does not affect matters for which a petition for review was filed with the Tax Review Board under G.S. 105-241.2 before the effective date of this act. The repeal of G.S. 105-122(c) and G.S. 105-130.4(t) and Sections 11 and 12 apply to requests for alternative apportionment formulas filed on or after the effective date of this act. A petition filed with the Tax Review Board for an apportionment formula before the effective date of this act is considered a request under G.S. 105-122(c1) or G.S. 105-130.4(t1), as appropriate.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 242
PROPOSED COMMITTEE SUBSTITUTE S242-CSSVxf-30 [v.21]

6/6/2007 1:09:33 PM

Short Title: Reform Tax Appeals/Close REIT Loophole. (Public)

Sponsors:

Referred to:

February 21, 2007

A BILL TO BE ENTITLED

AN ACT TO REFORM THE PROCESS FOR ADMINISTRATIVE AND JUDICIAL REVIEW OF DISPUTED TAX MATTERS AND TO LIMIT A CORPORATION'S ABILITY TO USE REAL ESTATE INVESTMENT TRUSTS TO AVOID STATE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 105 is amended by adding the following new sections to read:

"**§ 105-241.6. Statute of limitations for refunds.**

(a) General. – The general statute of limitations for obtaining a refund of an overpayment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for obtaining a refund of an overpayment is the later of the following:

(1) Three years after the due date of the return.

(2) Two years after payment of the tax.

(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for requesting a refund is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later.

(2) Waiver. – A taxpayer's waiver of the statute of limitations for making a proposed assessment extends the period in which the taxpayer can obtain a refund to the end of the period extended by the waiver.

(3) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4

of this Chapter to the extent the overpayment is attributable to either of the following:

a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.

b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.

(4) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.

"**§ 105-241.7. Procedure for obtaining a refund.**

(a) Initiated by Department. – The Department must refund an overpayment made by a taxpayer when the Department processes a return and finds all of the following:

(1) The statute of limitations for obtaining a refund has not expired.

(2) The amount shown due on the return is not correct.

(3) The correction of the amount due shows that the taxpayer has overpaid the tax.

(b) Initiated by Taxpayer. – A taxpayer may request a refund of an overpayment made by the taxpayer by taking one of the following actions within the statute of limitations for obtaining a refund:

(1) Filing an amended return reflecting an overpayment due the taxpayer.

(2) Filing a claim for refund. The claim must identify the taxpayer, the type and amount of tax overpaid, the filing period to which the overpayment applies, and the basis for the claim. The taxpayer's statement of the basis of the claim does not limit the taxpayer from changing the basis.

(c) Action on Request. – When a taxpayer files an amended return or a claim for refund, the Department must take one of the actions listed in this subsection within six months after the date the amended return or claim for refund is filed. If the Department does not take one of these actions within this time limit, the inaction is considered a proposed denial of the requested refund.

(1) Send the taxpayer a refund of the amount shown due on the amended return or claim for refund.

(2) Adjust the amount of the requested refund by increasing or decreasing the amount shown due on the amended return or claim for refund and send the taxpayer a refund of the adjusted amount. If the adjusted amount is less than the amount shown due on the amended return or claim for refund, the adjusted refund must include a reason for the adjustment. The adjusted refund is considered a notice of proposed

denial for the amount of the requested refund that is not included in the adjusted refund.

(3) Deny the refund and send the taxpayer a notice of proposed denial.

(4) Send the taxpayer a letter requesting additional information concerning the requested refund. If a taxpayer does not respond to a request for information, the Department may deny the refund and send the taxpayer a notice of proposed denial. If a taxpayer provides the requested information, the Department must take one of the actions listed in this subsection within the later of the following:

a. The remainder of the six-month period.

b. 30 days after receiving the information.

c. A time period mutually agreed upon by the Department and the taxpayer.

(d) Notice. – A notice of a proposed denial of a request for refund must contain the following information:

(1) The basis for the proposed denial. The statement of the basis of the denial does not limit the Department from changing the basis.

(2) The circumstances under which the proposed denial will become final.

(e) Restrictions. – The Department may not refund any of the following:

(1) Until a taxpayer files a final return for a tax period, an amount paid before the final return is filed.

(2) An overpayment set off under Chapter 105A, the Setoff Debt Collection Act, or under another setoff debt collection program authorized by law.

(3) An income tax overpayment the taxpayer has elected to apply to another purpose as provided in this Article.

(4) An individual income tax overpayment of less than one dollar ($1.00) or another tax overpayment of less than three dollars ($3.00), unless the taxpayer files a written claim for the refund.

(f) Effect of Denial or Refund. – A proposed denial of a refund by the Secretary is presumed to be correct. A refund does not absolve a taxpayer of a tax liability that may in fact exist. The Secretary may propose an assessment for any deficiency as provided in this Article.

"**§ 105-241.8. Statute of limitations for assessments.**

(a) General. – The general statute of limitations for proposing an assessment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for proposing an assessment is the later of the following:

(1) Three years after the due date of the return.

(2) Three years after the taxpayer filed the return.

(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is

one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is three years after the date the Secretary received the final report of the federal determination.

(2) Failure to File or Filing False Return. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if any of the following applies:

a. The taxpayer did not file a return.

b. The taxpayer filed a fraudulent return.

c. The taxpayer attempted in any manner to fraudulently evade or defeat the tax.

(3) Tax Forfeiture. – If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the period for proposing an assessment of any tax due as a result of the forfeiture is three years after the date of the forfeiture.

(4) Nonrecognition of Gain. – If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the period for proposing an assessment of any tax due as a result of the conversion or election is the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code.

"**§ 105-241.9. Procedure for proposing an assessment.**

(a) Authority. – The Secretary may propose an assessment against a taxpayer for tax due from the taxpayer. The Secretary must base a proposed assessment on the best information available. A proposed assessment of the Secretary is presumed to be correct.

(b) Time Limit. – The Secretary must propose an assessment within the statute of limitations for proposed assessments unless the taxpayer waives the limitations period in writing. A taxpayer may waive the limitations period for either a definite or an indefinite time. If the taxpayer waives the limitations period, the Secretary may propose an assessment at any time within the time extended by the waiver.

(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(3) The circumstances under which the proposed assessment will become final and collectible.

"**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, as appropriate. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability.

"**§ 105-241.11. Requesting review of proposed denial of refund or proposed assessment.**

(a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a proposed assessment of tax may request a Departmental review of the proposed action by filing a request for review. The request must be filed with the Department within 45 days after the following:

(1) The date the notice of the proposed denial of the refund or proposed assessment was mailed to the taxpayer, if the notice was delivered by mail.

(2) The date the notice of the proposed denial of the refund or proposed assessment was delivered to the taxpayer, if the notice was delivered in person.

(3) The date that inaction by the Department on a request for refund was considered a proposed denial of the refund.

(b) Filing. – A request for a Departmental review of a proposed denial of a refund or a proposed assessment is considered filed on the following dates:

(1) For a request that is delivered in person, the date it is delivered.

(2) For a request that is not delivered in person, the date the Department receives it.

"**§ 105-241.12. Result when taxpayer does not request a review.**

(a) Refund. – If a taxpayer does not file a timely request for a Departmental review of a proposed denial of a refund, the proposed denial is final and is not subject to further administrative or judicial review. A taxpayer whose proposed denial becomes final may not file another amended return or claim for refund to obtain the denied refund.

(b) Assessment. – If a taxpayer does not file a timely request for a Departmental review of a proposed assessment, the proposed assessment is final and is not subject to further administrative or judicial review. Upon payment of the tax, the taxpayer may request a refund of the tax.

Before the Department collects a proposed assessment that becomes final when the taxpayer does not file a timely request for a Departmental review, the Department must send the taxpayer a notice of collection. A notice of collection must contain the following information:

(1) A statement that the proposed assessment is final and collectible.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

"**§ 105-241.13. Action on request for review.**

(a) Action on Request. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund or a proposed assessment, the Department must conduct a review of the proposed denial or proposed assessment and take one of the following actions:

(1) Grant the refund or remove the assessment.

(2) Schedule a conference with the taxpayer.

(3) Request additional information from the taxpayer concerning the requested refund or proposed assessment.

(b) Conference. – When the Department reviews a proposed denial of a refund or a proposed assessment and does not grant the refund or remove the assessment, the Department must schedule a conference with the taxpayer. The Department must set the time and place for the conference and must send the taxpayer notice of the designated time and place. The Department must send the notice at least 30 days before the date of the conference or, if the Department and the taxpayer agree, within a shorter period.

The conference is an informal proceeding at which the taxpayer and the Department must attempt to resolve the case. Testimony under oath is not taken, and the rules of evidence do not apply. A taxpayer may designate a representative to act on the taxpayer's behalf. The taxpayer may present any objections to the proposed denial of refund or proposed assessment at the conference.

(c) After Conference. – One of the following must occur after the Department conducts a conference on a proposed denial of a refund or a proposed assessment:

(1) The Department and the taxpayer agree on a settlement.

(2) The Department and the taxpayer agree that additional time is needed to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment.

(3) The Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment. If a taxpayer fails to attend a scheduled conference on the proposed denial of a refund or a proposed assessment without prior notice to the Department, the Department and the taxpayer are considered to be unable to resolve the taxpayer's objection.

"**§ 105-241.14. Final determination after Departmental review.**

(a) Refund. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund and the Department and the taxpayer are unable to resolve

the taxpayer's objection to the proposed denial, the Department must send the taxpayer a notice of final determination concerning the refund. The notice of final determination must state the basis for the determination and inform the taxpayer of the procedure for contesting the determination. The statement of the basis for the determination does not limit the Department from changing the basis.

(b) Assessment. – If a taxpayer files a timely request for a Departmental review of a proposed assessment and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed assessment, the Department must send the taxpayer a notice of final determination concerning the assessment. A notice of final determination concerning an assessment must contain the following information:

(1) The basis for the determination. This information may be stated on the notice or be set out in a separate document. The statement of the basis for the determination does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) The procedure the taxpayer must follow to contest the final determination.

(4) A statement that the amount payable stated on the notice is collectible by the Department unless the taxpayer contests the final determination.

(5) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

(c) Time Limit. – The process set out in G.S. 105-241.13 for reviewing and attempting to resolve a proposed denial of a refund or a proposed assessment must conclude and a final determination must be issued within nine months after the date the taxpayer files a request for review. The Department and the taxpayer may extend this time limit by mutual agreement. Failure to issue a notice of final determination within the required time does not affect the validity of a proposed assessment.

"**§ 105-241.15. Contested case hearing on final determination.**

A taxpayer who disagrees with a notice of final determination issued by the Department may contest the determination by filing a petition for a contested case hearing at the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes. A taxpayer may file a petition for a contested case hearing only if the taxpayer has exhausted the prehearing remedy. A taxpayer's prehearing remedy is exhausted when the Department issues a final determination after conducting a review and a conference.

"**§ 105-241.16. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). A taxpayer who files a petition for judicial review must pay the amount of tax, penalties, and interest the final decision states is due. A taxpayer

may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52.

"**§ 105-241.17. Civil action challenging statute as unconstitutional.**

A taxpayer who claims that a tax statute is unconstitutional may bring a civil action in the Superior Court of Wake County to determine the taxpayer's liability under that statute if all of the conditions in this section are met. In filing an action under this section, a taxpayer must follow the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). The conditions for filing a civil action are:

(1) The taxpayer exhausted the prehearing remedy by receiving a final determination after a review and a conference.

(2) The taxpayer commenced a contested case at the Office of Administrative Hearings.

(3) The Office of Administrative Hearings dismissed the contested case petition for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.

(4) The taxpayer has paid the amount of tax, penalties, and interest the final determination states is due.

(5) The civil action is filed within two years of the dismissal.

"**§ 105-241.18. Class actions.**

(a) Authority. – An action brought under G.S. 105-241.17 challenging the constitutionality of a statute may be maintained against the State by a taxpayer for and on behalf of the taxpayer or other taxpayers similarly situated only in accordance with this section.

(b) Opt-In Requirement. – A taxpayer must opt in to become a party to a class action brought under this section. A taxpayer opts in by filing a request for a refund with the Department in accordance with G.S. 105-241.7 and by filing a copy of the request for a refund with the court. A taxpayer must opt in within the time period set by the court.

(c) Refund Claim Required. – The court may not allow a taxpayer who does not follow the procedure in this section to opt in to a class action brought under this section.

(d) Tolling. – The period set in G.S. 105-241.6 for filing a request for refund is tolled by the filing of a class action under this section for any taxpayer who, at the time the class action was commenced, could timely file a request for refund with the Secretary.

"**§ 105-241.19. Declaratory judgments, injunctions, and other actions prohibited.**

The remedies in G.S. 105-241.11 through G.S. 105-241.18 set out the exclusive remedies for disputing the denial of a requested refund, a taxpayer's liability for a tax, or the constitutionality of a tax statute. Any other action is barred. Neither an action for declaratory judgment, an action for an injunction to prevent the collection of a tax, nor any other action is allowed.

"**§ 105-241.20. Delivery of notice to the taxpayer.**

(a) Scope. – This section applies to the following notices:

(1) A proposed denial of a refund.

(2) A proposed assessment.

(3) A notice of collection.

(4) A final determination.

(b) Method. – The Secretary must deliver a notice listed in subsection (a) of this section to a taxpayer either in person or by United States mail sent to the taxpayer's last known address. A notice mailed to a taxpayer is presumed to have been received by the taxpayer unless the taxpayer makes an affidavit to the contrary within 90 days after the notice was mailed. If the taxpayer makes this affidavit, the notice is considered to have been delivered on the date the taxpayer makes the affidavit and any time limit affected by the notice is extended to the date the taxpayer makes the affidavit.

"**§ 105-241.21. Interest on taxes.**

(a) Rate. –The interest rate set by the Secretary applies to interest that accrues on overpayments and assessments of tax. On or before June 1 and December 1 of each year, the Secretary must establish the interest rate to be in effect during the six-month period beginning on the next succeeding July 1 and January 1, respectively. In determining the interest rate, the Secretary must give due consideration to current market conditions and to the rate that will be in effect on that date pursuant to the Code. If no new rate is established, the rate in effect during the preceding six-month period continues in effect. The rate established by the Secretary may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year.

(b) Accrual on Underpayments.– Interest accrues on an underpayment of tax from the date set by statute for payment of the tax until the tax is paid. Interest accrues only on the principal of the tax and does not accrue on any penalty.

(c) Accrual on Refund.– Interest accrues on an overpayment of tax from the time set in the following subdivisions until the refund is paid.

(1) Franchise, Income, and Gross Premiums. – Interest on an overpayment of a tax levied under Article 3 of this Chapter and payable on an annual basis or of a tax levied under Article 4 or 8B of this Chapter accrues from a date 45 days after the latest of the following dates:

a. The date the final return was filed.

b. The date the final return was due to be filed.

c. The date of the overpayment. The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter is determined in accordance with section 6611(d), (f), (g), and (h) of the Code.

(2) All Other Taxes. – Interest on an overpayment of a tax that is not included in subdivision (1) of this subsection accrues from a date that is 90 days after the date the tax was paid.

(d) When Refund Is Paid. – A refund sent to a taxpayer is considered paid on a date determined by the Secretary that is no sooner than five days after a refund check is mailed. A refund set off against a debt pursuant to Chapter 105A of the General Statutes is considered paid five days after the Department mails the taxpayer a notice of the setoff, unless G.S. 105A-5 or G.S. 105A-8 requires the agency that requested the setoff to return the refund to the taxpayer. In this circumstance, the refund that was set off is

not considered paid until five days after the agency that requested the refund mails the taxpayer a check for the refund.

"**§ 105-241.22. Collection of tax.**

The Department may collect a tax in the following circumstances:

(1) When a taxpayer files a return showing tax due with the return and does not pay the amount shown due.

(2) When the Department sends a notice of collection after a taxpayer does not file a timely request for a Departmental review of a proposed assessment of tax.

(3) When a taxpayer and the Department agree on a settlement concerning the amount of tax due.

(4) When the Department sends a notice of final determination concerning an assessment of tax and the taxpayer does not file a timely petition for a contested case hearing on the assessment.

(5) When a final decision is issued on a proposed assessment of tax after a contested case hearing.

(6) When the Office of Administrative Hearings dismisses a petition for a contested case for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.

"**§ 105-241.23. Jeopardy assessment and collection.**

(a) Action. –The Secretary may at any time within the statute of limitations immediately assess and collect any tax the Secretary finds is due from a taxpayer if the Secretary determines that collection of the tax is in jeopardy and immediate assessment and collection are necessary in order to protect the interest of the State. In making a jeopardy collection, the Secretary may use any of the collection remedies in G.S. 105-242 and is not required to wait any period of time before using these remedies. Within 30 days after initiating a jeopardy collection, the Secretary must give the taxpayer the notice of proposed assessment required by G.S. 105-241.9.

(b) Review by Department. – Within five days after initiating a jeopardy collection that is not the result of a criminal investigation or of a liability for a tax imposed under Article 2D of this Chapter, the Secretary must provide the taxpayer with a written statement of the information upon which the Secretary relied in initiating the jeopardy collection. Within 30 days after receipt of this written statement or, if no statement is received, within 30 days after the statement was due, the taxpayer may request the Secretary to review the action taken. After receipt of this request, the Secretary must determine whether initiating the jeopardy collection was reasonable under all the circumstances and whether the amount assessed and collected was reasonable under all the circumstances. The Secretary must give the taxpayer written notice of this determination within 30 days after the request.

(c) Judicial Review. – Within 90 days after the earlier of the date a taxpayer received or should have received a determination of the Secretary concerning a jeopardy collection under subsection (b) of this section, the taxpayer may bring a civil action seeking review of the jeopardy collection. The taxpayer may bring the action in the Superior Court of Wake County or of the county in North Carolina in which the

taxpayer resides. Within 20 days after the action is filed, the court must determine whether the initiation of the jeopardy collection was reasonable under the circumstances. If the court determines that an action of the Secretary was unreasonable or inappropriate, the court may order the Secretary to take any action the court finds appropriate. If the taxpayer shows reasonable grounds why the 20-day limit on the court should be extended, the court may grant an extension of not more than 40 additional days."

SECTION 2. The following statutes are repealed:

G.S. 20-91.1
G.S. 20-91.2
G.S. 20-98
G.S. 20-99
G.S. 105-104
G.S. 105-122(c)
G.S. 105-130.4(t)
G.S. 105-164.43
G.S. 105-239
G.S. 105-241.1
G.S. 105-241.2
G.S. 105-241.3
G.S. 105-241.4
G.S. 105-241.5
G.S. 105-266
G.S. 105-266.1
G.S. 105-267
G.S. 105-269.2
G.S. 143A-38
G.S. 150B-1(e)(6).

SECTION 3. G.S. 1-52(15) reads as rewritten:

"**§ 1-52. Three years.**

Within three years an action -

...

(15) For the recovery of taxes paid as provided in ~~G.S. 105-267 and~~ G.S. 105-381.

..."

SECTION 4. G.S. 7A-45.4 reads as rewritten:

"**§ 7A-45.4. Designation of mandatory ~~complex~~ business cases.**

(a) Definitions. – The following definitions apply in this section:

(1) ~~A mandatory complex~~ Complex business case. – ~~is an~~ An action that involves a material issue related to:

~~(1)~~a. The law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, limited liability companies, and limited liability partnerships, including issues concerning

governance, involuntary dissolution of a corporation, mergers and acquisitions, breach of duty of directors, election or removal of directors, enforcement or interpretation of shareholder agreements, and derivative actions.

~~(2)~~b. Securities law, including proxy disputes and tender offer disputes.

~~(3)~~c. Antitrust law, except claims based solely on unfair competition under G.S. 75-1.1.

~~(4)~~d. State trademark or unfair competition law, except claims based solely on unfair competition under G.S. 75-1.1.

~~(5)~~e. Intellectual property law, including software licensing disputes.

~~(6)~~f. The Internet, electronic commerce, and biotechnology.

(2) Mandatory business case. – A complex business case or a tax case.

(3) Tax case. – An action that involves a material issue related to:

a. A petition for judicial review of a final decision under G.S. 105-241.15.

b. A civil action under G.S. 105-241.17.

(b) Any party may designate a civil action or a petition for judicial review under G.S. 105-241.16 as a mandatory ~~complex~~ business case by filing a Notice of Designation in the Superior Court in which the action has been filed and simultaneously serving the notice on each opposing party or counsel and on the ~~Special Superior Court Judge for Complex Business Cases who is then the~~ senior Business Court Judge. A copy of the notice shall also be sent contemporaneously by e-mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of the designation of the action as a mandatory complex business case and assignment to a specific Business Court Judge.

(c) The Notice of Designation shall, in good faith and based on information reasonably available, succinctly state the basis of the designation and include a certificate by or on behalf of the designating party that the civil action meets the criteria for designation as a mandatory complex business case pursuant to subsection (a) of this section.

(d) The Notice of Designation shall be filed:

(1) By the ~~plaintiff or third-party plaintiff~~ plaintiff, the third-party plaintiff, or the petitioner for judicial review contemporaneously with the filing of the ~~complaint or third-party complaint~~ complaint, the third-party complaint, or the petition for judicial review in the action.

(2) By any intervenor when the intervenor files a motion for permission to intervene in the action.

(3) By any defendant or any other party within 30 days of receipt of service of the pleading seeking relief from the defendant or party.

(e) Within 30 days after service of the Notice of Designation, any other party may, in good faith, file and serve an opposition to the designation of the action as a mandatory business ~~case.~~ case, but only if the case is a complex business case and not a tax case. Based on the opposition or ex mero motu, the Business Court Judge may

determine that the action should not be designated as a mandatory complex business case. If a party disagrees with the decision, the party may appeal to the Chief Justice of the Supreme Court.

(f) Once a designation is filed under subsection (d) of this section, and after preliminary approval by the Chief Justice, a case shall be designated and administered a ~~complex~~ mandatory business case. All proceedings in the action shall be before the Business Court Judge to whom it has been assigned unless and until an order has been entered under subsection (e) of this section ordering that the case not be designated a mandatory ~~complex~~ business case or the Chief Justice revokes approval. If ~~complex~~ mandatory business case status is revoked or denied, the action shall be treated as any other civil action, unless it is designated as an exceptional civil case or a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts."

SECTION 5. G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of seventy-nine dollars ($79.00) in the superior court, except that if a case is assigned to a special superior court judge as a ~~complex~~ mandatory business case under G.S. 7A-45.3, an additional two hundred dollars ($200.00) shall be paid upon its assignment, and the sum of sixty-four dollars ($64.00) in the district court except that if the case is assigned to a magistrate the sum shall be fifty-three dollars ($53.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents ($1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 6. G.S. 20-64(f) reads as rewritten:

"(f) The owner or transferor of a registered vehicle who surrenders the registration plate to the division may secure a refund for the unexpired portion of such plate prorated on a monthly basis, beginning the first day of the month following surrender of the plate to the division, provided the annual fee of such surrendered plate is sixty dollars ($60.00) or more. This refund may not exceed one half of the annual license fee. No refund shall be made unless the owner or transferor furnishes proof of financial responsibility on the registered vehicle effective until the date of the surrender of the plate. Proof of financial responsibility shall be furnished in a manner prescribed by the Commissioner. ~~Any unauthorized refund may be recovered in the manner set forth in G.S. 20-99.~~"

SECTION 7. G.S. 105-32.8 reads as rewritten:

"**§ 105-32.8. Federal determination that changes the amount of tax payable to the State.**

If the federal government corrects or otherwise determines the gross estate tax imposed under section 2001 of the Code or the amount of the maximum state death tax

credit allowed an estate under section 2011 of the Code, the personal representative must, within six months after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within six months after being notified of the correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must ~~assess and collect~~ propose an assessment for any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 8. G.S. 105-109(b) reads as rewritten:

"(b) License Required. – Before a person may engage in a business, trade, or profession for which a license is required under this Article, the person must be licensed by the ~~Department pursuant to G.S. 105-104.~~ Department. To obtain a license, a person must submit an application to the Department for the license and pay the required tax. An application for a license is considered a return.

The Department must issue a license to a person who files a completed application and pays the required tax. A license must be displayed conspicuously at the location of the licensed business, trade, or profession."

SECTION 9. G.S. 105-113.111 reads as rewritten:

"**§ 105-113.111. Assessments.**

Notwithstanding any other provision of law, an assessment against a dealer who possesses an unauthorized substance to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Secretary shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Secretary. The Secretary shall notify the dealer in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice and demand shall be either mailed to the dealer at the dealer's last known address or served on the dealer in person. If the dealer does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Secretary shall collect the tax, penalty, and interest pursuant to the ~~procedure set forth~~ jeopardy collection procedures in G.S. 105-241.23 or the general collection procedures in G.S. 105-242, ~~105-241.1(g) for jeopardy assessments or the procedure set forth in G.S. 105-242,~~ including causing execution to be issued immediately against the personal property of the dealer, unless the dealer files with the Secretary a bond in the amount of the asserted liability for the tax, penalty, and interest. The Secretary shall use all means available to collect the tax, penalty, and interest from any property in which the dealer has a legal, equitable, or beneficial interest. The dealer may seek review of the assessment as provided in Article 9 of this Chapter."

SECTION 10. G.S. 105-113.113 reads as rewritten:

"**§ 105-113.113. Use of tax proceeds.**

(a) Special Account. – The Unauthorized Substances Tax Account is established as a special nonreverting account. The Secretary shall credit the proceeds of the tax levied by this Article to ~~a special nonreverting account, to be called the State Unauthorized Substances Tax Account, until the tax proceeds are unencumbered. The Secretary shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis. Tax proceeds are unencumbered when either of the following occurs:~~

~~(1) The tax has been fully paid and the taxpayer has no current right under G.S. 105-267 to seek a refund.~~

~~(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.~~

the Account.

(b) Distribution. – The Secretary shall distribute unencumbered tax proceeds in the Unauthorized Substances Tax Account on a quarterly or more frequent basis. Tax proceeds in the Account are unencumbered when they are collectible under G.S. 105-241.22. The Secretary shall ~~remit~~ distribute seventy-five percent (75%) of the ~~part of the~~ unencumbered tax proceeds in the Account that ~~was~~ were collected by assessment to the State or local law enforcement agency that conducted the investigation of a dealer that led to the assessment. If more than one State or local law enforcement agency conducted the investigation, the Secretary shall determine the equitable share for each agency based on the contribution each agency made to the investigation. The Secretary shall credit the remaining unencumbered tax proceeds in the Account to the General Fund.

(c) Refunds. – The refund of a tax that has already been distributed shall be drawn initially from the ~~State~~ Unauthorized Substances Tax Account. The amount of refunded taxes that ~~had been~~ were distributed to a law enforcement agency under this section and any interest shall be subtracted from succeeding distributions from the Account to that law enforcement agency. The amount of refunded taxes that ~~had been~~ were credited to the General Fund under this section and any interest shall be subtracted from succeeding credits to the General Fund from the Account."

SECTION 11. G.S. 105-122 is amended by adding a new subsection to read:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

(1) Statutory. – A corporation that is subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it applies in apportioning its income under

that Article. A corporation that is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it would be required to apply in apportioning its income if it were subject to that Article. The apportionment method set out in this subdivision is considered the statutory method of apportionment and is presumed to be the best method of determining the amount of a corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

(2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State and that the the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subdivision. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method."

SECTION 12. G.S. 105-130.4 is amended by adding a new subsection to read:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. "

SECTION 13. G.S. 105-130.6A(e) reads as rewritten:

"(e) Cap for Bank Holding Companies. – After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.

The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.

If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. ~~105-241.1(e).~~ 105-241.8. The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member

whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under ~~105-241.1(i),~~ G.S. 105-241.21 computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 14. G.S. 105-130.20 reads as rewritten:

"**§ 105-130.20. Federal corrections.**

If a taxpayer's federal taxable income is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income. The Secretary ~~shall determine from all available evidence the taxpayer's correct tax liability for the income year. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by reason of the determination."

SECTION 15. G.S. 105-159 reads as rewritten:

"**§ 105-159. Federal corrections.**

If a taxpayer's federal taxable income is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income. The Secretary ~~shall determine from all available evidence the taxpayer's correct tax liability for the taxable year. As used in this section, the term "all available evidence' means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 16. G.S. 105-163.6A reads as rewritten:

"**§ 105-163.6A. Federal corrections.**

If the amount of taxes an employer is required to withhold and pay under the Code is corrected or otherwise determined by the federal government, the employer must, within ~~two years~~ six months after being notified of the correction or final determination by the federal government, file a return with the Secretary reflecting the corrected or determined amount. The Secretary ~~shall determine from all available evidence the~~

~~correct amount the employer should have paid under this Article for the period covered by the federal determination. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the employer as provided in Article 9 of this Chapter. If there has been an overpayment of the tax, the Secretary ~~shall~~ must either refund the overpayment to the employer in accordance with G.S. 105-163.9 or credit the amount of the overpayment to the individual in accordance with G.S. 105-163.10. An employer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination. Failure of an employer to comply with this section does not, however, affect an individual's right to a credit under G.S. 105-163.10."

SECTION 17. G.S. 105-163.9 reads as rewritten:

"**§ 105-163.9. Refund of overpayment to withholding agent.**

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing ~~an application~~ a request for a refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the wages or compensation of the agent's employees or contractors. A withholding agent must file ~~an application~~ a request for a refund within the time period set in G.S. ~~105-266.~~ G.S. 105-241.6. Interest accrues on a refund as provided in ~~G.S. 105-266.~~G.S. 105-241.21."

SECTION 18. G.S. 105-164.29(d) reads as rewritten:

"(d) Revocation. ~~Whenever~~ The failure of a wholesale merchant or retailer ~~fails~~ to comply with this Article or ~~violates G.S. 14-401.18, the Secretary, upon hearing, after giving 10 days' notice in writing, specifying the time and place of hearing and requiring the wholesale merchant or retailer to show cause why the certificate of registration should not be revoked, may revoke or suspend the certificate of registration. The notice may be served personally or by registered mail directed to the last known address of the wholesale merchant or retailer. All provisions with respect to review and appeals of the Secretary's decisions as provided by G.S. 105-241.2, 105-241.3, and 105-241.4 apply to this section.~~ G.S. 14-401.18 is grounds for revocation of the wholesale merchant's or retailer's certificate of registration. Before the Secretary revokes a wholesale merchant's or retailer's certificate of registration, the Secretary must notify the wholesale merchant or retailer that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the wholesale merchant or retailer objects to the proposed revocation and files a request for a Departmental review within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of a proposed revocation. "

SECTION 19. G.S. 105-164.38(c) reads as rewritten:

"(c) Assessment. – The period of limitations for assessing liability against the buyer of a business or the stock of goods of a business and for enforcing the lien against the property expires one year after the end of the period of limitations for assessment against the person who sold the business or the stock of goods. Except as otherwise provided in this section, the assessment procedures in Article 9 of this Chapter apply to a person who buys a business or the stock of goods of a business ~~and that person's liability for unpaid taxes are subject to the provisions of G.S. 105-241.1, 105-241.2, 105-241.3, and 105-241.4 and to other remedies for the collection of taxes~~ to the same extent as if the person had incurred the original tax liability."

SECTION 20. G.S. 105-187.10(b) reads as rewritten:

"(b) Unpaid Taxes. – The remedies for collection of taxes in ~~G.S. 20-99~~ Article 9 of this Chapter apply to the taxes levied by this Article and collected by the Commissioner. In applying these remedies, the Commissioner has the same authority as the Secretary."

SECTION 21. G.S. 105-197.1 reads as rewritten:

"**§ 105-197.1. Federal corrections.**

If the amount of a taxpayer's net gifts is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file a gift tax return with the Secretary ~~of Revenue~~ reflecting the corrected or determined net gifts. The Secretary ~~of Revenue shall determine from all available evidence the taxpayer's correct tax liability for the taxable year. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 22. G.S. 105-228.5(f) reads as rewritten:

"(f) **(Effective for taxable years beginning on or after January 1, 2008)** Installment Payments Required. – Taxpayers that are subject to the tax imposed by this section and have a premium tax liability of ten thousand dollars ($10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

The Secretary of Revenue may permit an insurance company to pay less than the required estimated payment when the insurer reasonably believes that the total estimated payments made for the current year will exceed the total anticipated tax liability for the year.

An underpayment or an overpayment of an installment payment required by this subsection ~~shall bear interest at the rate established under G.S. 105-241.1(i). Any overpayment shall bear interest as provided in G.S. 105-266(b) and, together with the interest,~~ accrues interest in accordance with G.S. 105-241.21. An overpayment of tax shall be credited to the company and applied against the taxes imposed upon the company under this Article."

SECTION 23. G.S. 105-228.37 reads as rewritten:

"**§ 105-228.37. Refund of overpayment of tax.**

(a) Refund Request. – A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(b) Hearing by County. – A board of county commissioners must ~~review~~ conduct a hearing on a request for refund ~~and must follow the time limitations set in G.S. 105-266.1 for holding a hearing and making a decision.~~ in accordance with the procedures that apply to a hearing held by a board of equalization and review on an appeal concerning the listing or appraisal of property. If the board decides that a refund is due, it must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. If the board finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may ~~ask the Secretary to review the decision. The board must send the Secretary a copy of a decision on a request for refund.~~appeal the decision to the Property Tax Commission.

(c) Review by ~~Secretary.~~ Commission. ~~A taxpayer whose request for a refund is denied by a board of county commissioners may obtain a review of the board's decision by the Secretary. The request must be made in writing and must be filed within 30 days after the taxpayer receives the board's decision denying the refund. The Secretary must send the board of county commissioners a copy of the Secretary's decision made on the request. If the Secretary~~ The procedure in G.S. 105-290 for the appeal to the Property Tax Commission of a decision of a board of equalization and review concerning the listing or appraisal of property applies to the appeal of a denial by a board of county commissioners of a request for a refund of tax paid under this Article. If the Commission determines that a refund is due, the board of county commissioners must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. A decision of the Commission is binding on the Secretary ~~is binding~~ and on a board of county commissioners.

(d) Judicial Review. – A ~~taxpayer who disagrees with a~~ decision of the ~~Secretary~~ Property Tax Commission ~~may bring an action against the county and the State to recover the disputed overpayment. The action may be brought in the Superior Court of Wake County or in the superior court of the county where the tax was paid.~~is subject to judicial review in accordance with G.S. 7A-29.

(e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document

stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. – An overpayment of tax bears interest at the rate established in G.S. ~~105-241.1(i)~~ 105-241.21 from the date that interest begins to accrue. Interest begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners."

SECTION 24. G.S. 105-228.90(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(7) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter, the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the ~~terms "tax" and "additional tax" include~~ term "tax" includes penalties and interest as well as the principal amount.

..."

SECTION 25. G.S. 105-236(a)(4) reads as rewritten:

"(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the tax, ~~except that the penalty shall in no event be less than~~ subject to a minimum of five dollars ($5.00). This penalty does not apply in any of the following circumstances:

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When ~~a tax due but not shown on a return is assessed by~~ the Secretary proposes an assessment for tax due but not shown on a return and the tax due ~~and~~ is paid within ~~30~~45 days after the date of the ~~proposed~~ notice of proposed assessment of the tax."

SECTION 26. G.S. 105-239.1 reads as rewritten:

"**§ 105-239.1. Transferee liability.**

(a) Lien and Liability. – Property transferred for an inadequate consideration to a donee, heir, legatee, devisee, distributee, stockholder of a liquidated corporation, or any other person at a time when the transferor is insolvent or is rendered insolvent by reason of the transfer ~~shall be~~ is subject to a lien for any taxes owing by the transferor to the State of North Carolina at the time of the transfer whether or not the amount of the taxes

has been ascertained or assessed at the time of the transfer. G.S. 105-241 applies to this tax lien. In the event the transferee has disposed of the property so that it cannot be subjected to the State's tax lien, the transferee ~~shall be~~ is personally liable for the difference between the fair market value of the property at the time of the transfer and the actual consideration, if any, paid to the transferor by the transferee.

~~Upon a foreclosure of the State's tax lien upon property in the hands of a transferee, the value of any consideration that the transferee proves has been given to the transferor shall be paid to the transferee out of the proceeds of the foreclosure sale before applying the proceeds toward the satisfaction of the State's tax lien.~~

~~In order to proceed against the transferee or property in the transferee's hands, the Secretary shall cause to be docketed in the office of the clerk of the superior court of the county wherein the transferee resides or the property is located, as the case may be, a certificate of tax liability as provided in G.S. 105-242 or a lien certificate which shall set forth the amount of the lien as determined by the Secretary or as finally determined upon appeal and a description of the property subject to the lien. Thereafter, execution may be issued against the transferee as in the case of other money judgments except that no homestead or personal exemption shall be allowable or, upon a lien certificate, an execution may be issued directing the sheriff to seize the property subject to the lien and sell same in the same manner as property is sold under execution. Such procedure and collection shall be subject to the provisions of subsection (c) of this section.~~

(b) Procedure. – The Department may proceed to enforce a lien that arises under this section against property transferred by a taxpayer to another person or to hold that person liable for the tax due by sending the person a notice of proposed assessment in accordance with G.S. 105-241.9. The Department has the burden of establishing that a person to whom property was transferred is liable. The period of limitations for assessment of any liability against a transferee or enforcing the lien against the transferred property ~~shall expire~~ expires one year after the expiration of the period of limitations for assessment against the transferor.

(c) Proceeds. – When property transferred by a taxpayer to another person is sold to satisfy the lien that arises under this section, the person is entitled to receive from the proceeds of the sale the amount of consideration, if any, the person paid for the property. The proceeds must be applied for this purpose before they are applied to satisfy the lien. ~~The provisions of G.S. 105-241.1, 105-241.2, 105-241.3, 105-241.4, 105-266.1 and 105-267 with respect to assessment procedure, demand for refund, review, and appeal shall apply to the liability of any transferee assessed under this section or of any property subject to the liability imposed by this section and to the assertion of a lien upon property in the hands of the transferee.~~

~~(d) In any proceeding before the Tax Review Board or in any court of the State the burden of proof shall be upon the Secretary of Revenue to show that a person is liable as a transferee of property of a taxpayer under this section.~~"

SECTION 27. G.S. 105-242(a) reads as rewritten:

"(a) ~~Warrants for Collection of Taxes.~~ Levy and Sale. ~~If any tax levied by the State and payable to the Secretary has not been paid within 30 days after the taxpayer was given a notice of final assessment of the tax under G.S. 105-241.1(d1),~~ If a taxpayer

does not pay a tax within 30 days after it is collectible under G.S. 105-241.22, the Secretary may take either of the following actions to collect the tax:

(1) ~~The Secretary may issue~~ Issue a warrant ~~or an order under the Secretary's hand and official seal, directed to~~ directing the sheriff of any county of the ~~State, commanding him~~ State to levy upon and sell the real and personal property of the taxpayer found within the county for the payment of the ~~tax, including penalties and interest,~~ tax and the cost of executing the warrant and to return to the Secretary the money collected, within a time to be specified in the ~~warrant,~~ warrant but not less than 60 days from the date of the ~~warrant; the sheriff upon receipt of the warrant shall proceed in all respects with like effect and in the same manner prescribed by law in respect to~~ warrant. The procedure for executions issued against property upon judgments of a ~~court of record, and shall be entitled to the same fees for services in executing the warrant, to be collected in the same manner.~~court apply to executions under a warrant.

(2) ~~The Secretary may issue~~ Issue a warrant ~~or order under the Secretary's hand and seal~~ to any revenue officer or other employee of the Department ~~of Revenue~~ charged with the duty to collect taxes, commanding the officer or employee to levy upon and sell the taxpayer's personal ~~property, including that described in G.S. 105-366(d),~~ property found within the State for the payment of the ~~tax, including penalties and interest.~~ tax. Except as otherwise provided in this subdivision, the levy upon ~~the~~ and sale of personal property ~~shall be governed by~~ by an officer or employee of the Department is subject to and must be conducted in accordance with the laws ~~regulating levy and~~ governing the sale of property levied upon under execution. The ~~person to whom the warrant is directed shall proceed to levy upon and sell the personal property subject to levy in the same manner and with the same powers and authority normally exercised by sheriffs in levying upon and selling personal property under execution, except that the property may be sold in any county, in the discretion of the Secretary. In addition to the notice of sale required by the laws governing sale of property levied upon under execution, the~~ Secretary may sell the property levied upon in any county and may advertise the sale in any reasonable manner and for any reasonable period of time to produce an adequate bid for the property. Levy and sale fees, plus actual advertising costs, ~~shall~~ must be added to and collected in the same manner as taxes. The Secretary is not required to file a report of sale with the clerk of superior court, ~~as required by the laws governing sale of property levied upon under execution,~~ if the sale is otherwise publicly reported."

SECTION 28. G.S. 105-242(b) reads as rewritten:

"(b) Garnishment and Attachment. – ~~Bank deposits, rents, salaries, wages, and all other choses in action or property incapable of manual levy or delivery, including property held in the Escheat Fund, hereinafter called the intangible, belonging, owing, or to become due to any taxpayer subject to any of the provisions of this Subchapter, or which has been transferred by such taxpayer under circumstances which would permit it to be levied upon if it were tangible, shall be subject to attachment or garnishment as herein provided, and the person owing said intangible, matured or unmatured, or having same in his possession or control, hereinafter called the garnishee, shall become liable for all sums due by the taxpayer under this Subchapter to the extent of the amount of the intangible belonging, owing, or to become due to the taxpayer subject to the setoff of any matured or unmatured indebtedness of the taxpayer to the garnishee; provided, however, the garnishee shall not become liable for any sums represented by or held pursuant to any negotiable instrument issued and delivered by the garnishee to the taxpayer and negotiated by the taxpayer to a bona fide holder in due course, and whenever any sums due by the taxpayer and subject to garnishment are so held or represented, the garnishee shall hold such sums for payment to the Secretary of Revenue upon the garnishee's receipt of such negotiable instrument, unless such instrument is presented to the garnishee for payment by a bona fide holder in due course in which event such sums may be paid in accordance with such instrument to such holder in due course. To effect such attachment or garnishment the Secretary of Revenue shall serve or cause to be served upon the taxpayer and the garnishee a notice as hereinafter provided, which notice may be served by any deputy or employee of the Secretary of Revenue or by any officer having authority to serve summonses or may be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall:~~

~~(1) Show the name of the taxpayer, and if known his Social Security number or federal tax identification number and his address;~~

~~(2) Show the nature and amount of the tax, and the interest and penalties thereon, and the year or years for which the same were levied or assessed, and~~

~~(3) Be accompanied by a copy of this subsection, and thereupon the procedure shall be as follows:~~

~~If the garnishee has no defense to offer or no setoff against the taxpayer, he shall within 10 days after service of said notice, answer the same by sending to the Secretary of Revenue by registered or certified mail a statement to that effect, and if the amount due or belonging to the taxpayer is then due or subject to his demand, it shall be remitted to the Secretary with said statement, but if said amount is to mature in the future, the statement shall set forth that fact and the same shall be paid to the Secretary upon maturity, and any payment by the garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under oath, and, within 10 days after service of said notice, shall send two copies of said statement to the Secretary by registered or certified mail; if the Secretary admits such defense or setoff, he shall so advise the garnishee in writing within 10 days after receipt of such statement and the~~

~~attachment or garnishment shall thereupon be discharged to the amount required by such defense or setoff, and any amount attached or garnished hereunder which is not affected by such defense or setoff shall be remitted to the Secretary as above provided in cases where the garnishee has no defense or setoff, and with like effect. If the Secretary shall not admit the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such further time as may be agreed on by the garnishee, and at the same time he shall file a copy of said notice, a copy of the garnishee's statement, and a copy of his objections thereto in the superior court of the county where the garnishee resides or does business where the issues made shall be tried as in civil actions.~~

~~If judgment is entered in favor of the Secretary of Revenue by default or after hearing, the garnishee shall become liable for the taxes, interest and penalties due by the taxpayer to the extent of the amount over and above any defense or setoff of the garnishee belonging, owing, or to become due to the taxpayer, but payments shall not be required from amounts which are to become due to the taxpayer until the maturity thereof, nor shall more than ten percent (10%) of any taxpayer's salary or wages be required to be paid hereunder in any one month as provided in subdivision (e)(4) of this section. The garnishee may satisfy said judgment upon paying said amount, and if he fails to do so, execution may issue as provided by law. From any judgment or order entered upon such hearing either the Secretary of Revenue or the garnishee may appeal as provided by law. If, before or after judgment, adequate security is filed for the payment of said taxes, interest, penalties, and costs, the attachment or garnishment may be released or execution stayed pending appeal, but the final judgment shall be paid or enforced as above provided. The taxpayer's sole remedies to question his liability for said taxes, interest, and penalties shall be those provided in this Subchapter, as now or hereafter amended or supplemented. If any third person claims any intangible attached or garnished hereunder and his lawful right thereto, or to any part thereof, is shown to the Secretary, he shall discharge the attachment or garnishment to the extent necessary to protect such right, and if such right is asserted after the filing of said copies as aforesaid, it may be established by interpleader as now or hereafter provided by law in cases of attachment and garnishment. In case such third party has no notice of proceedings hereunder, he shall have the right to file his petition under oath with the Secretary at any time within 12 months after said intangible is paid to him and if the Secretary finds that such party is lawfully entitled thereto or to any part thereof, he shall pay the same to such party as provided for refunds by G.S. 105-266.1, and if such payment is denied, said party may appeal from the determination of the Secretary under the provisions of G.S. 105-241.4; provided, that in taking an appeal to the superior court, said party may appeal either to the Superior Court of Wake County or to the superior court of the county wherein he resides or does business. The intangibles of a taxpayer shall be paid or collected hereunder only to the extent necessary to satisfy said taxes, interest, penalties, and costs. Except as hereinafter set forth, the remedy provided in this section shall not be resorted to unless a warrant for collection or execution against the taxpayer has been returned unsatisfied: Provided, however, if the Secretary~~

~~is of opinion that the only effective remedy is that herein provided, it shall not be necessary that a warrant for collection or execution shall be first returned unsatisfied, and in no case shall it be a defense to the remedy herein provided that a warrant for collection or execution has not been first returned unsatisfied.~~

~~This subsection shall be applicable with respect to the wages, salary or other compensation of officials and employees of this State and its agencies and instrumentalities, officials and employees of political subdivisions of this State and their agencies and instrumentalities, and also officials and employees of the United States and its agencies and instrumentalities insofar as the same is permitted by the Constitution and laws of the United States. In the case of State or federal employees, the notice shall be served upon such employee and upon the head or chief fiscal officer of the department, agency, instrumentality or institution by which the taxpayer is employed. In case the taxpayer is an employee of a political subdivision of the State, the notice shall be served upon such employee and upon the chief fiscal officer, or any officer or person charged with making up the payrolls, or disbursing funds, of the political subdivision by which the taxpayer is employed. Such head or chief officer or fiscal officer or other person as specified above shall thereafter, subject to the limitations herein provided, make deductions from the salary or wages due or to become due the taxpayer and remit same to the Secretary until the tax, penalty, interest and costs allowed by law are fully paid. Such deductions and remittances shall, pro tanto, constitute a satisfaction of the salary or wages due the taxpayer.~~ Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.

No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment."

SECTION 29. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-242.1. Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in

G.S. 105-241.20 or by registered or certified mail. The notice must contain all of the following information:

(1) The taxpayer's name, address, and social security number or federal identification number.

(2) The type of tax the taxpayer owes and the tax periods for which the tax is owed.

(3) The amount of tax, interest, and penalties the taxpayer owes.

(4) An explanation of the liability of a garnishee for tax owed by a taxpayer.

(5) An explanation of the garnishee's responsibility concerning the notice.

(b) Action. – Within 30 days after receiving a notice of garnishment, a garnishee must comply with the garnishment or file a written response to the notice. A written response must explain why the garnishee is not subject to garnishment and attachment. Upon receipt of the written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of garnishment."

SECTION 30. G.S. 105-242(c) reads as rewritten:

"(c) Certificate ~~or Judgment for Taxes.~~ of Tax Liability. ~~In addition to the remedy herein provided, the Secretary of Revenue is authorized and empowered to make a certificate setting forth the essential particulars relating to the said tax, including the amount thereof, the date when the same was due and payable, the person, firm, or corporation chargeable therewith, and the nature of the tax, and under his hand and seal transmit the same to the clerk of the superior court of any county in which the delinquent taxpayer resides or has property; whereupon, it shall be the duty of the clerk of the superior court of the county to docket the said certificate and index the same on the cross index of judgments, and execution may issue thereon with the same force and effect as an execution upon any other judgment of the superior court (said tax shall become a lien on realty only from the date of the docketing of such certificate in the office of the clerk of the superior court and on personalty only from the date of the levy on such personalty and upon the execution thereon no homestead or personal property exemption shall be allowed except as provided in subdivision (e)(1) of this section).~~ The Department may file a certificate of tax liability to collect a tax that is owed by a taxpayer and is collectible under G.S. 105-241.22. A certificate of tax liability must state the taxpayer's name and the type and amount of tax owed. If the taxpayer resides in this State or has property in this State, the Department must file the certificate of tax liability with the clerk of the superior court of a county in which the taxpayer resides or

has property. If the taxpayer does not reside in this State or have property in this State, the Department must file the certificate of tax liability in Wake County.

The clerk of court must record a certificate of tax liability in the same manner as a judgment. A recorded certificate of tax liability is considered a judgment and is enforceable in the same manner as other judgments. The legal rate of interest set in G.S. 24-1 applies to the principal amount of tax stated on the certificate of tax liability. The tax stated on a certificate of tax liability is a lien on real and personal property from the date the certificate is recorded.

~~Except as provided in G.S. 105-241.2(e) for jeopardy levies, no sale of real or personal property shall be made under any execution issued on a certificate docketed pursuant to the provisions of this subsection before the administrative action of the Secretary of Revenue or the Tax Review Board is completed when a hearing has been requested of the Secretary or a petition for review has been filed with the Tax Review Board, nor shall such sale be made before the assessment on which the certificate is based becomes final when there is no request for a hearing before the Secretary or petition for review by the Tax Review Board. Neither the title to real estate nor to personal property sold under execution issued upon a certificate docketed under this subsection shall be drawn in question upon the ground that the administrative action contemplated by this paragraph was not completed prior to the sale of such property under execution. Nothing in this paragraph shall prevent the sheriff to whom an execution is issued from levying upon either real or personal property pending an administrative determination of tax liability and, in the case of personal property, the sheriff may hold such property in his custody or may restore the execution defendant to the possession thereof upon the giving of a sufficient forthcoming bond. Upon a final administrative determination of the tax liability being had, if the assessment or any part thereof is sustained, the sheriff shall, upon request of the Secretary of Revenue, proceed to advertise and sell the property under the original execution notwithstanding the original return date of the execution may have expired.~~

~~The owner of tangible property seized under this section may request the Secretary to authorize the sale of the property under execution within 60 or more days after the request is made. The Secretary shall authorize the sale unless the Secretary finds that selling the property would not be in the best interests of the State. When property is sold at the request of the owner, the Department shall receive from the sale of the property the administrative expenses it incurred in having the property sold.~~

~~A certificate or judgment in favor of the State or the Secretary of Revenue for taxes payable to the Department of Revenue, whether docketed before or after the effective date of this paragraph, shall be valid and enforceable for a period of 10 years from the date of docketing. When any such certificate or judgment, whether docketed before or after the effective date of this paragraph, remains unsatisfied for 10 years from the date of its docketing, the same shall be unenforceable and the tax represented thereby shall abate. Upon the expiration of said 10-year period, the Secretary of Revenue or his duly authorized deputy shall cancel of record said certificate or judgment. Any such certificate or judgment now on record which has been docketed for more than 10 years shall, upon the request of any interested party, be canceled of record by the Secretary of~~

~~Revenue or his duly authorized deputy; provided, in the event of the death of the judgment debtor or his absence from the State before the expiration of the 10-year period herein provided, the running of said 10-year period shall be stopped for the period of his absence from the State or during the pendency of the settlement of the estate and for one year thereafter, and the time elapsed during the pendency of any action or actions to set aside the judgment debtor's conveyance or conveyances as fraudulent, or the time during the pendency of any insolvency proceeding, or the time during the existence of any statutory or judicial bar to the enforcement of the judgment shall not be counted in computing the running of said 10-year period. And, provided further, that any execution sale which has been instituted upon any such judgment before the expiration of the 10-year period may be completed after the expiration of the 10-year period, notwithstanding the fact that resales may be required because of the posting of increased bids. Provided further, that, notwithstanding the expiration of the 10-year period provided and notwithstanding the fact that no proceedings to collect the judgment by execution or otherwise has been commenced within the 10-year period, the Secretary of Revenue may accept any payments tendered upon said judgments after the expiration of said 10-year period.~~A certificate of tax liability is enforceable for a period of 10 years from the date it is recorded. If the certificate is not satisfied within this period, the remaining liability of the taxpayer is abated and the Department must cancel the certificate. An execution sale initiated before the end of the 10-year period may be completed after the end of this period, regardless of whether resales are required because of the posting of increased bids. The Secretary may accept tax payments made after a certificate has expired, regardless of whether any collection actions were taken before the certificate expired. A taxpayer may waive the 10-year period for enforcement of the certificate for either a definite or an indefinite time.

The 10-year period in which a certificate of tax liability is enforceable is tolled during the following periods:

(1) While the taxpayer is absent from the State. The period is tolled during the taxpayer's absence plus one year after the taxpayer returns.

(2) Upon the death of the taxpayer. The period is tolled while the taxpayer's estate is administered plus one year after the estate is closed.

(3) While an action is pending to set aside a conveyance made by the taxpayer as a fraudulent conveyance.

(4) While an insolvency proceeding against the taxpayer is pending.

(5) During the period of any statutory or judicial bar to the enforcement of the certificate.

(6) The period for which a taxpayer has waived the 10-year period."

SECTION 31. G.S. 105-243 reads as rewritten:

"§ 105-243. Taxes recoverable by action.

~~Upon the failure of any corporation to pay the taxes, fees, and penalties prescribed by this Subchapter, the Secretary of Revenue may certify same to the sheriff of the county in which such company may own property, for collection as provided in this Subchapter; and if collection is not made, such taxes or fees and penalties thereon may be recovered in an action in the name of the State, which may be brought in the Superior~~

~~Court of Wake County, or in any county in which such corporation is doing business, or any county in which such corporation owns property. The Attorney General, on request of the Secretary of Revenue, shall institute such action in the Superior Court of Wake County, or of any such county as the Secretary of Revenue may direct. In any such action it shall be sufficient to allege that the tax, fee, or penalty sought to be recovered is delinquent, and that the same has been unpaid for the period of 30 days after due date.~~ When requested by the Secretary, the Attorney General must bring an action to recover the amount of tax that is due from a taxpayer and is collectible under G.S. 105-241.22. In the action, the taxpayer may not challenge the liability for the tax. A judgment in the action has the same priority as a tax lien. The judgment is not subject to a claim for a homestead exemption. The action must be brought in one of the following:

(1) The Superior Court of Wake County.
(2) The taxpayer's county of residence.
(3) A county where the taxpayer owns real property.
(4) The county in which the taxpayer has its principal place of business.
(5) A court of competent jurisdiction of another state."

SECTION 32. G.S. 105-243.1 reads as rewritten:

"**§ 105-243.1. Collection of tax debts.**

(a) Definitions. – The following definitions apply in this section:

(1) Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after ~~the notice of final assessment was mailed to the taxpayer.~~ it becomes collectible under G.S. 105-241.22. The term does not include a tax ~~debt, however, if~~ debt for which the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after ~~the notice of final assessment was mailed and~~ the tax debt became collectible, if the taxpayer has not failed to make any payments due under the installment agreement.

(2) Tax debt. – The total amount of tax, penalty, and interest ~~due for which a notice of final assessment has been mailed to a taxpayer after the taxpayer no longer has the right to contest the debt.~~collectible under G.S. 105-241.22.

(b) Outsourcing. – The Secretary may contract for the collection of tax debts owed by nonresidents and foreign entities. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(c) Secrecy. – A contract for the collection of tax debts is conditioned on compliance with G.S. 105-259. If a contractor violates G.S. 105-259, the contract is terminated, and the Secretary must notify the contractor of the termination. A contractor whose contract is terminated for violation of G.S. 105-259 is not eligible for an award of another contract under this section for a period of five years from the termination. These sanctions are in addition to the criminal penalties set out in G.S. 105-259.

(d) Fee. – A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice required by this subsection is

mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the Department must notify the taxpayer that the fee will be imposed if the tax debt is not paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The Department may not mail the fee notice earlier than 60 days after ~~the notice of final assessment for the tax debt was mailed to the taxpayer.~~ the tax debt becomes collectible under G.S. 105-241.22. The fee is collectible as part of the debt. The Secretary may waive the fee pursuant to G.S. 105-237 to the same extent as if it were a penalty.

The amount of the collection assistance fee is twenty percent (20%) of the amount of the overdue tax debt. If a taxpayer pays only part of an overdue tax debt, the payment is credited proportionally to fee revenue and tax revenue.

(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department may apply the fee proceeds for the following purposes:

(1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.

(2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.

(3) To pay for taxpayer locater services, not to exceed one hundred fifty thousand dollars ($150,000) a year.

(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed three hundred fifty-three thousand dollars ($353,000) a year.

(5) To pay for operating expenses for Project Collection Tax and the Taxpayer Assistance Call Center.

(6) To pay for expenses of the Examination and Collection Division directly and primarily relating to collecting overdue tax debts.

(f) Reports. – The report of Department activities required by G.S. 105-256 contains information on the Department's efforts to collect tax debts and its use of the proceeds of the collection assistance fee."

SECTION 33. G.S. 105-253(b) reads as rewritten:

"(b) Each responsible officer is personally and individually liable for all of the following:

(1) All sales and use taxes collected by a corporation or a limited liability company upon its taxable transactions.

(2) All sales and use taxes due upon taxable transactions of a corporation or a limited liability company but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.

(3) All taxes due from a corporation or a limited liability company pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.

(4) All income taxes required to be withheld from the wages of employees of a corporation or a limited liability company.

The liability of the responsible officer is satisfied upon timely remittance of the tax by the corporation or the limited liability company. If the tax remains unpaid after it is due and payable, the Secretary may ~~assess the tax against and collect the tax from any responsible officer in accordance with the procedures in this Article for assessing and collecting tax from a taxpayer.~~ proceed to enforce the responsible officer's liability for the tax by sending the responsible officer a notice of proposed assessment in accordance with G.S. 105-241.9. As used in this section, the term "responsible officer" means the ~~president and the treasurer~~ president, treasurer, and chief financial officer of a corporation, the manager of a limited liability company, and any other officer of a corporation or member of a limited liability company who has a duty to deduct, account for, or pay taxes listed in this subsection. Any penalties that may be imposed under G.S. 105-236 and that apply to a deficiency also apply to an assessment made under this section. ~~The provisions of this Article apply to an assessment made under this section to the extent they are not inconsistent with this section.~~

The period of limitations for assessing a responsible officer for unpaid taxes under this section expires one year after the expiration of the period of limitations for assessment against the corporation or limited liability company."

SECTION 34. The caption for G.S. 105-256 reads as rewritten:

"**§ 105-256. ~~Reports~~ Publications prepared by Secretary of Revenue.**"

SECTION 35. G.S. 105-256(a) reads as rewritten:

"(a) ~~Reports.~~ Publications. – The Secretary shall prepare and publish the following:

...

(9) A final decision of the Secretary in a contested tax case. The Secretary must redact identifying taxpayer information from a final decision prior to publication."

SECTION 36. G.S. 105-258.1(a) reads as rewritten:

"(a) Scope. – This section applies to in-person interviews between a taxpayer and an officer or employee of the Department relating to the determination or collection of a tax, other than an in-person interview concerning any of the following:

(1) A criminal investigation.

(2) The determination or collection of a tax imposed by Article 2D of this Chapter.

~~(3) The assessment under G.S. 105-241.1(g) of a tax whose collection is in jeopardy.~~

(4) ~~The levy or execution under G.S. 105-241.2(e) of an assessment whose collection is in jeopardy.~~A jeopardy assessment and collection."

SECTION 37. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(1a) To comply with a discovery request in accordance with G.S. 150B-28 in a contested tax case arising under G.S. 105-241.15.

..."

SECTION 38. G.S. 105-262(a) reads as rewritten:

"(a) The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. ~~The Tax Review Board shall review a new rule or a change to a rule before it is filed in the North Carolina Administrative Code~~. G.S. 150B-1 and Article 2A of Chapter 150B of the General Statutes set out the procedure for the adoption of rules by the Secretary."

SECTION 39. G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly report for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the report. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the ~~Secretary must refund the excess to the motor carrier in accordance with G.S. 105-266(a)(3).~~excess is refundable in accordance with G.S. 105-241.7."

SECTION 40. G.S. 105-449.119 reads as rewritten:

"**§ 105-449.119. ~~Hearing on~~ Review of civil penalty assessment.**

A person who denies liability for a penalty imposed under this Part must pay the penalty ~~under protest~~ and ~~make a written demand to the Department of Revenue for a refund. The written demand must be made within 30 days after the penalty is imposed and must explain why the person is not liable for the penalty. Upon receiving a demand for a refund, the Secretary must schedule a hearing on the matter before an employee or an agent of the Department. The hearing must be held within 30 days after receiving the written demand for a refund. If, after the hearing, the Department determines that the person was not liable for the penalty, the amount collected must be refunded. If, after the hearing, the Department determines that the person was liable for the penalty, the~~

~~person paying the penalty may appeal the imposition of the penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4.~~ file a request for a Departmental review of the penalty. The request must be filed within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of the penalty. The date the penalty was imposed is considered the date the notice of proposed assessment was delivered to the taxpayer."

SECTION 41. Article 3 of Chapter 150B is amended by adding the following new section:

"**§ 150B-31.1. Contested tax cases.**

(a) Application. – This section applies only to contested tax cases. A contested tax case is a case involving a disputed tax matter arising under G.S. 105-241.15. To the extent any provision in this section conflicts with another provision in this Article, this section controls.

(b) Simple Procedures. – The Chief Administrative Law Judge may limit and simplify the procedures that apply to a contested tax case involving a taxpayer who is not represented by an attorney. An administrative law judge assigned to a contested tax case must make reasonable efforts to assist a taxpayer who is not represented by an attorney in order to assure a fair hearing.

(c) Venue. – A hearing in a contested tax case must be conducted in Wake County, unless the parties agree to hear the case in another county.

(d) Law Enforcement Reports. – A report of a law enforcement agency is admissible without testimony from personnel of the law enforcement agency.

(e) Confidentiality. – The record, proceedings, and decision in a contested tax case are confidential until the final decision is issued in the case."

SECTION 42. G.S. 150B-45 reads as rewritten:

"**§ 150B-45. Procedure for seeking review; waiver.**

(a) Procedure. – To obtain judicial review of a final decision under this Article, the person seeking review must file a petition within 30 days after the person is served with a written copy of the decision. The petition must be filed as follows:

(1) Contested Tax Cases. – A petition for review of a final decision in a contested tax case arising under G.S. 105-241.15 must be filed in the Superior Court of Wake County.

(2) Other Final Decisions. – A petition for review of any other final decision under this Article must be filed in the Superior Court of Wake County or in the superior court of the county where the person resides.

~~The person seeking review must file the petition within 30 days after the person is served with a written copy of the decision.~~

(b) Waiver. – A person who fails to file a petition within the required time waives the right to judicial review under this Article. For good cause shown, however, the superior court may accept an untimely petition."

SECTION 43. In the General Statutes, references to the following statutes repealed by this act are deleted and substituted as provided in this section. The Revisor

of General Statutes is authorized to change the references in accordance with this section.

(1) References to the following statutory provisions repealed by this act are substituted with a reference to G.S. 105-241.21:
a. G.S. 105-241.1(i).
b. G.S. 105-241.1 in G.S. 105-160.4, G.S. 105-187.10, and G.S. 150B-2.
c. G.S. 105-266 in G.S. 105-266.2, G.S. 105A-5, and G.S. 105A-8.

(2) References to former G.S. 105-241.1(g) and G.S. 105-241.2(e) are substituted with a reference to G.S. 105-241.23.

SECTION 44. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

'(19) The dividend paid deduction allowed under the Code to a captive REIT, as defined in G.S. 105-130.12.'

SECTION 45. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

'(23) A dividend received from a captive REIT, as defined in G.S. 105-130.12.'

SECTION 46. G.S. 105-130.12 reads as rewritten:

'**§ 105-130.12. ~~Regulated investment companies and real~~ Real estate investment trusts.**

~~Any organization or trust which, in the opinion of the Secretary of Revenue of North Carolina, qualifies as either a "regulated investment company" under section 851 of the Code or as a "real estate investment trust" under section 856 of the Code and which files with the North Carolina Department of Revenue its election to be treated as a "regulated investment company," or as a "real estate investment trust" shall be taxed under this Part upon only that part of its net income which is not distributed or declared for distribution to shareholders during the income year or by the time required by law for the filing of the return for the income year including the period of any extension of time granted for filing such return.~~

(a) Definitions. – The following definitions apply in this section:

(1) Captive REIT. – A REIT whose shares or certificates of beneficial interest are not regularly traded on an established securities market and are owned or controlled, at any time during the last half of the tax year, by a person that is subject to tax under this Part and is not a REIT or a listed Australian property trust.

(2) Own or control. – To own or control directly , indirectly, beneficially, or constructively more than fifty percent (50%) of the voting power or value of an entity. The attribution rules of section 318 of the code, as modified by section 856(d)(5) of the Code, apply in determining ownership and control.

(3) REIT. – A trust or another entity that qualifies as a real estate investment trust under section 856 of the Code.

(b) Tax. – The income of a REIT is taxable under this Part in accordance with the Code, unless the REIT is a captive REIT. A captive REIT is required to add to its federal taxable income the amount of a dividend paid deduction allowed under the Code, as provided in G.S. 105-130.5.'

SECTION 47. G.S. 105-241.10, as enacted by Section 1 of this act, and Sections 7, 14, 15, 16, 21, 44, 45, and 46 are effective for taxable years beginning on or after January 1, 2007. The remainder of this act becomes effective January 1, 2008. The procedures for review of disputed tax matters enacted by this act apply to assessments of tax that are not final as of the effective date of this act and to claims for refund pending on or filed on or after the effective date of this act. This act does not affect matters for which a petition for review was filed with the Tax Review Board under G.S. 105-241.2 before the effective date of this act. The repeal of G.S. 105-122(c) and G.S. 105-130.4(t) and Sections 11 and 12 apply to requests for alternative apportionment formulas filed on or after the effective date of this act. A petition filed with the Tax Review Board for an apportionment formula before the effective date of this act is considered a request under G.S. 105-122(c1) or G.S. 105-130.4(t1), as appropriate.

SENATE BILL 242:
Reform Tax Appeals/Close REIT Loophole

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 6, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Trina Griffin and Cindy Avrette Committee Counsel
Version:	PCS to First Edition S242-CSSVx-30 [v. 21]		

SUMMARY: A Proposed Committee Substitute for Senate Bill 242 was presented in Senate Finance on May 16, 2007. After that meeting, various interested parties provided input, much of which has been incorporated into the bill. This summary highlights only the substantive changes made to the bill since it was last presented in committee on May 16, 2007.

This Proposed Committee Substitute also adds a provision that would limit a corporation's ability to use a real estate investment trust to avoid paying State taxes.

BILL ANALYSIS:

REFORM TAX APPEALS

The Proposed Committee Substitute makes the following substantive changes to the version previously distributed on May 16, 2007 (S242-CSSVf-30 [v.5]) regarding the review of disputed tax matters:

- ***Statement of basis.*** – The revised PCS would require a taxpayer to provide the basis for a request for a refund. However, the statement of the basis of the claim would not limit the taxpayer from changing the basis at a later time. Similarly, when the Department is required to provide a basis for a proposed assessment, a proposed denial of a refund, or a final determination, a statement has been added in the revised PCS that the statement of the basis does not prevent the Department from changing the basis at a later time. [Section 1, G.S. 105-241.7, -241.9, -241.14].

- ***Response to request for additional information.*** – Once a taxpayer has requested a refund, the Department may request additional information from the taxpayer. The revised PCS adds language stating that if a taxpayer does not respond to the request, the Department may deny the refund and send a notice of proposed denial. If the taxpayer does provide the information, then it alters the time period that the Department has to take action on the request, including a time period mutually agreed upon by the parties. [Section 1, G.S. 105-241.7(c)(4)].

- ***Limits on refunds and assessments after a federal determination.*** – The revised PCS creates a new G.S. 105-241.10 relating to a federal determination. A federal determination is a correction or a final determination by the federal government of the amount of a federal tax due. If a taxpayer files a return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment has expired, then a request for refund or proposed assessment is limited to the adjustment in State tax payable reflecting the federal determination. In other words, filing a return reflecting a federal determination does not open up a taxpayer's return to all items on that return, but only to those items that changed as a result of the federal determination. Similarly, a taxpayer cannot request a refund for items beyond the scope of the federal determination. [Section 1, G.S. 105-241.10]

- ***Definition of filing.*** – The revised PCS creates a definition for "filing" for purposes of a taxpayer filing a request for review of a proposed denial of a refund or a proposed assessment. Regardless of

the method of delivery, the request is considered filed when the Department receives it. [Section 1, G.S. 105-241.11].

- ***Result when no review requested.*** – The revised PCS clarifies that when a taxpayer fails to timely file for review of a proposed denial or a proposed assessment, then the proposed actions of the Department become final. Once a proposed denial of a refund becomes final, the taxpayer may not file another amended return or claim for refund to obtain the denied refund. Once a proposed assessment becomes final, a taxpayer may not seek further administrative or judicial review of the assessment. However, the Department is required to send the taxpayer a "notice of collection" indicating that the assessment is final and collectible and stating the collection options available to the Department. [Section 1, G.S. 105-241.12].

- ***Conference.*** – The revised PCS changes the notice requirement prior to conference from 10 days to 30 days before the conference, or within a shorter period if the Department and taxpayer agree to change the period. The revised PCS also removes the requirement that the Department and the taxpayer stipulate the facts and issues upon which the parties can agree. [Section 1, G.S. 105-241.13].

- ***Time limit for Departmental review process.*** – The Departmental review process, which may include an internal review, a conference with the taxpayer, and the issuance of a final determination, must conclude within nine months from the date the taxpayer filed the request for review. The revised PCS authorizes the parties to extend this time period by mutual agreement. [Section 1, G.S. 105-241.14].

- ***Payment of tax prior to filing civil action.*** – The revised PCS provides that one of the circumstances under which a tax becomes collectible is when the Office of Administrative Hearings dismisses a petition for lack of jurisdiction because the sole issue is the constitutionality of a statute on its face. Once OAH dismisses a petition for this reason, a taxpayer may bring a civil action in order to challenge the constitutionality of a tax statute. Therefore, a taxpayer must pay the tax in order to file a civil action challenging a tax, and the payment must be made immediately but the taxpayer still has two years to file a civil action. This provision is different from the prior version of the PCS where a taxpayer was required to pay the tax before filing a civil action, but the payment could be made at any time within two years of the OAH dismissal. [Section 1, G.S. 105-241.17 and G.S. 105-241.22(6)].

- ***Filing of bond in lieu of payment.*** – The revised PCS removes the option of filing a bond in lieu of paying the tax in order to seek judicial review or file a civil action regarding a disputed tax matter. [Section 1, G.S. 105-241.16 and 241.17].

- ***Class actions.*** – The revised PCS provides that a taxpayer must opt-in to a class action by filing a request for a refund with the Department and by filing a copy with the court. [Section 1, G.S. 105-241.18].

- ***Collection of tax.*** – G.S. 105-241.22 is a new section in the bill, but the provisions are substantially similar to the current law with the exception of the language related to contested cases at OAH. [Section 1, G.S. 105-241.22]. It sets out when a tax is collectible by the Department.

- ***Federal corrections regarding withholding taxes.*** – When the federal government corrects or otherwise determines the amount of an estate, gift, or income that is subject to tax, the taxpayer must file a State return that reflects that change. In 2006, the General Assembly reduced the period of time in which a taxpayer must report a federal change from two years to six months.[1] The change was based on a model uniform statute adopted by the Multistate Tax Commission for reporting federal changes. There are six statutes in Chapter 105 that address federal changes, but only five

[1] S.L. 2006-18.

were amended. The revised PCS corrects this oversight by changing from two years to six months the period that an employer has to file a return reflecting any federal changes with regard to withholding taxes. [Section 16].

- ***Certificate of tax liability.*** – A certificate of tax liability (CTL) is similar to a judgment for taxes owed. The Secretary transmits the certificate, which sets out the taxpayer's tax liability, to the clerk of superior court in any county where the taxpayer resides or has property. Once docketed, the certificate may be executed upon in the same manner as a judgment. The certificate is valid for 10 years. At the end of the 10-year period, any tax that has not been collected is abated. However, even though the 10-year period has expired, an execution sale instituted prior to the expiration may be completed, and the Secretary may accept voluntary payments.

  The revised PCS makes several changes to this statute. It clarifies that the legal rate of interest (8%) and not the rate in G.S. 105-241.21 applies to CTLs. This codifies current practice, which is not explicitly set out in statute. It authorizes the Department to file a CTL against a nonresident in Wake County to assist with collection in a foreign state. It provides that the tax on a CTL is a lien on real and personal property from the date it is recorded. Under current law, the tax in a CTL is a lien on real property from the date of docketing and a lien on personal property from the date of levy. Finally, it provides that the 10-year period in which a CTL is enforceable is tolled if the taxpayer waives the 10-year period to the end of the period extended by the waiver. [Section 30].

- ***Publication of final decision.*** – The revised PCS would require the Department of Revenue to publish final decisions in contested tax cases in redacted form to remove identifying taxpayer information. [Sections 34 and 35].

- ***Contested tax cases.*** – The revised PCS makes some special provisions for contested tax cases heard at the Office of Administrative Hearings. First, it gives the Chief ALJ general authority to simplify the procedures that apply to a contested tax case involving a taxpayer who is not represented by an attorney. It also requires an administrative law judge assigned to a contested tax case to make reasonable efforts to assist unrepresented taxpayers. Second, it requires that the venue for all contested tax cases is Wake County, unless the parties agree otherwise. Third, it provides that the record, the proceedings, and the decision are confidential until the final decision is issued in the case. Fourth, it allows a law enforcement report to be admitted into evidence without the testimony of personnel from the law enforcement agency. Finally, it creates an exemption in the confidentiality statute regarding taxpayer information for purposes of complying with a discovery request in a contested tax case. [Sections 37 and 41].

CLOSE REIT LOOPHOLE

Sections 44, 45, and 46 of the revised PCS would limit a corporation's ability to use captive real estate investment trusts (REITs) to avoid State taxes. A REIT is an organization that uses the pooled capital of many investors to purchase and mange real estate. Under current federal and state law, a REIT is taxable only on income that is not distributed to shareholders. The amount of income a REIT distributes[2] is not subject to tax because the REIT is allowed a deduction for the dividends it pays. The amounts received by the shareholders of the REIT are taxable.

A REIT that is owned or controlled by a single entity is commonly referred to as a captive REIT.[3] Two common types of captive REITs are rental REITs and mortgage REITs.

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[2] A REIT must distribute at least 90% of its taxable income to its shareholders.

[3] To qualify under the IRC as a REIT, beneficial ownership in the organization must be held by at least 100 people for at least 335 days during the 12-month year.

In a rental REIT, a corporation that owns real property and uses the property in its business, such as a retail store, forms a REIT and transfers ownership of the property to the REIT. The corporation that operates the stores and uses the property makes rental payments to the REIT, which reduces the State income tax liability of the corporation. The REIT is not taxed on the rental income, because it is allowed a dividend paid deduction under federal law.[4]

If the corporation receives dividends from the REIT directly, the corporation will pay tax on the dividends it receives. If, however, an affiliated corporation receives the dividends from the REIT and then transfers the dividends to the corporation, the corporation will not pay tax on the amount it receives because it will be able to deduct the amount received from the affiliated corporation under another deduction allowed under federal and state law -- the dividend received deduction. If the affiliated company that receives the dividends from the captive REIT is outside the State and has no nexus with the State, the out-of-state holding company will pay no State tax on the income.

As a result of this chain of transfers, the corporation is allowed a deduction for rental expenses, the REIT that receives the rental income is allowed a dividend paid deduction when it distributes the rental income, the out-of-state affiliate that receives the dividend from the REIT is not subject to tax in North Carolina (because of lack of nexus), and the corporation that receives the dividend from its affiliated out-of-state holding company is not subject to tax on the amount it receives because of the dividend received deduction. The corporation has in effect been allowed a deduction for its rental expenses and been able to receive the amount it deducted as tax-free income in the form of a dividend received.

In a mortgage REIT, a financial institution forms a REIT and transfers to the captive REIT mortgages or mortgage-backed securities originated by the financial institution. The interest income that would have accrued to the financial institution now accrues to the REIT. The REIT takes the dividend paid deduction when it distributes its income.

Sections 44 and 45 prevent this tax avoidance strategy by disallowing the dividend paid deduction when a REIT is a captive REIT. Under the proposed committee substitute, the captive REIT is not allowed to take the dividend paid deduction. Instead, the captive REIT will be subject to tax on those dividends. If the real property the captive REIT owns is in North Carolina, the REIT will have nexus with the State because it owns property located in North Carolina and the income will be apportioned accordingly.

Section 46 defines a 'captive REIT' as a REIT whose shares or certificates of beneficial interest are not regularly traded on an established securities market and are owned or controlled, at any time during the last half of the tax year, by a person that is subject to tax under this Part and is not:

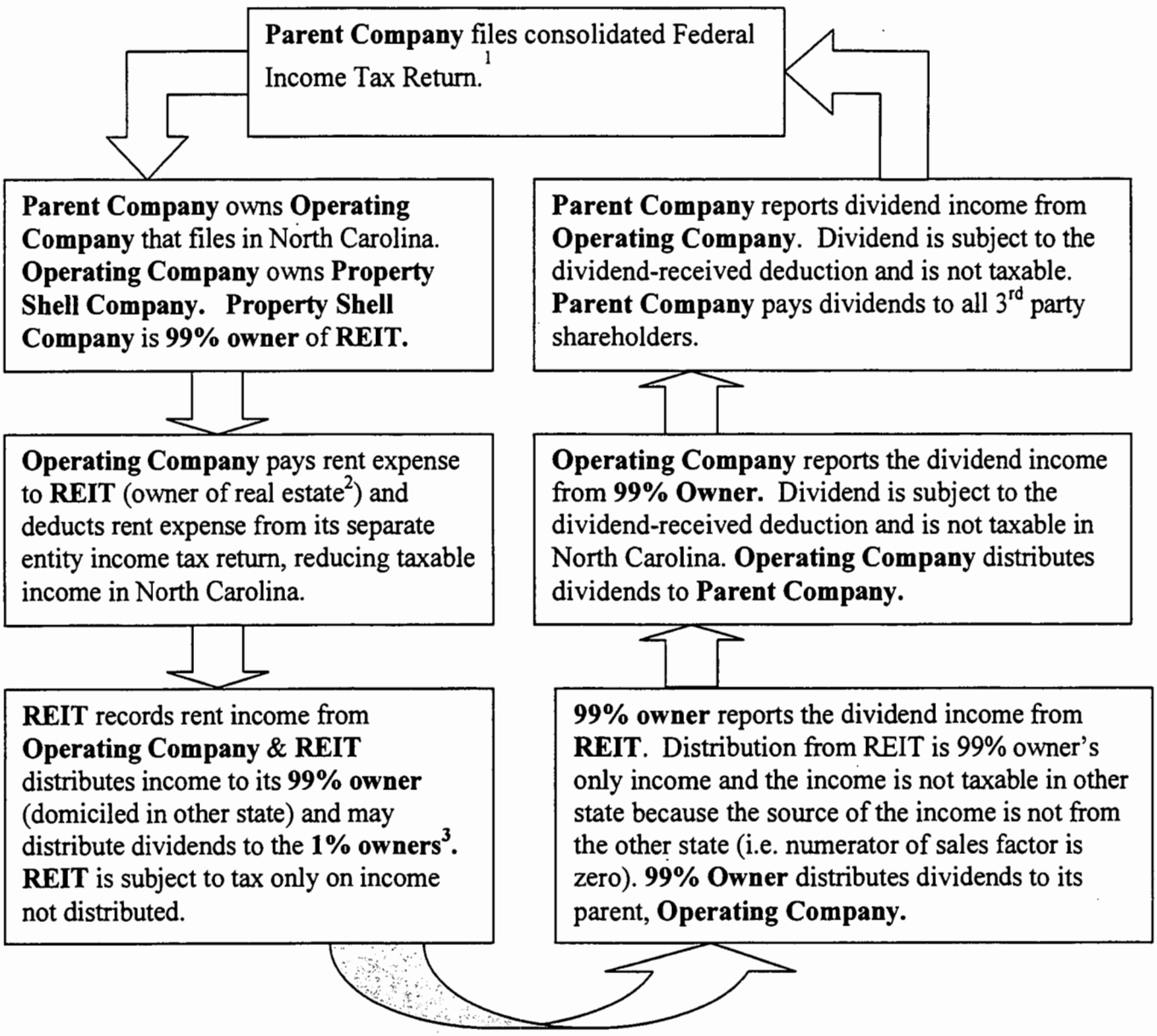
- A REIT; or
- A listed Australian property trust. A listed Australian property trust is Australia's version of a U.S. publicly traded REIT.

Section 44 provides a dividend received deduction for a dividend received by a captive REIT so that the dividend is not taxed twice.

Several states have enacted captive REIT legislation similar to these proposed provisions. The states are: Maryland (HB 1257 of the 2007 Session), Kentucky, Indiana, Pennsylvania, Louisiana, and Mississippi.

[4] The federal dividends received deduction is meant to reduce the negative effects of the double tax on C corporation profits distributed as dividends to corporate shareholders. NC adopted the federal dividends received deduction in 2001.

REIT Income Shifting Structure
Cash Flow



[1]Note: REIT is not included in the consolidated US Federal income tax return for Parent Company and Subsidiaries pursuant to the Internal Revenue Code. One requirement for qualification as a REIT is that the REIT must distribute at least 90% of its income to its shareholders.

[2]REIT assets consist of real estate or real estate mortgages.

[3]A REIT is required to have 100 beneficial owners.

Summary result: Operating income subject to tax in North Carolina is diluted by a "manufactured" rental expense. The entity receiving the rental income is not taxable in North Carolina.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1240
PROPOSED COMMITTEE SUBSTITUTE S1240-CSRB-23 [v.2]

5/25/2007 1:42:50 PM

Short Title: Sales Tax Exemption for Baked Goods. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT ALL BREAD SOLD AT A BAKERY THRIFT STORE IS TAXED AT THE SAME SALES TAX RATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(27a) Bread, rolls, and buns sold at a bakery thrift store. A 'bakery thrift store' is a retail outlet of a bakery that sells at wholesale over ninety percent (90%) of the items it makes and sells at the retail outlet day-old bread, rolls, and buns returned to it by retailers that acquired these items from the bakery."

SECTION 2. G.S. 105-467(a) is amended by adding a new subdivision to read:

"(5a) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a)."

SECTION 3. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, reads as rewritten:

"Sec. 4. Scope of Sales Tax. The sales tax which may be imposed under this division after the holding of a special election is limited to a tax at the rate of one per cent (1%) ~~of:~~ of the transactions listed in this section. The taxes authorized by this division do not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically listed in this section. ~~(1) the~~

(1) The sale price of those articles of tangible personal property now subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and ~~(4b);(2) the~~

(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the

general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(2); (3) the~~ G.S. 105-164.4(a)(2).

(3) The gross receipts derived from the rental of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar public accommodations now subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(3); (4) the~~ G.S. 105-164.4(a)(3).

(4) The gross receipts derived from services rendered by laundries, dry cleaners, cleaning plants and similar type businesses now subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(4); (5)~~ G.S. 106-164.4(a)(4).

(5) The sales price of food and other items that are not otherwise exempt from tax pursuant to G.S.105-164.13 but are exempt from the State sales and use tax pursuant to G.S.105-164.13B. ~~The taxes authorized by this division do not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically listed in this section; and (6)~~

(5a) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).

(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d)."

SECTION 4. This act becomes effective October 1, 2007, and applies to sales made on or after that date.

SENATE BILL 1240:
Sales Tax Exemption for Baked Goods

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 25, 2007
Introduced by:	Sen. Kerr	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S1240-CSRB		Committee Counsel

SUMMARY: Senate Bill 1240 would exempt bread, rolls, and buns sold at a bakery thrift store from State sales tax. The proposed committee substitute changes the effective date from July 1, 2007, to October 1, 2007. It also adds a conforming change to the Mecklenburg local sales tax act.

CURRENT LAW: Prior to July 15, 2003, North Carolina exempted prepared food items from the State and local sales and use tax to the extent those items were purchased for home consumption. Under the Streamlined Sales Tax Agreement (Agreement), if there is a uniform definition for a type of product, a state may not exempt only part of the items included in the definition. Prepared food is a defined term under the Agreement. To conform to the Agreement, all prepared food products had to be treated consistently whether or not they were intended for home consumption. Beginning July 15, 2003, all prepared food products became subject to the State and local sales tax.

Included within the definition of 'prepared food' are baked goods. Baked goods include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas when those goods are prepared by the retailer by mixing or combining two or more foods for sales as a single item. The taxation of baked goods depends upon whether they meet the definition of prepared food. If a baked good is also a prepared food, then it is subject to the combined general rate of 6.75%. If it is not a prepared food, then it is exempt from State tax and subject only to the 2% local sales tax on food.

BILL ANALYSIS: Senate Bill 1240 would exempt one small subset of baked goods from the State sales tax. It does so by creating an 'entity-based' exemption. Under the Agreement, a state may enact an entity-based exemption for an item that is not defined, notwithstanding that the item might be included in a broader product definition. Senate Bill 1240 would exempt bread, rolls, and buns that are sold at a bakery thrift store. The bill defines a bakery thrift store as a retail outlet of a bakery that sells at wholesale over 90% of the items it makes and sells at the retail outlet day-old bread, rolls, and buns returned to it by retailers that acquired these items from the bakery.

EFFECTIVE DATE: The bill would become effective October 1, 2007, and applies to sales made on or after that date.

BACKGROUND: The Streamlined Sales Tax Project (SSTP) was initiated in March 2000 when representatives from 27 states, local governments, and private industry met to discuss proposals to develop uniformity and simplification principles that would result in the more efficient administration of sales and use tax, especially for remote sellers. In November 2002, 35 states met and adopted an historic multistate agreement known as the Streamlined Sales and Use Tax Agreement. One objective of the SSTP is to encourage remote vendors to voluntarily collect use tax owed to the states, thereby increasing their collections. A second objective of the STTP is to convince Congress or the U.S. Supreme Court to grant collection authority over remote sales to the states that enact the streamlined system embodied in the Agreement, on the premise that the system eliminates the burdens on interstate commerce that have been the justification for denying states that authority.

To participate in the Agreement, a state must amend or modify its sales and use tax law to conform to the simplifications and uniformity in the Agreement. On July 1, 2005, 13 states were determined to be in compliance with the Agreement effective October 1, 2005, and were admitted to the Governing Board as full members. To be a full member, a state must have amended its state's laws to conform to the uniformity and simplification provisions in the Agreement. As of January 1, 2007, there are 15 full members[1] and six associate members[2]. Associate members are those states whose legislation to achieve compliance takes effect in future years. Associate members have until January 1, 2008, to come into full compliance. Each member state is represented on the Governing Board. The Governing Board meets quarterly to address proposed amendments to the Agreement.

North Carolina has participated in the SSTP since its inception. Since 2001, the General Assembly has taken the necessary action to amend the sales and use tax laws to bring North Carolina into compliance with the Agreement. Prior to the October 1, 2005, effective date of the Agreement, a number of sellers came forward voluntarily to remit tax as a result of the efforts of the states to adopt the principles of the Agreement. The projected collections for fiscal 2006-2007 from all Streamlined related sellers is expected to be $13,700,000.

S1240e1-SMRB-CSRB

[1] Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont, and West Virginia.
[2] Arkansas, Nevada, Ohio, Tennessee, Utah, and Wyoming.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 6, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell and Joe Futima
Fiscal Research Division

RE: PCS to SB 1240

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
General Fund	**No Estimate Available: See Assumptions & Methodology**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: October 1, 2007

BILL SUMMARY: The PCS to Senate Bill 1240 creates a State sales tax exemption for bread, rolls, and buns sold at a bakery thrift store. The bill defines a bakery thrift store as a retail outlet of a bakery that sells at wholesale over 90% of the items it makes and sells at the retail outlet day-old bread, rolls, and buns returned to it by retailers that acquired these items from the bakery.

ASSUMPTIONS AND METHODOLOGY: Baked goods are included within the definition of 'prepared food' set forth in the Streamlined Sales Tax Agreement. The taxation of baked goods depends upon whether they meet the definition of prepared food. Under current law, if a baked

good is also a prepared food, then it is subject to the combined general rate of 6.75%. If it is not a prepared food, then it is exempt from State tax and subject only to the 2% local sales tax on food.

The Department of Revenue is aware of two retailers that would be affected by this change, although it is possible that there are other, smaller firms engaged in the same line of business. The Department does not believe the impact of this exemption would be significant. However, due to the small number of taxpayers involved, the Department cannot provide any information on the amounts of tax paid by these taxpayers without violating confidentiality. For this reason, an estimate of the cost of this exemption is not available.

SOURCES OF DATA: Department of Revenue

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1240

Short Title:	Sales Tax Exemption for Baked Goods.	(Public)
Sponsors:	Senators Kerr, Hoyle; and Berger of Rockingham.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT ALL BREAD SOLD AT A BAKERY THRIFT STORE IS TAXED AT THE SAME SALES TAX RATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(27a) Bread, rolls, and buns sold at a bakery thrift store. A 'bakery thrift store' is a retail outlet of a bakery that sells at wholesale over ninety percent (90%) of the items it makes and sells at the retail outlet day-old bread, rolls, and buns returned to it by retailers that acquired these items from the bakery."

SECTION 2. G.S. 105-467(a) is amended by adding a new subdivision to read:

"(5a) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a)."

SECTION 3. This act becomes effective July 1, 2007, and applies to sales made on or after that date.

cancelled

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 13, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 257	Streamlined Sales Tax Changes.	Representative Hill
HB 464	Tax Certification - Add Jones and Caswell	Representative McElraft
HB 885	Towns of Apex and Morrisville Motor Vehicle Tax.	Representative Harrell
HB 942	Oak Island Beach Nourishment Projects.	Representative Stiller
HB 1089	Franklinton Charter.	Representative Allen
HB 1112	Adjust Matthews Motor Vehicle Tax.	Representative Gulley
HB 1193	Ramseur Annexation of Town Property.	Representative Hurley
SB 242	Uniform Tax Refund Procedure.	Senator Clodfelter
SB 384	Granville County Occupancy Tax Modifications.	Senator Berger
SB 869	Sex Offender/Register E-Mail Address.-AB	Senator Boseman
SB 1362	Amend Dry-Cleaning Solvent Cleanup Act.	Senator Clodfelter

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

SENATE FINANCE COMMITTEE
Wednesday, June 20, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, June 6, 2007, in room 544 of the Legislative Office Building. Thirty-four members of the committee were present. Senators John Kerr and David Hoyle presided.

H.B. 464 – Tax Certification – Add Jones and Caswell.

Senator Rand moved to adopt the proposed committee substitute for discussion and the motion carried. Rep. McElraft was recognized to explain the bill. Senator Albertson moved for a favorable report and the motion carried. A copy of the bill, the proposed committee substitute, and the summary is attached.

H.B. 885 – Towns of Apex and Morrisville Motor Vehicle Tax.

Rep. Ty Harrell was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

H.B. 942 – Oak Island Beach Nourishment Projects.

Rep. Stiller was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1153 - Sunset Beach Annexation.

Rep. Stiller was recognized to explain the bill. Senator Brock moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1089 – Franklinton Charter.

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Rep. Allen was recognized to explain the bill. Senator Rand moved for a favorable report and the motion carried. A copy of the bill, the proposed committee substitute and the summary is attached.

H.B. 1193 – Ramseur Annexation of Town Property.

Rep. Hurley was recognized to explain the bill. Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1112 – Adjust Matthews Motor Vehicle Tax.

Rep. Gulley was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1163 – Landis Annexation.

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Rep. Steen was recognized to explain the bill. Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill, the proposed committee substitute, and the summary is attached.

S.B. 384 – Granville Occupancy Tax Modifications.

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Doug Berger was recognized to explain the bill. Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill, the proposed committee substitute, and the summary is attached.

S.B. 242 – Reform Tax Appeals/Close REIT Loophole.

Senator Clodfelter was recognized to explain the proposed committee substitute (adopted for discussion in previous meeting). John McAlister, NC Chamber of Commerce lobbyist, was recognized to speak in favor of the bill. William Nelson, Smith Anderson attorney and representing the NC Bar Association, was recognized to speak in favor of the bill. Norris Tolson, Secretary of the Department of Revenue, was recognized to speak in opposition to the bill. Senator Clodfelter then offered an amendment and moved for its adoption. The motion carried. Jim Ahler, representing the North Carolina Association of CPAs, was recognized to speak in favor of the amendment. Senator Clodfelter moved for a favorable report and the motion carried. Rick Kane, Administrative Office of the Courts, spoke of concerns with the bill. A copy of the bill, the proposed committee substitute, the amendment, the summary and the fiscal note is attached.

S.B. 1362 – Amend Dry Cleaning Solvent Cleanup Act.

The bill was removed from the agenda.

H.B. 1492 – Anesthesiologist Assistants Licensure.

Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Rep. Jim Harrell was recognized to explain the bill. Senator Purcell moved for a favorable report and the motion carried. A copy of the bill, the proposed committee substitute, and the summary is attached.

S.B. 1484 – Sales Tax Medicaid Swap.

Senator Rand moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Berger objected to taking up the PCS for a vote citing Senate Rule 45.1. **Action on amendment or committee substitute**, and requested that the PCS be discussed only without a vote. Senator Rand was recognized to explain the bill and answer questions.

The meeting adjourned at 2:46 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
David Rice	Manning Fulton
Jim Johnson	BSA
Mona Tuttle	NCACC
Ken Melton	N.C. D.O.R.
Jim Ahlee	NCACA
Bruce Thompson	Parker Poe
Amy McConkey	Smith Anderson
George Irving.	JnJ.
Emily Hackethorn	MDM
E. Wood	JnJ
Bill Sloan	ICE

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Gary Cohen	Bill Drafting
Lesley Cayes	Spears Abbiss
Gary Robertson	AP
J. Crawford	DHHS
John Bourdeau	Ashe Jenkins
Patrick Buffkin	Nelson Mullins
Barbara Conder	BCBS
Jan N. Gall	
Mark Johnson	NCSA
P. Dixon	NCSA
Frank Grey	NCBNA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Amy Schulder	HANC
Carolyn Westmoreland	NCRSP
Dean Westmoreland	NCAE
Erin Kinney	NC Conservation Network
KORY LANE	NCDOR
David Baker	NCDOR
Rick Parrotte	NC DOJ
Kay Hobart	NCDOJ
Terence Friedman	NCDOJ
Alex Lieberman	NC DOJ
Nathan Kauffman	OSBM

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tim Holmes	Dept. of Revenue
Grey Radford	DOR
Mike Hannah	Pricewaterhouse Coopers
Jordan	Jordan Price Law Firm
Travis Page	NC OAH
Don OVERBY	OAH
Lennie Collins	DOR
Janet Shires	DOR
Paula A. Hoke	Wake HP Wake County
Joe L. Webster	OAH
Julian Mann	OAH

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Willis	Wake County Govt
LuAnn Cleveland	MCIC
Katherine Joyce	NCAE
Bill McNeill	NCBSA
Lonnie Kinnaird	NCSBA
David Barnes	Poyner + Spruill
RBP	NC FB
Jami McKay	Gov Office
Bill Nelson	NCBA
John McAlister	NC Chamber
BN 6567	WMMT
Kelly Barnes	Catawba County
Steve Keene	NC Medical Society

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Hawkins	Progress Energy
Elizabeth Watts	NCCUA
Paul Stock	NCBA
Eathonne Davis	Electricities
Judy McConnell	IOG
Derrick Potts	NCBC
K Kepley	Salem
J Peters	JPA 2500 c
Steve Brewer	EQ
Daniel Baum	Kennedy Covington
Chip Bigelow	ACMS

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Parrell	Quantec Foundation
Emily Atkinson	Capstat
Meg Gray	NC Budget & Tax Center

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tim Kent	NC Assn of Realtors
R. Paul Williams	NCHBA
Michael Houser	NCAE
Lisa Morton	NC Home Builders
Alastair Macaulay	" " "
Andy Munn	REBIC
Johnny L. Brown	Conover City Council
Donald Duncan	Conover City Manager
Martin Perry	Lenoir Council
Linda S. Watkins	NCDOR
Cam Brandon	E+Y

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, June 20, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **885** Towns of Apex and Morrisville Motor Vehicle Tax.
Sequential Referral: None
Recommended Referral: None

H.B. **942** Oak Island Beach Nourishment Projects.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1112** Adjust Matthews Motor Vehicle Tax.
Sequential Referral: None
Recommended Referral: None

H.B. **1153** Sunset Beach Annexation.
Sequential Referral: None
Recommended Referral: None

H.B. **1193** Ramseur Annexation of Town Property.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **384** Granville County Occupancy Tax Modifications.
Draft Number: 85340
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **464** Tax Certification - Add Jones and Caswell

Draft Number:	50710
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1089** Franklinton Charter. 80456

Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1492** Anesthesiologist Assistants Licensure.

Draft Number:	30500
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 9

Committee Clerk Comments:

Principal Clerk ____
Reading Clerk ____

Corrected: Revised Notice II - S1484 – Sales Tax Medicaid Swap has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 20, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 464	Tax Certification - Add Jones and Caswell	Representative McElraft
HB 885	Towns of Apex and Morrisville Motor Vehicle Tax.	Representative Harrell
HB 942	Oak Island Beach Nourishment Projects.	Representative Stiller
HB 1089	Franklinton Charter.	Representative Allen
HB 1112	Adjust Matthews Motor Vehicle Tax.	Representative Gulley
HB 1153	Sunset Beach Annexation.	Representative Stiller
HB 1163	Landis Annexation.	Representative Steen, II Representative Coates
HB 1193	Ramseur Annexation of Town Property.	Representative Hurley
HB 1492	Anesthesiologist Assistants Licensure.	Representative England, M.D. Representative Harrell, III
SB 242	Uniform Tax Refund Procedure.	Senator Clodfelter
SB 384	Granville County Occupancy Tax Modifications.	Senator Berger
SB 1362	Amend Dry-Cleaning Solvent Cleanup Act.	Senator Clodfelter
SB 1484	Sales Tax Medicaid Swap.	Senator Rand

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Senate Finance Committee
Wednesday, June 20, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Introduction of Pages

Bills

HB 464	Tax Certification - Add Jones and Caswell	Rep. McElraft
HB 885	Towns of Apex and Morrisville Motor Vehicle Tax.	Rep. Harrell
HB 942	Oak Island Beach Nourishment Projects.	Rep. Stiller
HB 1089	Franklinton Charter.	Rep. Allen
HB 1112	Adjust Matthews Motor Vehicle Tax.	Rep. Gulley
HB 1153	Sunset Beach Annexation.	Rep. Stiller
HB 1163	Landis Annexation.	Rep. Steen Rep. Coates
HB 1193	Ramseur Annexation of Town Property.	Rep. Hurley
HB 1492	Anesthesiologist Assistants Licensure.	Rep. England Rep. Harrell
SB 242	Uniform Tax Refund Procedure.	Senator Clodfelter
SB 384	Granville County Occupancy Tax Modifications.	Senator Berger
SB 1362	Amend Dry-Cleaning Solvent Cleanup Act.	Senator Clodfelter
SB 1484	Sales Tax Medicaid Swap.	Senator Rand

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 464*

Committee Substitute Favorable 3/22/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H464-CSSV-36 [v.2]

6/19/2007 5:40:31 PM

Short Title: Tax Certification - Various Counties. (Local)

Sponsors:

Referred to:

March 5, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE COUNTIES OF BURKE, CALDWELL, CASWELL, GREENE, JONES, AND WAYNE TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31(b) reads as rewritten:

"(b) Applicability. – This section applies only to Anson, Beaufort, Bertie, Burke, Cabarrus, Caldwell, Camden, Carteret, Caswell, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, and Yadkin Counties."

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

HOUSE BILL 464:
Tax Certification – Various Counties.

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. McElraft	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to Second Edition H464-CSSV-36		

SUMMARY: ***House Bill 464[1] is a local bill that adds Jones and Caswell Counties to the list of counties that have the authority to require tax certification of a deed prior to registration. The Proposed Committee Substitute adds Burke, Caldwell, Greene, and Wayne Counties.***

CURRENT LAW: G.S. 161-31 provides that in certain counties, the board of county commissioners may adopt a resolution to require the register of deeds to refuse to register a deed unless the county tax collector has certified that no delinquent taxes are due on the property. However, G.S. 161-31 also provides that if a board of county commissioners adopts a resolution to require the register of deeds to refuse to register a deed without the certification of the county tax collector, the register of deeds must still accept an uncertified deed that is submitted for registration under the supervision of a closing attorney and containing the statement, "*This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.*"

This provision applies to the following 60 counties: Anson, Beaufort, Bertie, Cabarrus, Camden, Carteret, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wilson, and Yadkin Counties.

In addition to G.S. 161-31, the General Assembly has enacted similar laws that prohibit a register of deeds from registering deeds unless the tax collector has certified that no delinquent taxes are due. These provisions apply to the following local governments: Avery County (1963); Mitchell County (1987); Ashe County (1993); the Towns of Newland and Spruce Pine (1997); the Town of Banner Elk (1998); the Town of Bakersville (1999); and the towns in Ashe County and Alleghany County (2005).

In a county or local government where G.S. 161-31 and other similar State laws do not apply, the register of deeds registers deeds submitted for registration regardless of whether delinquent taxes are due on the property.

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 464 would add Burke, Caldwell, Caswell, Greene, Jones, and Wayne Counties to the list of counties that have the authority to require tax certification of a deed prior to registration.

EFFECTIVE DATE: The bill is effective when it becomes law

Cindy Avrette, counsel to House Finance, substantially contributed to this summary.

H0464e2-SMSV-CSSV-36

[1] S463, as introduced by Sen. Brown, is a companion bill and is currently in Senate Finance.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 464*

Committee Substitute Favorable 3/22/07

Short Title: Tax Certification - Add Jones and Caswell. (Local)

Sponsors:

Referred to:

March 5, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW JONES COUNTY AND CASWELL COUNTY TO REQUIRE THE REGISTER OF DEEDS NOT TO ACCEPT ANY DEED TRANSFERRING REAL PROPERTY FOR REGISTRATION UNLESS THE COUNTY TAX COLLECTOR HAS CERTIFIED THAT NO TAXES WITH WHICH THE COLLECTOR IS CHARGED ARE A LIEN ON THE PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31(b) reads as rewritten:

"(b) Applicability. – This section applies only to Anson, Beaufort, Bertie, Cabarrus, Camden, Carteret, Caswell, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wilson, and Yadkin Counties."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 885
Second Edition Engrossed 4/24/07

Short Title:	Town of Morrisville Motor Vehicle Tax.	(Local)
Sponsors:	Representative T. Harrell.	
Referred to:	Local Government I, if favorable, Finance.	

March 20, 2007

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE TOWNS OF APEX AND MORRISVILLE TO LEVY A MOTOR VEHICLE PRIVILEGE TAX OF UP TO FIFTEEN DOLLARS FOR EACH RESIDENT VEHICLE LOCATED IN THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the Towns of Apex and Morrisville only.

SECTION 2. G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ fifteen dollars ($15.00) per year upon any vehicle resident in the city or town. The proceeds of the tax up to five dollars ($5.00) may be used for any lawful purpose. The proceeds of these taxes derived from any levy above five dollars ($5.00) and up to fifteen dollars ($15.00) shall be used exclusively for transportation-related purposes, including sidewalks."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

HOUSE BILL 885:
Town of Morrisville Motor Vehicle Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. T. Harrell	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 885[1] is a local bill that authorizes the Towns of Morrisville and Apex to levy a vehicle tax of no more than $15 (now $5) per year. The proceeds of the additional tax may be used only for transportation-related purposes, including sidewalks. The proceeds up to $5 would continue to be used for any lawful purpose.

The bill gives the same authority to the Towns of Morrisville and Apex that was given to the Towns of Garner, Holly Springs, and Rolesville in House Bill 568, which received a favorable report from Senate Finance Committee on June 6, 2007.

CURRENT LAW: Under general law, counties may not impose a license or privilege tax on motor vehicles,[2] and municipalities are limited in the taxes they may impose on motor vehicles to the taxes listed below:

- **General Municipal Vehicle Tax.** – A tax not to exceed $5 a year on a motor vehicle resident in the municipality. The revenue generated by this tax may be used for any lawful purpose. By local acts, the amount of the tax has been increased for several cities and towns. The cities of Durham, Henderson, and Oxford and the towns of Ahoskie, Cary, Chapel Hill, Creedmoor, and Hillsborough may levy a tax of up to $10. The cities of Gastonia, Kinston, and Raleigh may levy a tax up to $15. The cities of Greenville, and Winston-Salem; the towns of Cornelius, Davidson, Huntersville, Mint Hill, Murfreesboro, and Pineville; and the municipalities located wholly or partially in Cabarrus County may levy a tax up to $20. The town of Carrboro may levy a tax of up to $25. The city of Charlotte and the town of Matthews may levy a tax up to $30. The vehicle tax is shown on the bill for vehicle taxes sent by the county.
- **Local Public Transportation.** – A tax not to exceed $5 a year on a motor vehicle resident in the municipality. Only municipalities that operate a public transportation system may impose this tax and the proceeds from the tax may be used only for local public transportation systems.[3]
- **Tax on Taxicabs.** – A tax not to exceed $15 a year on each vehicle operated in the municipality as a taxicab. The proceeds of this tax may be used for any lawful purpose.

Currently, the Towns of Morrisville and Apex may levy a municipal vehicle tax of not more than $5 per year, and the proceeds may be used for any lawful purpose.

BILL ANALYSIS: House Bill 885 would authorize the Towns of Morrisville and Apex to increase their motor vehicle tax from $5 to $15, effective for taxes imposed for taxable years beginning on or after July 1, 2007. The proceeds of the additional taxes must be used exclusively for transportation related purposes, included sidewalks.

H0885e2-SMRE
Martha Walston, counsel to House Finance, substantially contributed to this summary.

[1] HB 885, as originally introduced, applied only to the Town of Morrisville. House Amendment No. 1 added Apex.
[2] By local acts modifying G.S. 20-97, Alleghany, Caswell, and Pamlico Counties may impose motor vehicle tax. The amounts vary from $5 to $15.
[3] This tax may not be imposed by the city of Durham or by any cities and towns in Gaston County.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 20, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: House Bill 885 (Second Edition)

FISCAL IMPACT

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Town of Morrisville	**$130,582**	**$137,111**	**$143,967**	**$151,165**	**$158,724**
Town of Apex	**$438,343**	**$460,260**	**$483,273**	**$507,437**	**$532,809**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Towns of Morrisville and Apex

EFFECTIVE DATE: Effective for taxes imposed for taxable years beginning on or after July 1, 2007.

BILL SUMMARY:
HB 885 would allow the towns of Morrisville and Apex to levy a motor vehicle privilege tax of up to $15 per vehicle. The current tax for both towns is $5 per vehicle. The revenue from the rate increase may be used for transportation-related purposes, including sidewalks.

ASSUMPTIONS AND METHODOLOGY:
According to the NC State Treasurers Office, the Town of Morrisville collected $59,221 in motor vehicle taxes during FY 2005-06 from the current $5 tax. Based on the current revenue, the additional $10 per vehicle tax would generate $118,442. The revenue projections for future years are based on a 5% rate of annual increase.

The Town of Apex had a total of 39,759 registered vehicles for FY 2005-06. The increase of $10 per vehicle would generate $397,590. The revenue projections for future years are based on a 5% rate of annual increase.

SOURCES OF DATA: NC State Treasurer; NC DMV

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

HOUSE BILL 942

Short Title:	Oak Island Beach Nourishment Projects.	(Local)
Sponsors:	Representative Stiller.	
Referred to:	Local Government II, if favorable, Finance.	

March 21, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF OAK ISLAND TO LEVY SPECIAL ASSESSMENTS TO MEET THE COST OF THE LOCAL SHARE OF CONSTRUCTING BEACH NOURISHMENT PROJECTS PRIOR TO THE CONSTRUCTION OF THE PROJECTS.

Whereas, the Town of Oak Island has a need to construct beach nourishment projects for the health, safety, and welfare of the Oak Island community; and

Whereas, the Town does not have the funds on hand needed to build the beach nourishment projects; and

Whereas, the Town has determined that the only way to construct the projects in a proper and timely manner is to require that property owners meet their special assessment obligations prior to construction; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Town Council of the Town of Oak Island may levy special assessments to meet the estimated costs of beach nourishment projects at least 30 days following the initiation of the assessment process.

SECTION 2. The Town Council of the Town of Oak Island may give owners of assessed property the option of paying the assessment either in cash or in installments, but the period over which the installments are paid shall not exceed four years from the date the assessment roll is confirmed. Any portion of an assessment that is not paid within 30 days after publication of the notice that the assessment roll has been confirmed shall bear interest until paid at a rate to be fixed in the assessment resolution but not more than eight percent (8%) per annum.

SECTION 3. In the event the execution of a contract (or contracts) covering the proposed work is not forthcoming within four years from the date the assessment roll is confirmed, all assessments for the purpose of meeting the cost of constructing beach nourishment projects paid to the Town of Oak Island shall be returned to each payee within 30 days along with interest at a rate not less than six percent (6%) per

annum for the period each assessment payment is held by the Town; however, interest shall be paid on no assessment funds for a period in excess of 90 days.

SECTION 4. All assessment funds received by the Town may be deposited in a special interest-bearing account, and any interest earned and retained by the Town shall be used to offset expenses incurred with regard to the proposed beach nourishment projects.

SECTION 5. In levying the special assessments, the Town Council shall follow, insofar as practicable, the procedures set forth in Article 10 of Chapter 160A of the General Statutes.

SECTION 6. When the construction of the beach nourishment projects is complete, the Town Council shall ascertain the total cost as provided in G.S. 160-A-226. If the total cost is greater than the estimated cost, the Town Council may levy special assessments to collect the difference on the same basis as the first special assessments were made. The provisions of Section 2 of this act shall apply to the paying of special assessments levied under this section.

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 942:
Oak Island Beach Nourishment Projects

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. Stiller	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 942 is a local bill that authorizes the Town of Oak Island to levy special assessments for beach nourishment projects before the projects are completed.

The Town does not have funds on hand to build the beach nourishment projects and will need benefited property owners to pay the special assessments prior to construction.

CURRENT LAW: G.S. 160A-238 authorizes a municipality to make special assessments "against benefited property within the city for all or part of the costs of acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works." These assessments may be made on the basis of any of the following:

1. Frontage abutting on the project, at an equal rate per foot of frontage
2. Frontage abutting on a beach or shoreline protected or benefited by the project at an equal rate per foot of frontage
3. The area of land benefited by the project, an equal rate per unit of area
4. The valuation of land benefited by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar or valuation.
5. A combination of two or more of the above bases.

BILL ANALYSIS: HB 942 authorizes the Town of Oak Island to levy special assessments to meet the estimated costs of beach nourishment projects. The bill includes provisions that:

- Give owners of assessed property the option of either cash or installment payments. Payments must be made within 30 days of publication of notice that the assessment roll[1] has been confirmed, or the owner must pay interest at a rate of not more than 8%. The period of installments may not exceed four years from the date the assessment roll is confirmed.
- Provide for return of money with interest if contracts are not executed within four years from the date the assessment roll is confirmed, with interest of not less than 6% for the period the assessment payment was held by the town. However, interest will not be paid on assessment funds for a period in excess of 90 days.
- Allow the Town to deposit assessment funds into an interest-bearing account. Interest shall be used to offset expenses for the projects.
- Requires the Town to follow, insofar as practicable, the statutory procedures for special assessments. These procedures include the town council's adoption of a preliminary resolution setting out the details of the proposed project, a public hearing on the preliminary resolution, the adoption of the assessment resolution, the filing of the preliminary assessment roll in the city clerk's office, and public hearing on the

[1] The assessment roll must contain a description of the property assessed, the basis for the assessment, the amount assessed against each, the terms of payment, and the name of the owner of each parcel of property.

preliminary assessment roll. An owner who is dissatisfied with the amount of the assessment may appeal to the court within 10 days after confirmation of the assessment roll.

- Allow the Town to levy additional special assessments if actual costs of construction exceed the estimated costs

EFFECTIVE DATE: When it becomes law

BACKGROUND: Similar legislation was enacted last session authorizing the Town of Sunset Beach to levy special assessments to meet the cost of constructing sewage collection and treatment facilities. S.L. 2006-123.

H0942e1-SMRE
Martha Walston, counsel to House Finance, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1089

Committee Substitute Favorable 4/17/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1089-CSLL-28 [v.3]

6/19/2007 9:52:47 AM

Short Title: Franklinton Charter/Lake Royale Police. (Local)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FRANKLINTON TO PROVIDE FOR A COUNCIL-MANAGER FORM OF GOVERNMENT AND TO ALLOW THE LAKE ROYALE COMPANY POLICE TO ENTER INTO MUTUAL AID AGREEMENTS WITH FRANKLIN COUNTY FOR THE PURPOSE OF PARTICIPATING IN A MULTI-JURISDICTIONAL DRUG TASK FORCE AT THE REQUEST OF THE FRANKLIN COUNTY SHERIFF.

The General Assembly of North Carolina enacts:

SECTION 1. Article IV of the Charter of the Town of Franklinton, being Chapter 160 of the Session Laws of 1993, reads as rewritten:

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. **Form of Government.** The Town shall operate under the ~~Mayor-Council~~ Council-Manager form of government, in accordance with ~~Part 3~~ Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Clerk.** The ~~Board~~ Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

~~"Sec. 4.3. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town, subject to general law, this Charter, and Town ordinances.~~

"Sec. 4.4. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Sec. 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions and may organize the Town government as deemed appropriate, subject to the requirements of general law."

SECTION 2. The Lake Royale Company Police shall be considered a law enforcement agency under the provisions of G.S. 160A-288(b)(2) for the purpose of participating in a multi-jurisdictional drug task force at the request of the Franklin County Sheriff.

SECTION 3. Section 2 of this act applies only to the Lake Royale Company Police serving the Lake Royale community in Franklin and Nash Counties.

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

HOUSE BILL 1089: Franklinton Charter

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. Allen	**Summary by:**	Judy Collier
Version:	PCS to Second Edition H1089-CSLL-28		Research Assistant

SUMMARY: ***House Bill 1089[1] would amend the charter of the Town of Franklinton to provide for a council-manager form of government and to remove the position of 'tax collector'. The bill becomes effective when it becomes law.***

The Proposed Committee Substitute (PCS) to HB 1089 2nd Edition allows the Lake Royale Company Police, serving the Lake Royale community in Franklin and Nash Counties, to enter into mutual agreements with Franklin County for the purpose of participating in a multi-jurisdictional drug task force at the request of the Franklin County Sheriff.

CURRENT LAW: Cities may be administered in one of two ways: as a council-manager form of government or a mayor-council form of government. The Town of Franklinton currently operates under a mayor-council form of government. Under a mayor-council form of government, the council is responsible for the personnel decisions related to a city's government. The council is the body that appoints, suspends, and removes the heads of all city departments as well as other city employees. The council may delegate this authority to its department heads for employees working in that department.

Under the council-manager form of government, the manager is responsible for the personnel decisions. The council appoints a manager to serve at its pleasure. The manager has the authority to appoint, suspend, and remove all city employees not elected by the people, except for the city attorney. A manager must also direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the council. A manager must attend all council meetings, prepare and submit annual budgets, annually submit to the council a complete report of the finances and administrative activities of the city, and make any reports the council may require concerning the administration and operation of the city's departments, offices, and agencies.

BILL ANALYSIS: House Bill 1089 would change how the Town of Franklinton is administered from a mayor-council form of government to a council-manager form of government. The change will give the city manager more responsibility over the daily operations and general administration of the Town's departments, offices, and agencies.

The bill also removes from the Town's charter the provision that requires the Board to appoint a Tax Collector. Approximately 10 years ago, the Town contracted with Franklin County to collect and administer its property tax. This contractual arrangement has saved the Town both financial and personnel resources. The Town has not employed a Tax Collector since that time.

The Proposed Committee Substitute (PCS) to HB 1089 2nd Edition allows the Lake Royale Company Police to enter into mutual agreements with Franklin County for the purpose of participating in a multi-jurisdictional drug task force at the request of the Franklin County Sheriff.

EFFECTIVE DATE: House Bill 1089 is effective when it becomes law.

H1089e2-SMRE-CSLL-28
Cindy Avrette, counsel to House Finance, substantially contributed to this summary.

[1] The PCS to the 1st Edition of HB 1089 made a drafting correction only.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1089

Committee Substitute Favorable 4/17/07

Short Title: Franklinton Charter. (Local)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FRANKLINTON TO PROVIDE FOR A COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Article IV of the Charter of the Town of Franklinton, being Chapter 160 of the Session Laws of 1993, reads as rewritten:

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. **Form of Government.** The Town shall operate under the ~~Mayor-Council~~ Council-Manager form of government, in accordance with ~~Part 3~~ Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Clerk.** The ~~Board~~ Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

~~"Sec. 4.3. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town, subject to general law, this Charter, and Town ordinances.~~

"Sec. 4.4. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Sec. 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions and may organize the Town government as deemed appropriate, subject to the requirements of general law."

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

HOUSE BILL 1089: Franklinton Charter

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. Allen	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 1089[1] would amend the charter of the Town of Franklinton to provide for a council-manager form of government and to remove the position of 'tax collector'. The bill becomes effective when it becomes law.

CURRENT LAW: Cities may be administered in one of two ways: as a council-manager form of government or a mayor-council form of government. The Town of Franklinton currently operates under a mayor-council form of government. Under a mayor-council form of government, the council is responsible for the personnel decisions related to a city's government. The council is the body that appoints, suspends, and removes the heads of all city departments as well as other city employees. The council may delegate this authority to its department heads for employees working in that department.

Under the council-manager form of government, the manager is responsible for the personnel decisions. The council appoints a manager to serve at its pleasure. The manager has the authority to appoint, suspend, and remove all city employees not elected by the people, except for the city attorney. A manager must also direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the council. A manager must attend all council meetings, prepare and submit annual budgets, annually submit to the council a complete report of the finances and administrative activities of the city, and make any reports the council may require concerning the administration and operation of the city's departments, offices, and agencies.

BILL ANALYSIS: House Bill 1089 would change how the Town of Franklinton is administered from a mayor-council form of government to a council-manager form of government. The change will give the city manager more responsibility over the daily operations and general administration of the Town's departments, offices, and agencies.

The bill also removes from the Town's charter the provision that requires the Board to appoint a Tax Collector. Approximately 10 years ago, the Town contracted with Franklin County to collect and administer its property tax. This contractual arrangement has saved the Town both financial and personnel resources. The Town has not employed a Tax Collector since that time.

EFFECTIVE DATE: House Bill 1089 is effective when it becomes law.

H1089e2-SMRE
Cindy Avrette, counsel to House Finance, substantially contributed to this summary.

[1] The PCS to the 1st Edition of HB 1089 made a drafting correction only.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1112

Committee Substitute Favorable 4/17/07

Short Title: Adjust Matthews Motor Vehicle Tax. (Local)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MATTHEWS TO USE PROCEEDS FROM THE MOTOR VEHICLE TAX, ASSESSED PURSUANT TO G.S. 20-97, FOR ROAD CONSTRUCTION, MAINTENANCE, AND REPAIR, INCLUDING SIDEWALKS, OR FOR PUBLIC MASS TRANSIT SYSTEMS AND MASS TRANSIT-RELATED ACTIVITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-97(a), as applicable to the Town of Matthews under S.L. 1985-1009, S.L. 1991- 209, and S.L. 1993-345, reads as rewritten:

"(a) All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of the public highways of this State, and shall be paid by the Commissioner to the State Treasurer, to be credited by him to the State Highway Fund; and no county or municipality shall levy any license or privilege tax upon any motor vehicle licensed by the State of North Carolina, except that cities and towns other than the City of Durham may levy not more than thirty dollars ($30.00) per year upon any vehicle resident therein, and except that the City of Durham may levy not more than one dollar ($1.00) per year upon any vehicle resident therein. Provided, further, that cities and towns may levy, in addition to the amounts hereinabove provided for, a sum not to exceed fifteen dollars ($15.00) per year upon each vehicle operated in such city or town as a taxicab. Provided, further that any tax levied in excess of twenty dollars ($20.00) per year per vehicle by the City of Charlotte ~~and any tax levied in excess of five dollars ($5.00) per year per vehicle by the Town of Matthews~~ shall be dedicated to and may be expended only for public mass transit systems and mass transit-related activities."

SECTION 2. G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ thirty dollars ($30.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for ~~any lawful purpose.~~road

construction, maintenance, and repair, including sidewalks, or for public mass transit systems and mass transit-related activities."

SECTION 3. This act applies to the Town of Matthews only.

SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

HOUSE BILL 1112:
Adjust Matthews Motor Vehicle Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. Gulley	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 1112 is a local bill that applies only to the Town of Matthews and provides that all of the proceeds from the general municipal vehicle tax levied by the Town of Matthews be used for road construction, maintenance and repair, including sidewalks, or for public mass transit systems and mass transit-related activities.[1]

Currently, Matthews may levy a tax of up to $30 per vehicle. Any tax levied in excess of $5 must be expended only for public mass transit systems and mass transit-related activities.

CURRENT LAW: Under general law, counties may not impose a license or privilege tax on motor vehicles,[2] and municipalities are limited in the taxes they may impose on motor vehicles to the taxes listed below:

- **General Municipal Vehicle Tax.** – A tax not to exceed $5 a year on a motor vehicle resident in the municipality. The revenue generated by this tax may be used for any lawful purpose. By local acts, the amount of the tax has been increased for several cities and towns. The cities of Durham, Henderson, and Oxford and the towns of Ahoskie, Cary, Chapel Hill, Creedmoor, and Hillsborough may levy a tax of up to $10. The cities of Gastonia, Kinston, and Raleigh may levy a tax up to $15. The cities of Greenville, and Winston-Salem; the towns of Cornelius, Davidson, Huntersville, Mint Hill, Murfreesboro, and Pineville; and the municipalities located wholly or partially in Cabarrus County may levy a tax up to $20. The Town of Carrboro may levy a tax of up to $25. The City of Charlotte and the Town of Matthews may levy a tax up to $30. The vehicle tax is shown on the bill for vehicle taxes sent by the county.
- **Local Public Transportation.** – A tax not to exceed $5 a year on a motor vehicle resident in the municipality. Only municipalities that operate a public transportation system may impose this tax and the proceeds from the tax may be used only for local public transportation systems.[3]
- **Tax on Taxicabs.** – A tax not to exceed $15 a year on each vehicle operated in the municipality as a taxicab. The proceeds of this tax may be used for any lawful purpose.

The town of Matthews may levy a municipal vehicle up to $30. Any tax levied in excess of $5 must be expended only for public mass transit systems and mass transit-related activities.

BILL ANALYSIS: House Bill 1112 provides that the proceeds of the general municipal vehicle tax may be used by the Town of Matthews for road construction, maintenance and repair, including

[1] HB 1112 1st edition provided that the proceeds of the municipal tax up to $5 may be used for road repair and improvements, and the proceeds from any tax levied in excess of $5 and up to $30 must be used exclusively for public mass transit systems and mass transit-related activities.

[2] By local acts modifying G.S. 20-97, Alleghany, Caswell, and Pamlico Counties may impose motor vehicle tax. The amounts vary from $5 to $15.

[3] This tax may not be imposed by the city of Durham or by any cities and towns in Gaston County.

sidewalks, or for public mass transit systems and mass transit-related activities. In February, 2007, the Matthews Town Board passed a resolution requesting the proposed legislation.

EFFECTIVE DATE: Taxes imposed for taxable years beginning on or after July 1, 2007.

BACKGROUND: Below is the legislative history of the municipal vehicle tax in the Town of Matthews:

- In S.L. 1985 -1009, the Town of Matthews was authorized to levy a maximum motor vehicle tax of $20.
- In S.L. 1991-209, the maximum tax was increased to $25, with the proviso that any tax levied in excess of $5 per vehicle would be dedicated to and only expended for public transit systems and transit-related activities.
- In S.L. 1993-345, the maximum tax was increased to $30, with the proviso that any tax levied in excess of $5 per vehicle would be dedicated to and expended only for public **mass** transit systems and **mass** transit-related activities.

H1112e2-SMRE
Martha Walston, counsel to House Finance, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1153

Short Title:	Sunset Beach Annexation.	(Local)
Sponsors:	Representative Stiller.	
Referred to:	Local Government II, if favorable, Finance.	

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF SUNSET BEACH.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Sunset Beach:

Beginning at a point in the north right-of-way of Georgetown Road located North 79 degrees 32 minutes 53 seconds West a distance of 95.27 feet from the center line intersection of Seaside Road (NC 904) and Georgetown Road (SR 1163), thence with the northern R/W of Georgetown Road South 81 degrees 56 minutes 12 seconds West for a distance of 1,024.11 feet to a point, thence South 82 degrees 08 minutes 23 seconds West for a distance of 139.29 feet to a point, thence South 81 degrees 09 minutes 00 seconds West for a distance of 159.73 feet, thence South 80 degrees 10 minutes 31 seconds West for a distance of 159.00 feet to a point, thence South 78 degrees 09 minutes 42 seconds West for a distance of 157.68 feet to a point, thence South 76 degrees 24 minutes 45 seconds West for a distance of 157.94 feet to a point, thence South 74 degrees 26 minutes 42 seconds West for a distance of 2,453.76 feet to a point, thence South 75 degrees 28 minutes 13 seconds West for a distance of 156.58 feet to a point, thence South 78 degrees 43 minutes 11 seconds West for a distance of 155.90 feet to a point, thence South 82 degrees 47 minutes 55 seconds West for a distance of 79.57 feet to a point, thence South 86 degrees 29 minutes 57 seconds West for a distance of 157.42 feet to a point, thence North 89 degrees 33 minutes 53 seconds West for a distance of 157.75 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 99.91 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 57.62 feet to a point, thence North 86 degrees 58 minutes 35 seconds West for a distance of 1,661.70 feet to a point, thence North 87 degrees 54 minutes 16 seconds West for a distance of 108.52 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 67.24 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 34.74 feet to a point, thence

North 89 degrees 56 minutes 20 seconds West for a distance of 108.75 feet to a point, thence South 87 degrees 10 minutes 26 seconds West for a distance of 104.83 feet to a point, thence South 84 degrees 13 minutes 54 seconds West for a distance of 104.22 feet to a point, thence South 81 degrees 54 minutes 06 seconds West for a distance of 703.32 feet to a point, thence South 78 degrees 01 minutes 09 seconds West for a distance of 160.86 feet to a point, thence South 75 degrees 17 minutes 01 seconds West for a distance of 117.18 feet to a point, thence leaving said R/W, with Williamson North 03 degrees 50 minutes 58 seconds East for a distance of 738.01 feet to a point, North 25 degrees 45 minutes 58 seconds East for a distance of 379.29 feet to a point, thence South 80 degrees 26 minutes 00 seconds East for a distance of 332.90 feet to a point, thence North 46 degrees 22 minutes 35 seconds East for a distance of 445.80 feet to a point, thence North 20 degrees 01 minutes 05 seconds East for a distance of 119.23 feet to a point, thence North 02 degrees 44 minutes 00 seconds East for a distance of 231.08 feet to a point, thence North 20 degrees 13 minutes 54 seconds West for a distance of 858.54 feet to a point, thence North 40 degrees 56 minutes 31 seconds West for a distance of 754.87 feet to a point, thence North 69 degrees 23 minutes 17 seconds West for a distance of 383.85 feet to a point, thence North 59 degrees 08 minutes 03 seconds West for a distance of 506.14 feet to a point, thence South 82 degrees 02 minutes 41 seconds West for a distance of 392.44 feet to a point, thence North 00 degrees 47 minutes 36 seconds East for a distance of 289.29 feet to a point, thence North 32 degrees 44 minutes 13 seconds West for a distance of 567.68 feet to a point, thence North 14 degrees 46 minutes 26 seconds East for a distance of 527.71 feet to a point, thence North 13 degrees 23 minutes 20 seconds West for a distance of 552.27 feet to a point, thence leaving Williamson and with Gore North 48 degrees 36 minutes 29 seconds East for a distance of 522.27 feet to a point, thence South 81 degrees 15 minutes 47 seconds East for a distance of 1,917.49 feet to a point, thence North 33 degrees 44 minutes 54 seconds East for a distance of 987.09 feet to a point, thence South 18 degrees 09 minutes 22 seconds East for a distance of 656.05 feet to a point, thence North 78 degrees 50 minutes 37 seconds East for a distance of 544.98 feet to a point, thence North 42 degrees 45 minutes 00 seconds East for a distance of 428.97 feet to a point, thence South 46 degrees 38 minutes 41 seconds East for a distance of 387.97 feet to a point, thence South 17 degrees 01 minutes 51 seconds West for a distance of 875.25 feet to a point, thence South 18 degrees 38 minutes 02 seconds East for a distance of 1,154.75 feet to a point, thence South 46 degrees 45 minutes 07 seconds East for a distance of 1,261.28 feet to a point, thence South 44 degrees 09 minutes 11 seconds West for a distance of 550.01 feet to a point, thence South 39 degrees 27 minutes 18 seconds East for a distance of 1,023.06 feet to a point, thence South 57 degrees 26 minutes 17 seconds East for a distance of 981.14 feet to a point, thence South 80 degrees 10 minutes 49 seconds East for a distance of 1,103.46 feet to a point, thence North 72 degrees 10 minutes 18 seconds East for a distance of 560.50 feet to a point, thence North 22 degrees 54 minutes 21 seconds East for a distance of 718.74 feet to a point, thence North 09 degrees 49 minutes 10 seconds West for a distance of 674.30 feet to a point, thence North 28 degrees 34 minutes 02 seconds East for a distance of 409.31 feet to a point, thence North 17 degrees 07 minutes 01 seconds West for a

distance of 304.01 feet to a point, thence North 34 degrees 02 minutes 59 seconds East for a distance of 168.11 feet to a point in western R/W of Seaside Rd., thence with R/W South 31 degrees 17 minutes 20 seconds East for a distance of 553.49 feet to a point, thence South 32 degrees 32 minutes 57 seconds East for a distance of 669.63 feet to a point, thence South 32 degrees 14 minutes 51 seconds East for a distance of 940.15 feet to a point, thence South 31 degrees 35 minutes 35 seconds East for a distance of 102.55 feet to a point, thence South 28 degrees 17 minutes 50 seconds East for a distance of 135.97 feet to a point, thence South 25 degrees 33 minutes 45 seconds West for a distance of 59.96 feet to the place and point of beginning, containing 529.72 acres, more or less.

This description is based on maps of record and is for annexation purposes only.

SECTION 2. This act becomes effective July 1, 2007.

HOUSE BILL 1153:
Sunset Beach Annexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. Stiller	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 1153[1] would annex the Sandpiper Bay/Wyndfall Subdivision to the Town of Sunset Beach, effective July 1, 2007.

CURRENT LAW: North Carolina law sets forth four (4) basic ways in which a town or city may annex an area.

1. **Voluntary Annexation.** The owners of all real property in the area desiring to be annexed sign a petition requesting annexation. Part 1 of Article 4 of Chapter 160A.
2. **Legislative Act.** The General Assembly has the authority to extend the boundaries of any town or city. This method is most helpful to a town or city trying to annex an area that they could not otherwise.
3. **Satellite Annexation.** This method allows a town or city to annex certain non-contiguous areas meeting the statutory standards into the town or city limits. Part 4 of Article 4 of Chapter 160A.
4. **Nonvoluntary Annexation.** The town or city brings into the corporate limits an area that has not voluntarily agreed to be annexed. Parts 2 and 3 of Article 4 of Chapter 160A.

BILL ANALYSIS: House Bill 1153 would annex certain described property totaling 529.72 acres more or less into the Town of Sunset Beach.

EFFECTIVE DATE: This act becomes effective July 1, 2007.

BACKGROUND: The property being annexed is known locally as Sandpiper Bay/Wyndfall Subdivision. According to the Resolution adopted by the Town of Sunset Beach on December 4, 2006 requesting the legislation, the residents of the subdivision avail themselves of municipal, law enforcement, recreational, and cultural services provided by the town but do not share in the costs of these services. The area does not otherwise meet the requirements for nonvoluntary annexation under Part 2 of Article 4A of Chapter 160A.

H1153e1-SMRE
Trina Griffin, Counsel to Senate Finance Committee substantially contributed to this summary.

[1] This bill was identical to S382, as introduced by Senator Soles. S382 received a favorable report from Senate Finance Committee on March 21, 2007, and is currently in House Local Government II Committee.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1163

Committee Substitute Favorable 4/26/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1163-CSREx-2 [v.2]

6/19/2007 3:04:01 PM

Short Title: Landis Annexation. (Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING CERTAIN DESCRIBED PROPERTY TO BE ADDED TO THE CORPORATE LIMITS OF THE TOWN OF LANDIS AND AUTHORIZING THE TOWN TO EXERCISE PLANNING AND ZONING POWERS IN THE DESCRIBED AREA PRIOR TO ANNEXATION OF THE AREA.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2006-58 reads as rewritten:

"**SECTION 1.(a)** The following described property is added to the corporate limits of the Town of Landis:

TRACT I:

BEGINNING at a point in the center of the Fleming Crossroads and Five Forks Rd. on Atwell's line: thence North 33 West with said Road 680 feet to a stake in the center of said Road, corner of Lot 2; thence South 57 West 420 feet to a stake; thence South 15 West 1650 feet to an iron stake; corner of Lot 2; thence North 88 West 1318 feet to Carter's line, corner to Lot No. 1; thence South 3-3/4 West 650 feet to a stone, Carter's corner on Chester Deal's line; thence with Chester Deal's line, South 88 East 2359 feet to an iron stake on Atwell's line; thence North 4 East 1929 feet to the Beginning. Containing 71 acres, more or less. SAVE AND EXCEPT the following described real estate conveyed to Latt J. Carter and wife, Myrtle S. Carter, by deed recorded in Deed Book 337 at page 300, Rowan County Registry. Located about one mile North from Saw, near the Mill Bridge Road. Beginning at a stone and an iron pipe, Carter's corner in the line of the C.C. Deal Estate, and runs thence with the Carter line, North 3-3/4 deg. East 242 feet to an iron pipe, a new corner in the Carter Line; thence two new lines as follows: (1) South 86-3/4 deg. East 900 feet to an iron pipe, a new corner, (2) South 3-3/4 deg. West 242 feet to an iron pipe, a new corner in the Carter line; thence with the Carter line, North 86-3/4 deg. West, passing the Carter corner, 900 feet to the Beginning, containing 5 acres, more or less.

TRACT II:
BEGINNING at a point on the Northern side of Brown Road in the line of Leroy Wilhelm, this beginning point lying North 89 East 250.52 feet, more or less, from an old corner of the C.K. Atwell property near the point where a dirt road intersects Brown Rd., this beginning point also lies south 89 West 1168.48 feet, more or less, from an old corner of C.K. Atwell and Worth Corriher in the line of Leroy Wilhelm, and runs thence along the Wilhelm line, North 89 East 1168.48 feet, more or less, to a stake, a corner of Worth Corriher; thence along the old line, the same being a line of Worth Corriher, due South 1567 feet, more or less, to a stake, an old corner; thence continuing along another line of Worth Corriher, South 89 West 1168.48 feet, more or less, to a point, a new corner, this being the corner of John K. Atwell's tract in the line of Worth Corriher: thence along a new line due North 1567.5 feet, more or less, to a point in the old line, the point of Beginning. Said tract containing 42.048 acres. LESS AND EXCEPT 3.97 acres more or less. Reference tax parcel ID 223-036.
TRACT III:
BEGINNING at a stone in the field on the west side of a dirt road running between Brown Rd. and Patterson Rd., this beginning point being a corner of Lots Nos. 4 and 5 as shown on the map of "L.A. Corriher's Mt. Moriah Church Farm", being also a corner of George R. Fleming, Hubert I. Patterson, and Leonard Patterson, and also being an old original corner of the C.K. Atwell Property, and runs thence along the old line, the same being the line of Lot No. 5 as shown on the map of the "L.A. Corriher's Mt. Moriah Church Farm" property, South 85 East 381 feet to a stake, corner of Tract No. 5 and also an old corner; thence continuing along the old line, the same being a line of Leroy Wilhelm, due South 1699.5, 5 feet to a stake, an old corner; thence continuing along the old line and along Wilhelm's line, North 89 East 250.52 feet to a point, a new corner, this corner lying South 89 East 1168.48 feet from the corner of Sue Evelyn Atwell and Worth Corriher; thence along a new line running due South 1567.5 feet, more or less, to a point, a new corner in the old line, said line being an old line of Worth Corriher; thence with Corriher's line and continuing with the line of Latt J. Carter, South 89 West 745.52 feet; more or less, to a stake, corner of Tract No. 3 as shown on the map of "L.A. Corriher's Mt. Moriah Church Farm", this being a corner of Lamont Goodnight; thence along Goodnight's line and along the line of Tract No. 3 North 4 East 1983 feet to a stone on the North side of Brown Rd. said stone being in the line of Tract No. 4; thence continuing along the line of Tract 4 North 3-15 East 1373 feet to a stone, the point of BEGINNING.
TRACT IV:
BEGINNING at a stake on bank of branch Sloan Freeze's corner; thence N. 4 E. 14.17 chains to a stone S.G. Pethel's corner; thence S. 24 E. 10.00 chains to a persimmon tree Pethel's corner; thence S. 60 W. 2.60 chains to a cedar; thence N. 80 W. 3.23 chains to an ash; thence S. 77 W. 3.06 chains to poplar; thence S. 76 W. 7.73 chains to the BEGINNING, containing 16 1/10 acres more or less.
TRACT V:
On the waters of Grant's Creek, BEGINNING at a black jack on Bostian's line and runs South 74 poles to a hickory; thence South 89 West 176 poles to a Spanish oak; thence

North 74 poles to a sourwood; thence North 89 East 176 poles to the BEGINNING, containing (85) acres, more or less. LESS AND EXCEPT all the portion of land located on the west side of Millbridge Rd. containing 32.43 acres more or less.

TRACT VI:

BEGINNING at a nail and cap at the intersection of the center lines of Mill Bridge Rd. (State Road No. 1350) and Concordia Church Rd. (State Rd. No. 1554) and runs thence with the center line of Mill Bridge Road South 6 deg. 45 min. West 114 feet to a point in the center line of said rd; thence three new lines with Wilma D. Carrigan as follows: (1) South 84 deg. 30 min. East 566.7 feet to an iron rod; and (3) North 79 deg. 53 min. West 596.8 feet to an iron cap in the center line of Mill Bridge Rd.; thence with the center line of Millbridge Rd. South 2 deg. 13 min. West 297.9 feet to the point of BEGINNING, and containing 5.2 acres, said description being in accordance with map prepared for Wilma D. Carrigan dated May 25, 1976, by Hudson and Almond Surveyors.

TRACT VII:

BEGINNING at an existing iron, said iron further referenced as being the southeast corner of Ruth Freeze, Larry Freeze, and Valerie Freeze as found in Deed Book 802, page 148 and further referenced as Tax Map 225 Parcel 003 and further referenced as being the northeast corner of Freddie D. Freeze as found in Deed Book 690, page 895 and further referenced as Tax Map 225, Parcel 062; thence continuing along a new line South 76 deg. 43 min. 32 sec. East 2,370.31 feet to an existing iron rod being located in the line of a lake for the Town of Landis; thence continuing along border of said lake, South 19 deg. 59 deg. 34 sec. West 97.00 feet to a point; thence continuing South 39 deg. 03 min. 34 sec. West 170.05 feet; thence continuing South 32 deg. 5 min. 04 sec. West 149.67 feet; thence South 35 deg. 33 min. 25 sec. West 18.72 feet to a point; thence North 85 deg. 31 min. 52 sec. East 100.00 feet to a point; thence North 51 deg. 35 min. 58 sec. West 148.00 feet to a point; thence continuing North 67 deg. 12 min. 21 sec. west 1,738.38 feet to a point; thence continuing North 86 deg. 41 min. 30 sec. West 230.22 feet to a point; thence continuing North 26 deg. 39 min. 38 sec. West 94.19 feet to the point of BEGINNING.

TRACT VIII:

BEGINNING at a computed point in the centerline of N.C. Highway 152 and in the corner of a 3.943 acre tract: thence with said 3.943 acre tract North 15 degrees 32 minutes 56 seconds West passing an existing #5 rebar at 51.14 feet for a total distance of 388.78 feet to an existing #5 rebar in the line of a 3.943 acre tract; thence with said 3.943 acre tract North 21 degrees 44 minutes 35 seconds West passing an existing #5 rebar 201.36 feet for a total distance of 406.96 feet to an existing #5 rebar in the line of a 3.943 acre tract; thence with said 3.943 acre tract North 88 degrees 00 minutes 00 seconds West 67.73 feet to an existing #5 rebar at the corner of a 3.943 acre tract and Harrill S. Wiggins; thence with Wiggins North 02 degrees 00 minutes 00 seconds East passing an existing 1" pipe at 671.74 feet for a total distance of 1329.79 feet to an existing 1" pipe in the corner of Murrah A. Corriher; thence with the Corriher North 88 degrees 00 minutes 00 seconds West 394.32 feet to a set #5 rebar in the corner of Murray A. Corriher; thence with the Corriher North 03 degrees 18 minutes 47 seconds

East passing an existing 1.5" pipe at 465.69 feet for a total distance of 632.72 feet to a pipe in R.S. Freeze's line; thence with Freeze North 02 degrees 33 minutes 35 seconds East 4.76 feet to an existing stone in the corner of R.S. Freeze and S.E. Campbell, thence with Campbell North 42 degrees 19 minutes 54 seconds East 394.74 feet to an existing 36" sweet gum in the corner of S.E. Campbell; thence with Campbell following the courses and distances: (1) South 13 degrees 08 minutes 55 seconds East 280.34 feet to an existing ½" pipe; thence (2) South 14 degrees 02 minutes 57 seconds West 166.00 feet to an existing #8 rebar; thence (3) South 89 degrees 11 minutes 23 seconds East 974.81 feet to an existing railroad spike in the corner of S.E. Campbell and J.A. Lipe Heirs; thence with Lipe South 02 degrees 42 minutes 38 seconds West 2,024.40 feet to a nail in the corner of Johnsie Deaton Fisher and Wiley Dale Wilson; thence with Wilson North 87 degrees 46 minutes 45 seconds West 15 feet to an existing 5" flat bar in the corner of Wiley Dale Wilson; thence with Wilson South 02 degrees 37 minutes 01 seconds West passing an existing 5" flat bar at 500.66 feet for a total distance of 527.35 feet to a computed point in the centerline of N.C. Highway 152; thence with N.C. Highway 152 South 84 degrees 05 minutes 14 seconds West 312.09 feet to the place and point of BEGINNING and containing 51.831 acres as shown on the boundary survey of the Stewart M. Beaver Estate prepared by Rufus Jackson Love, R.L.S. dated September 24, 1996.

~~TRACT IX:~~

~~BEGINNING at a 1" iron spike, said spike being located in centerline of the margin of the right-of-way for Lake Wright Road and further referenced as being located in the common lines of R. Brian Johnson as found in Deed Book 792, Pages 931 and 932, the same being designated in Rowan County Tax Supervisor's Office as being Tax Map 225, Parcel 72 and in the common line of Wallace G. Lyerly as found in Deed Book 571, Page 465, the same being designated in the Rowan County Tax Supervisor's Office as being Tax Map 120, Parcel 4, said point further referenced as being located North 50 deg. 54 min. 16 sec. West 664.96 feet from a computed point, said computed point being located along the centerline of the intersection of Lake Wright Road and N.C. Highway 152, said point further referenced as being located South 80 deg. 19 min. 15 sec. West 267.15 feet from an existing iron spike, said iron spike being the common corner of two separate tracts as purchased by R. Brian Johnson, the same being designated in the Rowan County Tax Supervisor's Office as being Tax Map 225, Parcel 72 and Tax Map 120, Parcel 5; thence, from the point of BEGINNING the following courses and distances: North 50 deg. 54 min. 16 sec. West 389.78 feet to a 4" flat blade, said blade being the common corner of Wallace G. Lyerly and the common corners of Lots Nos. 10 and 11, the Fisher Farm Estates, as found in the Rowan County Register of Deeds Office at Book of Maps, Page 3218; thence continuing North 49 deg. 59 min. 54 sec. West 794.72 feet to a 1-1/4" existing iron rod, said iron rod being the common corner of Lots Nos. 7 and 8; thence continuing North 49 deg. 31 min. 21 sec. West 55.17 feet to a 1/2" iron pin, said iron pin being the common corner of Jeffrey L. McCollum; thence continuing along the common line of Jeffrey L. McCollum North 49 deg. 31 min. 14 sec. West 420.99 feet to a 1/2" existing iron pin, said iron pin being the common corner of J. A. Deaton Properties, LTD, and Jeffrey L. McCollum; thence~~

~~continuing along the common line of J. A. Deaton Properties, LTD, North 49 deg. 31 min. 14 sec West 421 feet to an existing iron pin, said iron pin being located in the common line of Sandra Lee Sinclair as found in Deed Book 787, Page 828; thence continuing along the common line of Sandra Lee Sinclair North 1 deg. 31 min. 47 sec. East 451.33 feet to an existing spike, said spike in a leaning 20" maple, said spike further referenced as being the common corner of Sandra Lee Sinclair and Steven E. Campbell as found in Deed Book 565, Page 731; thence continuing along the common line of Steven E. Campbell the following courses and distances: North 1 deg. 47 min. 20 sec East 403.78 feet (passing a nail set in a 1" iron rod .28' Southeast of property line at 203.60 feet) to an existing nail, said nail being located by 5/8" existing iron rod; thence continuing North 47 deg. 00 min. 24 sec. East 618.11 feet (passing a 1" existing iron rod, the same being .61' Northwest of property line at 417.13 feet) to an existing nail by a 5/8" existing iron rod, said iron rod being the common corner of Steven E. Campbell and The Warrior Golf Club, LLC, as found in Deed Book 796, Page 409; thence continuing along the common line of The Warrior Golf Club, LLC, South 88 deg. 24 min. 30 sec. East 776.04 feet to an existing nail by a 1" existing iron rod, the same being the common corner of The Warrior Golf Club, LLC, as designated in Rowan County Tax Supervisor's Office as being Tax Map 225, Parcels 76 and 5; thence continuing along the common line of The Warrior Golf Club, LLC, South 87 deg. 15 min. 46 sec. East. 386.24 feet (passing a ½" existing iron rod at 312.82 feet, the same being the common corner of Thomas E. Tweed as found in Deed Book 712, Page 265) to a new iron pin, said iron pin being located along an existing stone and being the common line of Thomas E. Tweed; thence continuing along the common line of Thomas E. Tweed South 89 deg. 25 min. 33 sec. East 154.3 feet to a new iron pin, said iron pin being located on the right-of-way of Lake Wright Road and being the common corner of Thomas E. Tweed; thence continuing within the margin of the right-of-way for Lake Wright Road South 89 deg. 25 min. 33 sec East 25.64 feet to a computed point, said computed point being the centerline of Lake Wright Road and further referenced as being located North 89 deg. 25 min. 33 sec. West 21.28 feet from the common corner of R. Brian Johnson as found in Deed Book 792, Pages 931 and 932; thence, continuing with the margin of a right-of-way for Lake Wright Road, the following courses and distances: (1) South 13 deg. 22 min. 6 sec. West 620.54 feet; (2) South 12 deg. 47 min. 47 sec. West 599.16 feet; (3) along a curve having a radius of 1227.70 feet with a chord bearing and distance of South 6 deg. 39 min. 15 sec. West 262.70 feet and an arc length of 263.20 feet; (4) South 0 deg. 30 min. 47 sec. West 562.52 feet to a point; (5) along a curve having a radius of 804. 15 feet with a chord bearing and distance of South 4 deg. 43 min. 51 sec. West 118.30 feet and an arc length of 118.40 feet; (6) South 8 deg. 56 min. 58 sec. West 80.89 feet; and (7) along a curve having a radius of 439.02 feet with a chord bearing and distance of 16 deg. 43 min. 26 sec. East 380.40 feet and an arc length of 393.44 feet. LESS AND EXCEPTING, HOWEVER, all of Lots Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, as shown upon the map of WRIGHT FIELD, recorded in Map Book 9995, at Page 4481, Rowan County Registry. The property conveyed herewith is all of Parcel 006 on Rowan County Tax Map 225.~~

TRACT X:

Being a parcel of land located in Atwell Township, Rowan County, North Carolina, and being designated as Rowan County tax parcels 223-012 and being more particularly described as follows: Beginning at a point whose Northing is 673520 and whose Easting is 1509377; thence bearing N 3-1-3 E a distance of 242.00 feet; thence bearing S 87-34-40 E a distance of 900.01 feet; thence bearing S 2-49-2 W a distance of 243.49 feet; thence bearing S 87-5-43 E a distance of 851.14 feet; thence bearing S 12-37-0 E a distance of 294.75 feet; thence bearing S 20-46-5 E a distance of 176.10 feet; thence bearing S 27-15-21 E a distance of 259.68 feet; thence bearing N 42-27-36 W a distance of 197.10 feet; thence bearing N 33-41-57 W a distance of 69.17 feet; thence bearing N 20-53-26 W a distance of 152.58 feet; thence bearing S 67-45-2 W a distance of 31.68 feet; thence bearing S 22-12-41 E a distance of 153.72 feet; thence bearing S 28-6-7 E a distance of 317.93 feet; thence bearing S 39-31-26 W a distance of 71.88 feet; thence bearing N 27-37-48 W a distance of 538.03 feet; thence bearing N 82-37-48 W a distance of 834.79 feet; thence bearing N 3-5-22 E a distance of 290.41 feet; thence bearing N 87-29-40 W a distance of 841.78 feet; thence bearing S 87-29-40 E a distance of 841.78 feet; thence bearing N 87-29-40 W a distance of 841.78 feet to the point of beginning. Containing 13.36 acres more or less and being a portion of the same properties as described in Book 598, page 386.

TRACT XI:

Being a parcel of land located in Atwell Township, Rowan County, North Carolina, and being designated as Rowan County tax parcels 225-063, 225-064, 225-003, 225-073, 228-083, and being more particularly described as follows: Beginning at a point whose Northing is 670662 and whose Easting is 1505659; thence bearing S 86-53-27 E a distance of 478.04 feet; thence bearing S 87-26-19 E a distance of 434.64 feet; thence bearing S 87-23-24 E a distance of 744.65 feet; thence bearing N 3-3-51 E a distance of 66.07 feet; thence bearing N 74-58-54 E a distance of 506.29 feet; thence bearing N 75-58-44 E a distance of 201.96 feet; thence bearing S 81-1-16 E a distance of 213.18 feet; thence bearing N 59-9-48 E a distance of 80.05 feet; thence bearing S 33-57-34 E a distance of 22.14 feet; thence bearing N 50-18-56 E a distance of 88.44 feet; thence bearing S 68-29-1 E a distance of 140.41 feet; thence bearing S 42-39-14 E a distance of 304.26 feet; thence bearing S 45-31-19 E a distance of 325.75 feet; thence bearing S 18-21-23 W a distance of 164.94 feet; thence bearing S 15-33-11 W a distance of 163.72 feet; thence bearing S 86-0-29 W a distance of 83.50 feet; thence bearing S 0-23-58 E a distance of 52.42 feet; thence bearing S 65-48-57 E a distance of 75.75 feet; thence bearing S 10-4-57 W a distance of 146.00 feet; thence bearing S 21-53-46 E a distance of 129.83 feet; thence bearing S 21-0-24 W a distance of 232.05 feet; thence bearing N 80-51-36 W a distance of 38.87 feet; thence bearing S 20-28-44 W a distance of 137.71 feet; thence bearing S 19-43-53 W a distance of 41.32 feet; thence bearing N 76-56-7 W a distance of 2369.35 feet; thence bearing N 69-31-53 W a distance of 445.65 feet; thence bearing S 18-1-8 W a distance of 291.33 feet; thence bearing N 76-40-25 W a distance of 438.87 feet; thence bearing N 16-18-49 E a distance of 855.78 feet to the point of beginning. Containing 77.66 acres more or less and being the same properties as described in Book 802, page 148; Book 861, page 285; Book 841, page 926; and Book 90E, page 85.

"**SECTION 1.(b)** This section becomes effective September 30, ~~2007.~~2008.

"**SECTION 2.** Notwithstanding subsection 1(b) of this act, the Town of Landis may begin to exercise its planning and zoning powers ~~under Article 19 of Chapter 160A of the General Statutes in~~ within the area described in subsection 1(a) of this act ~~after the date that~~ when this act becomes law.

"**SECTION 3.** This act is effective when it becomes law."

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

HOUSE BILL 1163:
Landis Annexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Reps. Steen, Coates	**Summary by:**	Judy Collier
Version:	PCS to Second Edition H1163-CSREx-2		Research Assistant

SUMMARY: ***House Bill 1163 amends S.L. 2006-58, which added certain described properties situated around Lake Wright in Rowan County to the corporate limits of the Town of Landis and authorized the Town to exercise planning and zoning authority in the described area prior to annexation.***

The Proposed Committee Substitute (PCS) for House Bill 1163 makes technical drafting corrections on page 7, lines 5, 6 and 7 of the bill.

CURRENT LAW: S.L. 2006-58, effective September 30, 2007, annexed nine (9) specifically described tracts of land into the existing corporate limits of the Town of Landis, and authorized the Town to exercise planning and zoning authority over those tracts effective June 30, 2006, when the bill became law.

BILL ANALYSIS: House Bill 1163 does the following:

1. Amends S.L. 2006-58 by deleting property identified as TRACT IX.
2. Amends S.L. 2006-58 by adding property identified as TRACT X, containing 13.36 acres m/l.
3. Amends S.L. 2006-58 by adding property identified as TRACT XI, containing 77.66 acres m/l.
4. Amends S.L. 2006-58 by extending the effective date of the satellite annexation of the properties surrounding Lake Wright from September 30, 2007 to September 30, 2008, including TRACT X and TRACT XI additions.
5. With exception of deleted TRACT IX, does not compromise the planning and zoning authority of the Town of Landis over the properties described in S.L. 2006-58.
6. Authorizes the Town of Landis to begin exercising its planning and zoning powers on TRACT X and XI additions on the effective date of this act.

EFFECTIVE DATE: The annexation becomes effective September 30, 2008. The provision authorizing the Town of Landis to begin exercising its planning and zoning powers on TRACT X and TRACT XI additions is effective when the act becomes law.

H1163e2-SMRE-CSREx-2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1163
Committee Substitute Favorable 4/26/07

Short Title: Landis Annexation. (Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING CERTAIN DESCRIBED PROPERTY TO BE ADDED TO THE CORPORATE LIMITS OF THE TOWN OF LANDIS AND AUTHORIZING THE TOWN TO EXERCISE PLANNING AND ZONING POWERS IN THE DESCRIBED AREA PRIOR TO ANNEXATION OF THE AREA.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2006-58 reads as rewritten:

"**SECTION 1.(a)** The following described property is added to the corporate limits of the Town of Landis:

TRACT I:

BEGINNING at a point in the center of the Fleming Crossroads and Five Forks Rd. on Atwell's line: thence North 33 West with said Road 680 feet to a stake in the center of said Road, corner of Lot 2; thence South 57 West 420 feet to a stake; thence South 15 West 1650 feet to an iron stake; corner of Lot 2; thence North 88 West 1318 feet to Carter's line, corner to Lot No. 1; thence South 3-3/4 West 650 feet to a stone, Carter's corner on Chester Deal's line; thence with Chester Deal's line, South 88 East 2359 feet to an iron stake on Atwell's line; thence North 4 East 1929 feet to the Beginning. Containing 71 acres, more or less. SAVE AND EXCEPT the following described real estate conveyed to Latt J. Carter and wife, Myrtle S. Carter, by deed recorded in Deed Book 337 at page 300, Rowan County Registry. Located about one mile North from Saw, near the Mill Bridge Road. Beginning at a stone and an iron pipe, Carter's corner in the line of the C.C. Deal Estate, and runs thence with the Carter line, North 3-3/4 deg. East 242 feet to an iron pipe, a new corner in the Carter Line; thence two new lines as follows: (1) South 86-3/4 deg. East 900 feet to an iron pipe, a new corner, (2) South 3-3/4 deg. West 242 feet to an iron pipe, a new corner in the Carter line; thence with the Carter line, North 86-3/4 deg. West, passing the Carter corner, 900 feet to the Beginning, containing 5 acres, more or less.

TRACT II:

BEGINNING at a point on the Northern side of Brown Road in the line of Leroy Wilhelm, this beginning point lying North 89 East 250.52 feet, more or less, from an old corner of the C.K. Atwell property near the point where a dirt road intersects Brown Rd., this beginning point also lies south 89 West 1168.48 feet, more or less, from an old corner of C.K. Atwell and Worth Corriher in the line of Leroy Wilhelm, and runs thence along the Wilhelm line, North 89 East 1168.48 feet, more or less, to a stake, a corner of Worth Corriher; thence along the old line, the same being a line of Worth Corriher, due South 1567 feet, more or less, to a stake, an old corner; thence continuing along another line of Worth Corriher, South 89 West 1168.48 feet, more or less, to a point, a new corner, this being the corner of John K. Atwell's tract in the line of Worth Corriher: thence along a new line due North 1567.5 feet, more or less, to a point in the old line, the point of Beginning. Said tract containing 42.048 acres. LESS AND EXCEPT 3.97 acres more or less. Reference tax parcel ID 223-036.

TRACT III:

BEGINNING at a stone in the field on the west side of a dirt road running between Brown Rd. and Patterson Rd., this beginning point being a corner of Lots Nos. 4 and 5 as shown on the map of "L.A. Corriher's Mt. Moriah Church Farm", being also a corner of George R. Fleming, Hubert I. Patterson, and Leonard Patterson, and also being an old original corner of the C.K. Atwell Property, and runs thence along the old line, the same being the line of Lot No. 5 as shown on the map of the "L.A. Corriher's Mt. Moriah Church Farm" property, South 85 East 381 feet to a stake, corner of Tract No. 5 and also an old corner; thence continuing along the old line, the same being a line of Leroy Wilhelm, due South 1699.5, 5 feet to a stake, an old corner; thence continuing along the old line and along Wilhelm's line, North 89 East 250.52 feet to a point, a new corner, this corner lying South 89 East 1168.48 feet from the corner of Sue Evelyn Atwell and Worth Corriher; thence along a new line running due South 1567.5 feet, more or less, to a point, a new corner in the old line, said line being an old line of Worth Corriher; thence with Corriher's line and continuing with the line of Latt J. Carter, South 89 West 745.52 feet; more or less, to a stake, corner of Tract No. 3 as shown on the map of "L.A. Corriher's Mt. Moriah Church Farm", this being a corner of Lamont Goodnight; thence along Goodnight's line and along the line of Tract No. 3 North 4 East 1983 feet to a stone on the North side of Brown Rd. said stone being in the line of Tract No. 4; thence continuing along the line of Tract 4 North 3-15 East 1373 feet to a stone, the point of BEGINNING.

TRACT IV:

BEGINNING at a stake on bank of branch Sloan Freeze's corner; thence N. 4 E. 14.17 chains to a stone S.G. Pethel's corner; thence S. 24 E. 10.00 chains to a persimmon tree Pethel's corner; thence S. 60 W. 2.60 chains to a cedar; thence N. 80 W. 3.23 chains to an ash; thence S. 77 W. 3.06 chains to poplar; thence S. 76 W. 7.73 chains to the BEGINNING, containing 16 1/10 acres more or less.

TRACT V:

On the waters of Grant's Creek, BEGINNING at a black jack on Bostian's line and runs South 74 poles to a hickory; thence South 89 West 176 poles to a Spanish oak; thence North 74 poles to a sourwood; thence North 89 East 176 poles to the BEGINNING,

containing (85) acres, more or less. LESS AND EXCEPT all the portion of land located on the west side of Millbridge Rd. containing 32.43 acres more or less.

TRACT VI:

BEGINNING at a nail and cap at the intersection of the center lines of Mill Bridge Rd. (State Road No. 1350) and Concordia Church Rd. (State Rd. No. 1554) and runs thence with the center line of Mill Bridge Road South 6 deg. 45 min. West 114 feet to a point in the center line of said rd; thence three new lines with Wilma D. Carrigan as follows: (1) South 84 deg. 30 min. East 566.7 feet to an iron rod; and (3) North 79 deg. 53 min. West 596.8 feet to an iron cap in the center line of Mill Bridge Rd.; thence with the center line of Millbridge Rd. South 2 deg. 13 min. West 297.9 feet to the point of BEGINNING, and containing 5.2 acres, said description being in accordance with map prepared for Wilma D. Carrigan dated May 25, 1976, by Hudson and Almond Surveyors.

TRACT VII:

BEGINNING at an existing iron, said iron further referenced as being the southeast corner of Ruth Freeze, Larry Freeze, and Valerie Freeze as found in Deed Book 802, page 148 and further referenced as Tax Map 225 Parcel 003 and further referenced as being the northeast corner of Freddie D. Freeze as found in Deed Book 690, page 895 and further referenced as Tax Map 225, Parcel 062; thence continuing along a new line South 76 deg. 43 min. 32 sec. East 2,370.31 feet to an existing iron rod being located in the line of a lake for the Town of Landis; thence continuing along border of said lake, South 19 deg. 59 deg. 34 sec. West 97.00 feet to a point; thence continuing South 39 deg. 03 min. 34 sec. West 170.05 feet; thence continuing South 32 deg. 5 min. 04 sec. West 149.67 feet; thence South 35 deg. 33 min. 25 sec. West 18.72 feet to a point; thence North 85 deg. 31 min. 52 sec. East 100.00 feet to a point; thence North 51 deg. 35 min. 58 sec. West 148.00 feet to a point; thence continuing North 67 deg. 12 min. 21 sec. west 1,738.38 feet to a point; thence continuing North 86 deg. 41 min. 30 sec. West 230.22 feet to a point; thence continuing North 26 deg. 39 min. 38 sec. West 94.19 feet to the point of BEGINNING.

TRACT VIII:

BEGINNING at a computed point in the centerline of N.C. Highway 152 and in the corner of a 3.943 acre tract: thence with said 3.943 acre tract North 15 degrees 32 minutes 56 seconds West passing an existing #5 rebar at 51.14 feet for a total distance of 388.78 feet to an existing #5 rebar in the line of a 3.943 acre tract; thence with said 3.943 acre tract North 21 degrees 44 minutes 35 seconds West passing an existing #5 rebar 201.36 feet for a total distance of 406.96 feet to an existing #5 rebar in the line of a 3.943 acre tract; thence with said 3.943 acre tract North 88 degrees 00 minutes 00 seconds West 67.73 feet to an existing #5 rebar at the corner of a 3.943 acre tract and Harrill S. Wiggins; thence with Wiggins North 02 degrees 00 minutes 00 seconds East passing an existing 1" pipe at 671.74 feet for a total distance of 1329.79 feet to an existing 1" pipe in the corner of Murrah A. Corriher; thence with the Corriher North 88 degrees 00 minutes 00 seconds West 394.32 feet to a set #5 rebar in the corner of Murray A. Corriher; thence with the Corriher North 03 degrees 18 minutes 47 seconds East passing an existing 1.5" pipe at 465.69 feet for a total distance of 632.72 feet to a

pipe in R.S. Freeze's line; thence with Freeze North 02 degrees 33 minutes 35 seconds East 4.76 feet to an existing stone in the corner of R.S. Freeze and S.E. Campbell, thence with Campbell North 42 degrees 19 minutes 54 seconds East 394.74 feet to an existing 36" sweet gum in the corner of S.E. Campbell; thence with Campbell following the courses and distances: (1) South 13 degrees 08 minutes 55 seconds East 280.34 feet to an existing ½" pipe; thence (2) South 14 degrees 02 minutes 57 seconds West 166.00 feet to an existing #8 rebar; thence (3) South 89 degrees 11 minutes 23 seconds East 974.81 feet to an existing railroad spike in the corner of S.E. Campbell and J.A. Lipe Heirs; thence with Lipe South 02 degrees 42 minutes 38 seconds West 2,024.40 feet to a nail in the corner of Johnsie Deaton Fisher and Wiley Dale Wilson; thence with Wilson North 87 degrees 46 minutes 45 seconds West 15 feet to an existing 5" flat bar in the corner of Wiley Dale Wilson; thence with Wilson South 02 degrees 37 minutes 01 seconds West passing an existing 5" flat bar at 500.66 feet for a total distance of 527.35 feet to a computed point in the centerline of N.C. Highway 152; thence with N.C. Highway 152 South 84 degrees 05 minutes 14 seconds West 312.09 feet to the place and point of BEGINNING and containing 51.831 acres as shown on the boundary survey of the Stewart M. Beaver Estate prepared by Rufus Jackson Love, R.L.S. dated September 24, 1996.

~~TRACT IX:~~

~~BEGINNING at a 1" iron spike, said spike being located in centerline of the margin of the right-of-way for Lake Wright Road and further referenced as being located in the common lines of R. Brian Johnson as found in Deed Book 792, Pages 931 and 932, the same being designated in Rowan County Tax Supervisor's Office as being Tax Map 225, Parcel 72 and in the common line of Wallace G. Lyerly as found in Deed Book 571, Page 465, the same being designated in the Rowan County Tax Supervisor's Office as being Tax Map 120, Parcel 4, said point further referenced as being located North 50 deg. 54 min. 16 sec. West 664.96 feet from a computed point, said computed point being located along the centerline of the intersection of Lake Wright Road and N.C. Highway 152, said point further referenced as being located South 80 deg. 19 min. 15 sec. West 267.15 feet from an existing iron spike, said iron spike being the common corner of two separate tracts as purchased by R. Brian Johnson, the same being designated in the Rowan County Tax Supervisor's Office as being Tax Map 225, Parcel 72 and Tax Map 120, Parcel 5; thence, from the point of BEGINNING the following courses and distances: North 50 deg. 54 min. 16 sec. West 389.78 feet to a 4" flat blade, said blade being the common corner of Wallace G. Lyerly and the common corners of Lots Nos. 10 and 11, the Fisher Farm Estates, as found in the Rowan County Register of Deeds Office at Book of Maps, Page 3218; thence continuing North 49 deg. 59 min. 54 sec. West 794.72 feet to a 1-1/4" existing iron rod, said iron rod being the common corner of Lots Nos. 7 and 8; thence continuing North 49 deg. 31 min. 21 sec. West 55.17 feet to a 1/2" iron pin, said iron pin being the common corner of Jeffrey L. McCollum; thence continuing along the common line of Jeffrey L. McCollum North 49 deg. 31 min. 14 sec. West 420.99 feet to a 1/2" existing iron pin, said iron pin being the common corner of J. A. Deaton Properties, LTD, and Jeffrey L. McCollum; thence continuing along the common line of J. A. Deaton Properties, LTD, North 49 deg. 31~~

~~min. 14 sec West 421 feet to an existing iron pin, said iron pin being located in the common line of Sandra Lee Sinclair as found in Deed Book 787, Page 828; thence continuing along the common line of Sandra Lee Sinclair North 1 deg. 31 min. 47 sec. East 451.33 feet to an existing spike, said spike in a leaning 20" maple, said spike further referenced as being the common corner of Sandra Lee Sinclair and Steven E. Campbell as found in Deed Book 565, Page 731; thence continuing along the common line of Steven E. Campbell the following courses and distances: North 1 deg. 47 min. 20 sec East 403.78 feet (passing a nail set in a 1" iron rod .28' Southeast of property line at 203.60 feet) to an existing nail, said nail being located by 5/8" existing iron rod; thence continuing North 47 deg. 00 min. 24 sec. East 618.11 feet (passing a 1" existing iron rod, the same being .61' Northwest of property line at 417.13 feet) to an existing nail by a 5/8" existing iron rod, said iron rod being the common corner of Steven E. Campbell and The Warrior Golf Club, LLC, as found in Deed Book 796, Page 409; thence continuing along the common line of The Warrior Golf Club, LLC, South 88 deg. 24 min. 30 sec. East 776.04 feet to an existing nail by a 1" existing iron rod, the same being the common corner of The Warrior Golf Club, LLC, as designated in Rowan County Tax Supervisor's Office as being Tax Map 225, Parcels 76 and 5; thence continuing along the common line of The Warrior Golf Club, LLC, South 87 deg. 15 min. 46 sec. East. 386.24 feet (passing a ½" existing iron rod at 312.82 feet, the same being the common corner of Thomas E. Tweed as found in Deed Book 712, Page 265) to a new iron pin, said iron pin being located along an existing stone and being the common line of Thomas E. Tweed; thence continuing along the common line of Thomas E. Tweed South 89 deg. 25 min. 33 sec. East 154.3 feet to a new iron pin, said iron pin being located on the right-of-way of Lake Wright Road and being the common corner of Thomas E. Tweed; thence continuing within the margin of the right-of-way for Lake Wright Road South 89 deg. 25 min. 33 sec East 25.64 feet to a computed point, said computed point being the centerline of Lake Wright Road and further referenced as being located North 89 deg. 25 min. 33 sec. West 21.28 feet from the common corner of R. Brian Johnson as found in Deed Book 792, Pages 931 and 932; thence, continuing with the margin of a right-of-way for Lake Wright Road, the following courses and distances: (1) South 13 deg. 22 min. 6 sec. West 620.54 feet; (2) South 12 deg. 47 min. 47 sec. West 599.16 feet; (3) along a curve having a radius of 1227.70 feet with a chord bearing and distance of South 6 deg. 39 min. 15 sec. West 262.70 feet and an arc length of 263.20 feet; (4) South 0 deg. 30 min. 47 sec. West 562,52 feet to a point; (5) along a curve having a radius of 804. 15 feet with a chord bearing and distance of South 4 deg. 43 min. 51 sec. West 118.30 feet and an arc length of 118.40 feet; (6) South 8 deg. 56 min. 58 sec. West 80.89 feet; and (7) along a curve having a radius of 439.02 feet with a chord bearing and distance of 16 deg. 43 min. 26 sec. East 380.40 feet and an arc length of 393.44 feet. LESS AND EXCEPTING, HOWEVER, all of Lots Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, as shown upon the map of WRIGHT FIELD, recorded in Map Book 9995, at Page 4481, Rowan County Registry. The property conveyed herewith is all of Parcel 006 on Rowan County Tax Map 225.~~

TRACT X:

Being a parcel of land located in Atwell Township, Rowan County, North Carolina, and being designated as Rowan County tax parcels 223-012 and being more particularly described as follows: Beginning at a point whose Northing is 673520 and whose Easting is 1509377; thence bearing N 3-1-3 E a distance of 242.00 feet; thence bearing S 87-34-40 E a distance of 900.01 feet; thence bearing S 2-49-2 W a distance of 243.49 feet; thence bearing S 87-5-43 E a distance of 851.14 feet; thence bearing S 12-37-0 E a distance of 294.75 feet; thence bearing S 20-46-5 E a distance of 176.10 feet; thence bearing S 27-15-21 E a distance of 259.68 feet; thence bearing N 42-27-36 W a distance of 197.10 feet; thence bearing N 33-41-57 W a distance of 69.17 feet; thence bearing N 20-53-26 W a distance of 152.58 feet; thence bearing S 67-45-2 W a distance of 31.68 feet; thence bearing S 22-12-41 E a distance of 153.72 feet; thence bearing S 28-6-7 E a distance of 317.93 feet; thence bearing S 39-31-26 W a distance of 71.88 feet; thence bearing N 27-37-48 W a distance of 538.03 feet; thence bearing N 82-37-48 W a distance of 834.79 feet; thence bearing N 3-5-22 E a distance of 290.41 feet; thence bearing N 87-29-40 W a distance of 841.78 feet; thence bearing S 87-29-40 E a distance of 841.78 feet; thence bearing N 87-29-40 W a distance of 841.78 feet to the point of beginning. Containing 13.36 acres more or less and being a portion of the same properties as described in Book 598, page 386.

TRACT XI:

Being a parcel of land located in Atwell Township, Rowan County, North Carolina, and being designated as Rowan County tax parcels 225-063, 225-064, 225-003, 225-073, 228-083, and being more particularly described as follows: Beginning at a point whose Northing is 670662 and whose Easting is 1505659; thence bearing S 86-53-27 E a distance of 478.04 feet; thence bearing S 87-26-19 E a distance of 434.64 feet; thence bearing S 87-23-24 E a distance of 744.65 feet; thence bearing N 3-3-51 E a distance of 66.07 feet; thence bearing N 74-58-54 E a distance of 506.29 feet; thence bearing N 75-58-44 E a distance of 201.96 feet; thence bearing S 81-1-16 E a distance of 213.18 feet; thence bearing N 59-9-48 E a distance of 80.05 feet; thence bearing S 33-57-34 E a distance of 22.14 feet; thence bearing N 50-18-56 E a distance of 88.44 feet; thence bearing S 68-29-1 E a distance of 140.41 feet; thence bearing S 42-39-14 E a distance of 304.26 feet; thence bearing S 45-31-19 E a distance of 325.75 feet; thence bearing S 18-21-23 W a distance of 164.94 feet; thence bearing S 15-33-11 W a distance of 163.72 feet; thence bearing S 86-0-29 W a distance of 83.50 feet; thence bearing S 0-23-58 E a distance of 52.42 feet; thence bearing S 65-48-57 E a distance of 75.75 feet; thence bearing S 10-4-57 W a distance of 146.00 feet; thence bearing S 21-53-46 E a distance of 129.83 feet; thence bearing S 21-0-24 W a distance of 232.05 feet; thence bearing N 80-51-36 W a distance of 38.87 feet; thence bearing S 20-28-44 W a distance of 137.71 feet; thence bearing S 19-43-53 W a distance of 41.32 feet; thence bearing N 76-56-7 W a distance of 2369.35 feet; thence bearing N 69-31-53 W a distance of 445.65 feet; thence bearing S 18-1-8 W a distance of 291.33 feet; thence bearing N 76-40-25 W a distance of 438.87 feet; thence bearing N 16-18-49 E a distance of 855.78 feet to the point of beginning. Containing 77.66 acres more or less and being the same properties as described in Book 802, page 148; Book 861, page 285; Book 841, page 926; and Book 90E, page 85.

"**SECTION 1.(b)** This section becomes effective September 30, ~~2007.~~2008.

"**SECTION 2.** Notwithstanding subsection 1(b) of this act, the Town of Landis may begin to exercise its planning and zoning powers ~~under Article 19 of Chapter 160A of the General Statutes in~~ within the area described in subsection 1(a) of this act ~~after the date that~~ when this act becomes law."

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

HOUSE BILL 1193

Short Title:	Ramseur Annexation of Town Property.	(Local)
Sponsors:	Representative Hurley.	
Referred to:	Local Government I, if favorable, Finance.	

March 29, 2007

A BILL TO BE ENTITLED

AN ACT ADDING NONCONTIGUOUS MUNICIPAL OWNED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF RAMSEUR.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property owned by the Town of Ramseur is added to the corporate limits of the Town of Ramseur:

TRACT 1:

BEGINNING at a point in the Northern right of way of Wallace Street (Lake Access Road), lying in the southern line of Jeffrey S. Lineberry (Deed Book 1557, Page 338 Randolph County Registry); thence along J. Lineberry's line in part and the lake in part the following courses and distances: South 86° 00' 47" East 815.290 feet to a point; thence South 86°08'47" East 62.480 feet to a point: thence North 00°40'14" West 235.670 feet to a point; thence North 83°34'09" East 287.110 feet to a point; thence North 10°21'34" West 164.860 feet to a point; thence North 39°14'12" West 101.530 feet to a point; then North 14°25'09" West 61.090 feet to a point; thence North 37°47'12" West 102 feet to a point, the common courses of J. Lineberry and S. J. Lineberry (Deed Book 1384, Page 555); thence along S. J. Lingberry's line with the lake, the following courses and distances: North 29°02'16" West 97.730 feet to a point; thence North 43°36'13" West 127.350 feet to a point; thence North 80°03'40" West 56.640 feet to a point; thence South 56°35'32" West 100.140 feet to a point; thence South 77°48'51" West 66.510 feet to a point; thence North 39°00'55" West 71.230 feet to a point, the common corner of S. J. Lineberry and Ernest W. Newby (Deed Book 1741, Page 429); thence along Newby's line with the lake the following courses and distances: thence North 11°00'03" East 117.660 feet to a point; thence North 02°51'46" East 104.780 feet to a point; thence North 32°46'04" West 138.370 feet to a point; thence North 37°55'21" West 67.080 feet to a point; thence South 76°50'07" West 100.290 feet to a point; thence North 35°42'13" West 45.820 feet to a point; thence North 15°07'30" East 136.500 feet to a point; thence North 15°07'30" East 58.180 feet to a point, the common corner of Newby and David J. Cross (Deed Book 1436, Page 436);

thence along line of Cross with the lake North 01°15'41" East 126.930 feet to a point; thence North 24°48'14" West 134.650 feet to a point; thence North 54°25'02" East 98.030 feet to a point; thence along Cross in part and Samuel T. Jones in part with the lake (Deed Book 1171, Page 973) North 07°23'18" West 171.620 feet; thence continuing along Jones line with the lake, the following courses and distances: North 12°51'05" East 79.450 feet to a point, thence South 89°31'48" East 58.610 feet to a point; thence North 52°14'26" East 112.240 feet to a point; thence North 30°16'16" East 85.130 feet to a point, the common corner of another Samuel T. Jones tract (Deed Book 1739, Page 1511); thence continuing along Jones tract (Deed Book 1739, Page 1511) and the lake the following courses and distances: North 30°16'16" East 270.430 feet to a point; thence North 15°06'12" West 66.530 feet to a point; thence North 89°07'42" West 47.800 feet to a point; thence South 61°57'07" West 158.400 feet to a point; thence South 68°14'01" West 149.660 feet to a point; thence South 56°42'16" West 87.760 feet to a point; thence South 35°20'57" West 100.220 feet to a point; thence North 86°47'30" West 113.500 feet to a point; thence North 56°07'40" West 120.970 feet to a point; thence South 64°04'15" West 97.340 feet to a point; thence North 00°14'30" East 31.860 feet to a point; thence North 89°45'30" West 99.000 feet to a point; thence South 00°14'30" West 59.890 feet to a point; thence North 84°41'59" West 36.590 feet to a point; thence North 37°00'16" West 99.150 feet to a point; thence North 77°07'35" West 79.340 feet to a point in the line of Harley Land Co., LLC (Deed Book 1744, Page 2638); thence along Harley Land Co., LLC's line with the lake South 89°25'36" East 200.390 feet to a point; thence North 62°05'41" East 104.390 feet to a point; thence North 84°58'48" East 173.230 feet to a point; and thence North 49°51'09" East 250.270 feet to a point; thence North 20°06'59" West 123.590 feet to a point; thence South 78°14'08" East 134.650 feet to a point; thence North 54°29'12" East 112.940 feet to a point; thence North 29°39'33" East 79.960 feet to a point; thence North 03°44'10" West 69.070 feet to a point; thence North 38°36'41" West 126.680 feet to a point; thence North 30°41'43" West 164.24 feet to a point; thence North 65°40'51" West 137.170 feet to a point; thence North 04°01'41" West 70.680 feet to a point; thence North 17°09'18" West 251.430 feet to a point; thence North 08°43'13" West 74.940 feet to a point; thence South 47°23'21" East 80.140 feet to a point; thence South 39°32'58" East 113.430 feet to a point; thence South 51°29'01" East 308.880 feet to a point; thence North 52°30'39" East 66.290 feet to a point; thence South 20°28'25" East 49.290 feet to a point; thence North 88°30'17" East 62.600 feet to a point; thence North 35°09'16" East 62.880 feet to a point; thence South 06°07'44" West 163.660 feet to a point; thence South 23°49'57" East 108.900 feet to a point; thence South 42°34'26" East 193.510 feet to a point; thence South 77°59'40" East 87.280 feet to a point; thence North 54°48'46" East 85.170 feet to a point; thence North 37°28'28" East 207.390 feet to a point; thence North 31°23'08" East 95.630 feet to a point; thence North 58°51'47" East 112.110 feet to a point; then North 33°17'26" East 105.060 feet to a point; thence North 18°07'06" West 234.800 feet to a point; thence North 31°05'24" West 140.620 feet to a point; thence North 13°10'11" West 69.250 feet to a point; thence North 36°18'00" West 153.820 feet to a point; thence North 43°14'57" West 398.150 feet to a point; thence North 30°50'41" West 172.520 feet to a point; thence South 48°31'12" East 248.770 feet to a point in the line of David

F. Holladay (W.B. 97E, Page 65) thence along Holladay's line with the lake the following courses and distances: South 83°41'11" East 80.620 feet to a point; thence North 65°08'01" East 46.540 feet to a point; thence South 19°34'26" West 58.950 feet to a point; thence South 43°30'35" East 74.230 feet to a point; thence South 65°35'01" East 55.700 feet to a point; thence South 39°55'32" East 95.020 feet to a point; thence South 46°36'30" East 105.990 feet to a point; thence South 78°55'52" East 110.830 feet to a point; thence South 24°40'01" East 99.340 feet to a point; thence South 53°48'56" East 128.900 feet to a point; thence North 51°55'40" East 62.510 feet to a point; thence North 24°19'03" East 122.630 feet to a point: thence North 41°30'31" East 93.750 feet to a point; thence North 27°43'56" east 85.770 feet to a point; thence North 01°54'01" East 64.810 feet to a point; thence North 46°17'02" East 50.890 feet to a point; thence North 03°01'13" West 70.120 feet to a point; thence North 33°06'59" West 337.520 feet to a point; thence South 68°13'18" East 110.520 feet to a point; thence North 87°25'23" East 61.260 feet to a point; thence North 22°47'03" East 112.460 feet to a point; thence North 16°33'58" West 101.270 feet to a point; thence North 18°08'20" East 61.220 feet to a point; thence North 05°26'37" West 85.340 feet to a point; thence South 29°07'40" East 104.500 feet to a point; thence South 16°45'46" East 67.710 feet to a point; thence South 40°01'43" East 74.740 feet to a point; thence South 54°45'29" East 180.930 feet to a point; thence South 88°06'24" East 57.410 feet to a point; thence North 56°41'15" East 199.570 feet to a point; thence North 40°50'28" East 62.400 feet to a point; thence South 80°08'09" East 99.280 feet to a point; thence North 66°01'08" East 74.060 feet to a point; thence North 19°41'29" East 62.310 feet to a point; thence North 41°27'04" East 85.870 feet to a point; thence North 04°16'52" East 184.060 feet to a point; thence North 09°04'32" West 154.090 feet to a point; thence North 46°14'52" West 68.380 feet to a point; thence North 18°17'34" East 80.220 feet to a point; thence North 14°54'06" West 55.680 feet to a point; thence North 48°40'11" West 95.260 feet to a point; thence North 82°47'22" East 132.320 feet to a point; thence North 37°41'36" East 66.250 feet to a point; thence North 00°18'36" East 125.350 feet to a point; thence South 81°47'46" East 131.590 feet to a point; thence North 59°14'44" East 213.900 feet to a point; thence North 33°50'45" East 211.060 feet to a point; thence North 52°10'57" East 150.770 feet to a point; thence North 34°12'54" East 115.620 feet to a point; thence North 58°04'00" West 231.750 feet to a point; thence South 87°06'08" West 125.890 feet to a point; thence North 29°07'29" East 103.670 feet to a point; thence North 28°35'58" West 115.840 feet to a point; thence South 82°57'07" West 168.500 feet to a point; thence North 49°17'16" East 128.740 feet to a point; thence North 07°00'18" East 62.550 feet to a point; thence North 30°25'46" West 138.760 feet to a point; thence North 54°15'02" West 61.460 feet to a point; thence South 86°17'42" West 96.920 feet to a point; thence South 57°12'32" West 146.670 feet to a point; thence North 29°52'28" East 160.150 feet to a point; thence North 11°30'23" East 85.380 feet to a point; thence North 23°33'53" West 119.800 feet to a point; thence North 42°59'19" West 165.320 feet to a point; thence North 17°43'58" West 15.020 feet to a point; thence North 17°43'58" West 45.050 feet to a point, a common corner of Holladay and Charles H. Fricke, IV (Deed Book 1380, Page 650); thence along Fricke's line with the lake the following courses and distances: North 10°12'35" East 74.600 feet to a point; thence North 20°42'06" West

159.000 feet to a point; thence North 02°50'26" West 100.150 feet to a point; thence North 07°18'59" West 83.770 feet to a point; thence North 32°21'51" West 115.270 feet to a point; thence North 51°57'01" West 39.200 feet to a point in line of Billy R. Brewer (Deed Book 1015, page 240); thence along Brewer's line with the lake the following courses and distances: North 51°57'00" West 42.450 feet to a point; thence South 62°23'56" West 167.550 feet to a point; thence South 50°35'59" West 165.350 feet to a point; thence North 78°43'24" West 73.250 feet to a point in Billy R. Brewer's additional tract (Deed 1197, Page 645) thence continuing along Brewer's line South 76°12'18" West 147.470 feet to a point; thence South 82°07'41" West 150.620 feet to a point; thence South 67°27'44" West 35.290 feet to a point in line of Mary S. Brewer (Deed Book 1040, Page 1); thence along Mary Brewer's line with the lake South 67°27'44" West 122.800 feet to a point; thence South 31°08'42" West 69.260 feet to a point in line of David W. Stewart (Deed Book 1530, Page 632); thence along Stewart's line with the lake South 56°50'12" West 14.400 feet to a point; thence South 56°50'11" West 126.980 feet to a point; thence South 76°17'00" West 122.080 feet to a point; thence North 51°02'08" East 155.140 feet to a point; thence North 33°00'12" East 34.210 feet to a point common with Mary S. Brewer (Deed Book 1040, Page 1) and thence along Mary Brewer's line with the lake; thence N 33°00'12" East 160.250 feet to a point common with Billy R. Brewer's line on the lake (Deed Book 1197, Page 645) and thence along Billy Brewer's line with the lake North 64°40'04" East 11.120 feet to a point; thence North 64°40'03" East 145.480 feet to a point; thence North 85°14'36" East 129.620 feet to a point in Billy Brewer's additional tract (Deed Book 1015, page 240) and thence along Billy Brewer's line with the lake North 59°33'21" East 176.680 feet to a point; thence North 83°45'19" East 117.820 feet to a point; thence North 61°03'45" East 125.770 feet to a point; thence North 05°54'47" West 83.730 feet to a point; thence N 58°15'10" West 100.340 feet to a point in line of Armeta Greeson (Deed Book 91E, Page 651) and thence along Armeta Greeson's line along the lake the following courses and distances: North 36°39'08" West 107.260 feet to a point; thence North 36°39'06" West 228.530 feet to a point; thence North 44°47'21" West 232.640 feet to a point; thence North 55°04'02" West 101.920 feet to a point; thence North 33°27'59" West 99.350 feet to a point; thence North 43°18'11" West 350.140 feet to a point; thence North 58°00'03" West 138.700 feet to a point; thence South 78°43'29" East 214.560 feet to a point; thence South 36°31'11" East 100.330 feet to a point; thence South 62°25'15" East 198.380 feet to a point; thence South 72°18'58" East 79.750 feet to a point; thence South 54°16'24" East 96.300 feet to a point; thence North 76°12'08" East 88.920 feet to a point; thence South 77°58'16" East 141.050 feet to a point; thence South 70°34'33" West 39.580 feet to a point; thence North 81°43'53" West 71.080 feet to a point; thence South 41°28'32" West 68.970 feet to a point; thence South 20°20'13" East 106.930 feet to a point; thence South 40°54'17" East 177.690 feet to a point; thence South 50°52'06" East 178.080 feet to a point; thence South 66°24'28" East 105.42 feet to a point; thence South 26°03'30" East 81.290 feet thence to point in the line of Charles H. Fricke, IV (Deed Book 1380, Page 650); thence along Fricke's line with the lake North 86°09'35" East 24.850 feet to a point; thence North 86°09'35" East 92.430 feet to a point; thence North 36°17'57" East 119.420 feet to a point; thence South 07°36'06" East 133.580 feet

to a point; thence South 39°54'32" East 86.390 feet to a point; thence South 06°45'26" East 109.600 feet to a point; thence North 37°59'10" East 127.270 feet to a point; thence North 35°49'39" East 131.10 feet to a point; thence North 76°30'13" East 401.810 feet to a point; thence North 25°12'36" East 82.430 feet to a point; thence North 39°59'21" West 46.940 feet to a point; thence North 74°02'32" East 56.490 feet to a point; thence North 24°13'38" East 158.210 feet to a point; thence North 11°08'18" West 134.030 feet to a point; thence North 78°11'28" East 76.160 feet to a point; thence North 36°43'28" East 111.770 feet to a point; thence North 27°36'14" East 189.770 feet to a point in the line of Jack B. Brown (W.B. 91E, Page 651); thence along Brown's line with the lake North 27°36'14" East 48.590 feet to a point; thence North 03°23'17" West 64.940 feet to a point; thence North 31°19'10" East 279.630 feet to a point; thence North 12°39'12" West 78.330 feet to a point; thence North 31°21'19" East 122.050 feet to a point; thence South 12°47'22" East 81.620 feet to a point; thence South 38°27'30" East 84.110 feet to a point; thence South 84°17'27" East 115.820 feet to a point; thence South 81°35'39" East 125.480 feet to a point; thence North 67°45'30" East 270.710 feet to a point; thence North 53°40'46" East 258.000 feet to a point; thence North 20°23'48" East 189.680 feet to a point; thence North 03°37'04" East 143.010 feet to a point; thence North 31°35'47" East 180.840 feet to a point, thence N 60°19'19" East 44.200 feet to a point in the line of Marion G. Frazier (Deed Book 1310, Page 196); thence along Fraizer's line with the lake North 60°19'18" East 166.140 feet to a point; thence South 32°27'38" East 130.120 feet to a point; thence South 59°31'19" East 289.810 feet to a point; thence South 85°10'38" East 121.810 feet to a point; thence North 29°04'22" East 188.140 feet to a point; thence North 05°51'43" West 156.070 feet to a point; thence North 31°28'26" West 152.320 feet to a point; thence North 21°17"57" West 370.330 feet to a point; thence North 03°32'37" West 424.000 feet to a point; thence North 55°24'30" West 191.000 feet to a point; thence North 68°31'04" East 136.420 feet to a point; thence North 00°04'10" West 304.850 feet to a point; thence North 20°11'41" East 26.180 feet to a point, in the line of Colon Ellison (Deed Book 1533, page 568) and the right-of-way of Mulbery Academy Street; thence along Ellison's line with the lake North 20°11'41" East 130.910 feet to a point; thence North 15°43'37" West 147.190 feet to a point; thence North 12°02"28" West 383.970 feet to a point; thence North 14°31'12" West 191.630 feet to a point; thence North 09°38'42" West 197.870 feet to a point; thence North 03°24'47" West 218.200 feet to a point; thence North 16°49'02" West 138.090 feet to a point; thence North 10°23'25" West 156.060 feet to a point; thence North 07°31'50" West 222.110 feet to a point; thence North 05°19'13" East 203.960 feet to a point; thence North 09°52'35" West 218.050 feet to a point; thence North 26°20'42" West 112.360 feet to a point; thence North 12°04'55" West 154.900 feet to a point; thence North 39°11'58" West 82.210 feet to a point; thence North 00°40'58" West 68.590 feet to a point in the line of Thomas A. Clayton (Deed Book 1221, Page 1748); thence along Clayton's line with the lake North 00°40'58" West 68.620 feet to a point; thence North 17°34'21" East 108.970 feet to a point; thence North 45°04'27" East 63.640 feet to a point; thence North 23°17'17" West 108.130 feet to a point; thence North 32°07'50" East 63.830 feet to a point; thence South 18°33'48" east 146.460 feet to a point; thence North 88°35'22" East 135.480 feet to a point; thence North 45°31'44" East

97.110 feet to a point; thence North 08°01'23" East 152.030 feet to a point; thence North 05°40'17" East 147.330 feet to a point; thence South 82°22'15" East 50.000 feet to a point in the line part of Clayton and part of Sandy Ridge Sub. (Plat Book 53, Page 3); thence along the following courses and distances: South 82°22'15" East 50.100 feet to a point; thence South 07°18'24" West 117.140 feet to a point; thence North 42°40'22" East 82.510 feet to a point; thence North 81°24'31" East 71.190 feet to a point; thence South 46°29'27" West 194.020 feet to a point; thence South 28°05'08" East 61.910 feet to a point; thence South 35°30'04" West 174.300 feet to a point; thence South 48°20'49" West 77.220 feet to a point; thence South 78°47'19" West 200.470 feet to a point; thence S. 07°01'06" West 139.66 feet to a point; thence South 27°30'41" East 161.740 feet to a point the corner of Lot 21, Sandy Ridge Subdivision; thence South 21°41'13" East 157.490 feet to a point the common corner of Lot 21 & Lot 20, Sandy Ridge Subdivision; thence following the line with the lake South 12°01'38" East 224.340 feet to a point; thence South 07°06'54" East 158.260 feet to a point; thence North 82°38'36" East 46.420 feet to a point; thence South 05°46'53" East 41.800 feet to a point; thence South 61°54'22" West 47.700 feet to a point; thence South 09°36'56" East 111.650 feet to a point; thence North 27°29'31" East 61.280 feet to a point in common line of Lots 18 & 17 Sandy Ridge Subdivision; thence following the line with the lake South 76°43'07" East 139.390 feet to a point; thence South 55°28'57" West 90.970 feet to a point; thence South 82°59'54" West 85.860 feet to a point; thence South 01°42'57" West 189.990 feet to a point in common line of Lots 17 & 16 Sandy Ridge Subdivision; thence South 43°51'03"East 125.970 feet to a point; thence South 06°17'16" East 167.580 feet to a point in common line of Lots 16 & 15 Sandy Ridge Subdivision; thence South 04°15'41" East 228.110 feet to a point; thence South 12°12'24" East 237.680 feet to a point; thence South 18°55'38" East 226.150 feet to a point; thence South 20°21'56" East 187.670 feet to a point; thence North 30°23'09" East 180.410 feet to a point; thence North 26°43'52" East 172.020 feet to a point in common line of Lots 14 & 13 Sandy Ridge Subdivision; thence North 17°23'56" East 143.610 feet to a point; thence South 23°22'14" East 72.810 feet to a point; thence North 31°00'47" East 181.690 feet to a point; thence North 36°10'14" East 178.960 feet to a point; thence North 19°47'51" East 120.070 feet to a point; thence N 03°57'57" East 63.200 feet to a point in common line of Lots 13 & 12 Sandy Ridge Subdivision; thence North 61°52'17" East 119.660 feet to a point; thence North 86°37'34" East 101.54 feet to a point in common line of Lots 11 & 10 Sandy Ridge Subdivision; thence North 67°30'43" East 136.880 feet to a point in common line of Lots 10 & 9 Sandy Ridge Subdivision; thence North 41°13'12" East 102.090 feet to a point in line of Lot 9 Sandy Ridge Subdivision; thence following line with lake North 71°43'27" East 111.970 feet to a point; thence North 82°47'54" East 148.130 feet to a point in line of John C. Wallace (Deed Book 1603, Page 907); thence following Wallace's line with the lake South 82°54'37" East 27.470 feet to a point; thence South 82°54'38" East 108.510 feet to a point; thence North 16°49'53" East 115.930 feet to a point in line of Melissa L. Moore (Deed Book 1666, Page 122) thence along Moore's line with the lake North 51°51'41" East 201.47 feet to a point; thence South 56°40'24" East 119.890 feet to a point; thence South 23°48'55" East 157.420 feet to a point in line of Harvey L. Frazier (Deed Book 1375, page 640) thence along H.

Frazier's line with lake North 60°00'11" East 129.030 feet to a point; thence South 00°59'27" East 140.500 feet to a point; thence South 24°08'15" West 68.490 feet to a point; thence South 78°49'11" East 112.690 feet to a point; thence North 89°38'26" East 280.870 feet to a point; thence South 07°43'31" East 211.370 feet to a point; thence South 07°43'30" East 23.400 feet to a point; thence South 43°42'59" East 119.770 feet to a point; thence South 57°27'17" East 179.610 feet to a point the common corner of James D. Frazier (Deed Book 1392, Page 306) and Philip D. Frazier (Deed Book 1375, Page 642); thence along Phillip Frazier's line with the lake South 35°33'08" East 28.890 feet to a point; thence South 81°09'32" West 179.390 feet to a point; thence South 87°30'28" West 84.700 feet to a point; thence South 87°30'28" West 98.460 feet to a point in line of Sandra F. Frazier (Deed Book 1453, Page 1528); thence along Sandra Fraizer's line with the lake South 75°38'02" West 185.700 feet to a point; thence North 80°01'40" West 242.790 feet to a point; thence North 65°44'45" West 229.830 feet to a point; thence North 60°38'09" West 242.600 feet to a point in line of Marion G. Frazier (W.B. 91E, Page 651); thence along line of Marion Frazier with lake South 72°41'22" West 93.879 feet to a point; thence South 54°50'52" West 147.330 feet to a point; thence South 54°06'01" West 134.310 feet to a point; thence South 74°34'52" West 71.090 feet to a point; thence South 75°24'42" West 99.870 feet to a point; thence South 62°33'39" West 123.240 feet to a point; thence South 86°06'02" West 85.750 feet to a point; thence South 38°41'45" West 211.850 feet to a point; thence South 00°38'33" West 69.110 feet to a point; thence South 56°34'51" West 53.780 feet to a point; thence South 39°59'51" West 201.990 feet to a point; thence South 29°28'54" West 161.030 feet to a point; thence South 45°11'08" East 56.660 feet to a point; thence South 68°16'35" West 43.780 feet to a point; thence South 09°11'23" East 59.180 feet to a point; thence South 31°15'51" West 89.120 feet crossing Mulbery Academy Street to a point; thence South 03°29'28" East 190.250 feet to a point continuing along Marion Frazier's line with the lake South 22°48'15" East 217.130 feet to a point; thence South 01°46'23" West 105.360 feet to a point; thence South 25°04'05" East 206.860 feet to a point; thence South 02°33'39" East 210.000 feet to a point; thence South 14°08'52" East 170.510 feet to a point; thence South 47°44'02" East 221.260 feet to a point; thence North 59°27'41" East 107.550 feet to a point; thence South 27°49'59" East 267.190 feet to a point; thence South 70°34'11" West 119.680 feet to a point; thence North 75°48'44" West 123.230 feet to a point; thence South 78°24'31" West 132.900 feet to a point; thence South 27°02'28" West 39.070 feet to a point; thence South 27°02'27" West 138.270 feet to a point in line of John W. Coble (Deed Book 1221, Page 1515); thence along Coble's line with the lake; South 15°42'54" West 193.020 feet to a point; thence South 25°21'04" West 133.190 feet to a point; thence South 18°53'33" West 67.880 feet to a point; thence South 59°10'02" West 199.23 feet to a point; thence South 40°44'55" East 119.83 feet to a point in the line of Frances K. Glasgow (Deed Book 1622, Page 795); thence in Glasgow's line South 86°44'59" West 42.420 feet to a point; thence North 86°51'03"West 78.870 feet to a point common with another tract of Frances D. Glasgow (Deed Book 1622, Page 400); thence with Glasgow's line with the lake North 28°00'45" West 161.920 feet to a point; thence North 56°38'49" West 110.640 feet to a point common with the Frances K. Glasgow tract (Deed Book 1202, Page 785); thence along

Frances Glasgow's line with the lake North 56°38'47" West 107.020 feet to a point common with the Frances K. Glasgow tract (Deed Book 1202, Page 795) thence along Glasgow's line with the lake North 63°56'28" West 112.320 feet to a point; thence North 73°39'56" West 130.950 feet to a point; thence South 78°33'18" West 52.540 feet to a point; thence South 01°21'15" West 150.820 feet to a point; thence South 18°43'33" West 124.980 feet to a point; thence South 47°37'43" West 98.880 feet to a point; thence South 27°19'58" East 94.650 feet to a point; thence South 39°24'38" East 101.140 feet to a point; thence North 78°35'18" West 99.890 feet to a point; thence North 40°29'04" West 98.130 feet to a point; thence South 75°10'45" West 78.360 feet to a point; thence South 55°02'45" West 252.030 feet to a point; thence South 50°41'46" West 136.620 feet to a point; thence South 10°58'11" West 77.890 feet to a point in line of Charles E. Glasgow (Deed Book 1688, Page 1077); thence along line of Charles Glasgow with the lake North 52°56'18" West 67.340 feet to a point; thence South 87°59'45" West 137.320 feet to a point; thence North 61°58'19" West 151.840 feet to a point; thence South 45°26'28" West 111.350 feet to a point; thence South 22°58'44" West 249.400 feet to a point South 29°08'25" West 52.440 feet to a point in line of another tract of Charles E. Glasgow (Deed Book 1403, Page 559); thence along line of Charles Glasgow with the lake; thence South 29°08'24" West 24.800 feet to a point; thence South 13°03'03" West 118.490 feet to a point; thence South 20°20'01" West 53.820 feet to a point; thence South 26°51'28" East 37.120 feet to a point; thence South 67°25'33" West 53.130 feet to a point; thence South 24°34'30" West 69.390 feet to a point in common line of Lot 14, Lake Ridge Farm Subdivision, David A. Humble (Deed Book 1400, Page 1624); thence along Humble's line South 24°34'30" West 41.110 feet to a point; thence South 14°23'28" East 199.170 feet to a point in line of Lot 15, Lake Ridge Farm Subdivision; thence along line of Lot 15 North 59°51'37" West 119.500 feet to a point; thence South 41°03'00" West 158.770 feet to a point; thence South 08°11'35" West 151.050 feet to a point; thence North 79°07'08" West 60.790 feet to a point; thence North 85°36'14" West 114.060 feet to a point; thence North 84°36'07" West 66.300 feet to a point; thence South 67°01'05" West 191.900 feet to a point; thence South 44°04'00" West 121.260 feet to a point in line of Lot 16, Lake Ridge Farm Subdivision, Mary T. Robbins (Deed Book 1421, Page 533); thence along line of Robbins with the lake; South 28°04'38" West 173.110 feet to a point; thence South 34°44'10" East 162.540 feet to a point in common line of Lot 17, Lake Ridge Farm Subdivision, another tract of Mary T. Robbins (Deed Book 1422, page 408); thence along line of Robbins with the lake South 46°57'31" East 81.600 feet to a point; thence South 13°40'30" East 93.450 feet to a point; thence South 59°03'13" East 110.890 feet to a point; thence South 03°46'45" East 56.440 feet to a point; thence South 03°46'45" East 48.260 feet to a point; thence South 28°22'42" East 308.970 feet to a point; thence South 45°45'02" East 289.750 feet to a point; thence North 74°40'32" East 190.170 feet to a point; thence North 54°11'03" East 98.190 feet to a point North 78°13'24" East 146.260 feet to a point in line of Cindy W. Caviness (Deed Book 1652, Page 1034); thence along line of Caviness with lake; South 40°31'54" West 53.520 feet to a point; thence South 76°38'50" West 65.730 feet to a point; thence South 39°03'28" West 73.540 feet to a point; thence South 49°13'47" West 170.970 feet to a point; thence South 01°26'16" West 101.250 feet to a point; thence

South 52°06'46" East 122.170 feet to a point; thence South 00°43'35" East 63.990 feet to a point; thence South 00°43'35" East 44.400 feet to a point in line of Alfred W. Coble (Deed Book 1348, Page 1763); thence along line of Coble with the lake South 36°27'18" East 63.810 feet to a point; thence South 00°35'50" East 222.480 feet to a point; thence North 75°19'13" West 123.430 feet to a point; thence South 39°22'23" West 162.790 feet to a point; thence South 51°49'45" West 142.820 feet to a point; thence South 33°20'52" West 316.130 feet to a point; thence South 57°24'28" West 106.070 feet to a point; thence South 21°01'28" West 141.460 feet to a point; thence South 36°50'33" East 120.780 feet to a point; thence North 80°22'47" East 109.050 feet to a point; thence North 40°47'18" East 223.010 feet to a point; thence North 58°43'53" East 149.870 feet to a point; thence North 50°25'26" East 143.380 feet to a point; thence North 63°27'16" East 102.210 feet to a point; thence North 86°17'23" East 234.920 feet to a point; thence South 64°25'04" West 261.170 feet to a point; thence South 30°59'30" West 311.800 feet to a point; thence South 33°45'59" East 99.730 feet in line of George F. Moore (Deed Book 1507, Page 671); thence along line of Moore with the lake South 33°45'59" East 32.050 feet to a point; thence South 09°12'58" East 142.800 feet to a point; thence North 50°22'36" West 78.650 feet to a point; thence North 85°31'53" West 129.070 feet to a point; thence South 42°16'50" West 135.160 feet to a point; thence South 16°41'40" West 141.620 feet to a point in common line of Patricia Y. King (Deed Book 1507, Page 683); thence along line of King with the lake South 18°40'10" East 146.280 feet; thence South 44°18'31" East 197.060 feet to a point in the common line of D. K. York (Deed Book 1523, Page 377); thence along line of D.K. York with the lake South 01°46'36" West 181.800 feet to a point; thence North 75°31'19" West 82.240 feet to a point; thence North 34°24'27" West 161.400 feet to a point; thence North 73°31'48" West 107.320 feet to a point; thence South 54°11'09" West 174.830 feet to a point; thence South 32°32'02" West 127.380 feet to a point; thence South 23°11'58" East 111.520 feet to a point; thence South 52°28'44" East 84.990 feet to a point; thence South 35°34'11" West 69.610 feet; thence to a point in common line of William Ray York (Deed Book 1718, Page 2574); thence along line of William Ray York with the lake North 89°01'13" West 169.720 feet to a point; thence North 15°23'53" West 83.320 feet to a point; thence North 49°17'07" West 144.220 feet to a point; thence South 38°14'02" West 127.840 feet to a point; thence South 60°21'36" West 110.510 feet to a point; thence South 46°59'44" West 151.410 feet to a point; thence South 64°14'22" West 178.960 feet to a point; thence South 34°14'55" West 232.430 feet to a point; thence South 45°17'06" West 201.300 feet to a point; thence South 38°32'56" West 105.370 feet to a point; thence South 06°13'53" East 121.040 feet to a point in common line of Jerry B. Boyd (Deed Book 1161, Page 437); thence along line of Boyd with the lake South 36°41'26" East 122.340 feet to a point; thence South 14°50'27" East 156.180 feet to a point; thence North 60°20'41" West 78.540 feet to a point; thence North 47°31'22" West 131.710 feet to a point; thence North 75°26'24" West 118.410 feet to a point; thence South 39°43'50" West 154.990 feet to a point; thence South 25°51'35" West 168.900 feet to a point in line of Carla T. Brown (Deed Book 1394, Page 1456); thence along line of Brown with the lake South 13°21'14" East 104.130 feet to a point; thence South 36°04'06" West 204.770 feet to a point; thence South 46°16'21" East 146.590 feet

to a point; thence South 18°59'44" East 98.550 feet to a point; thence North 81°41'30" East 85.020 feet to a point in common line of Michael T. Richardson (Deed Book 1549, Page 1360); thence along line of Richardson with the lake South 25°23'34" West 98.980 feet to a point; thence North 81°20'03" West 228.820 feet to a point; thence South 32°38'44" West 80.480 feet to a point; thence South 09°00'13" East 167.480 feet to a point; thence South 37°06'56" West 65.670 feet to a point; thence South 68°24'42" West 112.420 feet to a point; thence South 06°47'44" West 71.500 feet to a point in common line of H.B. Allred (Deed Book 952, Page 383); thence along line of Allred with the lake South 06°47'43" West 212.880 feet to a point; thence South 06°51'53" West 91.100 feet to a point in common line of Ramseur Inter-Lock Co. (Deed Book 1005, Page 149); thence along line of Ramseur Inter-Lock with the lake South 06°51'54" West 85.170 feet to a point; thence South 07°44'16" East 308.490 feet to a point; thence South 32°37'10" East 404.220 feet to a point in line of another tract of Ramseur Inter-Lock Co. (Deed Book 953, Page 94); thence South 80°09'02" East 128.780 feet to a point; thence North 45°36'30" East 87.160 feet to a point; thence South 79°48'26" East 214.790 feet to a point; thence South 13°13'59" West 84.440 feet to a point; thence South 38°07'15" East 111.270 feet to a point; thence South 87°02'50" East 126.470 feet to a point; thence North 74°05'23" East 237.140 feet to a point; thence South 35°16'54" West 257.440 feet to a point in a third tract of Ramseur Inter-Lock Co. (Deed Book 953, Page 96); thence along line of Ramseur Inter-Lock with the lake South 47°02'17" East 191.140 feet; thence South 47°02'17" East 137.690 feet to a point in line of M. P. Schumacher (W.B. 94E, Page 306); thence along line of Schumacher South 29°46'29" West 45.220 feet to a point; thence North 50°45'43" West 49.800 feet to a point in common line of Ramseur Inter-Lock Co. (Deed Book 953, Page 96); thence along line of Ramseur Inter-Lock with the lake South 86°06'40" West 44.140 feet to a point; thence South 86°06'40" West 20.750 feet to a point; thence North 68°14'13" West 134.510 feet to a point; thence South 47°18'35" West 190.690 feet to a point; thence South 25°19'54" East 201.640 feet to a point; thence South 04°36'56" East 214.450 feet to a point; thence South 24°31'54" East 31.510 feet to a point in common line of Mae Kirkman (Deed Book 1069, Page 305); thence North 84°04'46" West 300.740 feet along Kirkman's Line in part and John Deaton's line (Deed Book 782, Page 537) in part and Dianne Reeder's line (Deed Book 1596, Page 1396) in part to a point in the northwest corner of Dianne Reeder; thence along Reeder's line South 03°20'28" West 299.160 feet to a point at the Southwest corner of Reeder; thence North 84°03'15" West 25.01 feet along the Northern right-of-way of Ramseur Lake Road; thence South 22°29'25" West 60.00 feet to a point; thence North 67°30'25" West 200.12 feet to a point; thence North 22°26'23" East 62.11 feet to a point; thence North 80°39'19" West 204.91 feet to a point; thence North 80°39'19" West 127.680 feet to a point; thence North 80°39'19" West 97.97 feet to a point; thence North 80°39'19" West 40.92 feet to a point; thence South 58°58'51" West 14.40 feet to a point; thence South 64°42'02" West 100.00 feet to a point; thence North 85°34'18" West 27.41 feet to a point; thence North 85°34'30" West 65.19 feet to a point; thence North 54°10'53" West 51.40 feet to a point; thence North 54°11'32" West 48.78 feet to a point; thence South 10°13'53" West 255.06 feet around the Old Ramseur Water Plant (part of Deed Book 276, Page 471); thence South 10°13'12" West 30.02 feet to a

point; thence South 81°56'37" West 285.50 feet to a point; thence North 29°40'40" West 244.46 feet to a point; thence North 01°14'18" West 78.98 feet to a point; thence North 74°50'46" West 54.79 feet to a point; thence North 13°36'51" East 47.64 feet to a point; thence North 13°36'51" East 125.61 feet to a point; thence South 76°23'09" East 111.13 feet to a point; thence North 01°59'48" West 150.48 feet to a point; thence South 78°54'31" East 183.17 feet to a point; thence along a branch North 56°15'59" East 62.23 feet to a point; thence North 43°17'20" East 38.70 feet to a point; thence North 51°30'45" East 35.55 feet to a point; thence North 47°37'01" East 50.09 feet to a point; thence North 54°38'42" East 57.98 feet to a point; thence North 44°51'15" East 50.49 feet to a point; thence North 32°18'39" East 50.16 feet to a point; thence North 17°52'38" East 41.02 feet to a point; thence North 86°08'47" West 196.00 feet to a point at the Southeast corner of the lake access; thence North 86°08'32" West 261.32 feet to a point; thence North 86°07'52" West 203.00 feet to a point; thence North 86°10'03" West 117.81 feet to a point; thence North 86°09'16" West 231.67 feet to a point; thence North 08°55'56" East 14.59 feet to a point; thence North 02°58'59" East 45.47 feet to the point and place of the beginning, in accordance with a composite map of the Kermit G. Pell Water Based Recreation Facility for the Town of Ramseur dated 2005. All information shown was taken from deeds as recorded in Randolph County Register of Deeds.

Tract II:

BEGINNING at a stake on the West bank of Deep River, formerly Colon Welborn's corner; running thence South 40 degrees 52 minutes West 664.71 feet to a stake, Elbert S. Craven's corner; thence South 34 degrees 32 minutes East 210 feet to an iron pipe, Elbert S. Craven's corner; thence South 40 degrees 53 minutes West 450.00 feet to an iron pipe on the Ramseur Road, Elbert Craven's corner; thence South 34 degrees 32 minutes East 34.02 feet to an iron pipe; thence South 17 degrees 32 minutes East 154.32 feet to an iron pipe; thence South 29 degrees 32 minutes East 172.14 feet to an iron pipe: thence South 12 degrees 54 minutes East 165.11 feet to an iron pipe; thence South 40 degrees 0 minutes West 962.06 feet to an iron pipe; thence South 33 degrees 19 minutes East 1513.70 feet to an iron pipe near the West bank of Deep River; thence along the various courses of the bank of Deep River to the point and place of the beginning, containing 87.90 acres, more or less, and the same being that tract of land described in Deed Book 310, Page 159 in the Office of the Register of Deeds for Randolph County, North Carolina. The description herein used is in accordance with a survey and plat of same as prepared by Moore, Gardner and Associates, Inc., Engineers, Asheboro, North Carolina in October 1960, and designated as Job No. 4026, Book 322.

Tract III:

BEGINNING at an iron pipe located South 30 degrees 37 minutes 50 seconds West 105.76 feet from the southwest property corner of Clyde P. Ammons and wife, Nancy H. Ammons (the said Ammons southwest corner being South 22 degrees 00 minutes 31 seconds West 514.51 feet along the common boundary of Gordon L. Brady and wife, Sally Hart Brady and of Clyde P. Ammons and wife, Nancy H. Ammons from the south right-of-way line of N.C. Highway No. 22); thence from the beginning point South 20 degrees 06 minutes 04 seconds West 799.99 feet to an iron pipe; thence North 40 degrees 09 minutes 13 seconds West 806.29 feet to an iron pipe; thence continuing

North 40 degrees 09 minutes 13 seconds West 59.86 feet to a point in the approximate center of Sandy Creek; thence North 16 degrees 17 minutes 46 seconds East 120.58 feet to a point in said creek; thence North 23 degrees 36 minutes 42 seconds East 65.73 feet leaving said creek to a point in the centerline of a raw waterline easement granted by these grantors to the Town of Ramseur by Deed of Easement of even date herewith; thence continuing North 33 degrees 36 minutes 42 seconds East 191.36 feet to an iron pipe; thence South 69 degrees 53 minutes 48 seconds East 398.31 feet to an iron pipe; thence North 22 degrees 00 minutes 31 seconds East 630.26 feet to an iron pipe in the South right-of-way line of N.C. Highway No. 22; thence South 67 degrees 67 minutes 00 seconds East 50 feet to an iron pipe; thence South 22 degree 00 minutes 31 seconds West 638.41 feet to an iron pipe; thence South 69 degrees 53 minutes 48 seconds East 251.63 feet to the Beginning. Containing 10.71 acres.

The deed is recorded in Book 387, Page 350, in the Randolph County Registry.

The property in this section is described according to a survey and plat entitled "Water Treatment Facilities Town of Ramseur, Randolph County, North Carolina", prepared by Minier & Associates, Consulting Engineers, and identified as Job Number 84005.

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

HOUSE BILL 1193:
Ramseur Annexation of Town Property

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Rep. Hurley	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 1193 adds noncontiguous municipally owned property to the corporate limits of the Town of Ramseur.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: This bill allows the Town of Ramseur to annex three separate tracts of land to the corporate limits of the Town of Ramseur.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Each of the three tracts of land the Town of Ramseur is seeking to annex is currently owned by the Town of Ramseur. The tracts are: 1) The water plant for the Town of Ramseur; 2) The sewer plant for the Town of Ramseur; 3) A water and recreation area.

These areas do not meet the requirements for voluntary annexation under G.S. 160A-58.1. Each tract is either closer to the primary corporate limits of another city than to the primary corporate limits of the Town of Ramseur, or once added to the area within all other satellite corporate limits, would exceed 10% of the area within the primary corporate limits of the annexing city.

H1193e1-SMRE
Heather Fennell, counsel to House Finance, substantially contributed to this summary.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1492

Committee Substitute Favorable 5/7/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1492-CSRBf-33 [v.2]

6/20/2007 11:44:27 AM

Short Title: Anesthesiologist Assistants Licensure. (Public)

Sponsors:

Referred to:

April 17, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LICENSURE OF ANESTHESIOLOGIST ASSISTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-11 is amended by adding a new subsection to read:

"(a1) Every applicant for licensure as an anesthesiologist assistant in the State shall meet the following criteria:

(1) Satisfy the North Carolina Medical Board that the applicant is of good moral character.

(2) Submit to the Board proof of completion of a graduate level training program accredited by the Commission of Accreditation of Allied Health Education Programs or its successor organization.

(3) Submit to the Board proof of current certification from the National Commission of Certification of Anesthesiologist Assistants (NCCAA) or its successor organization, including passage of a certification examination administered by the NCCAA. The applicant shall take the certification exam within 12 months after completing training.

(4) Meet any additional qualifications for licensure pursuant to rules adopted by the Board."

SECTION 2. G.S. 90-15 reads as rewritten:

"**§ 90-15. License fee; salaries, fees, and expenses of Board.**

Each applicant for a license by examination shall pay to the North Carolina Medical Board a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars ($400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars ($250.00). Whenever a limited

license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty dollars ($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of twenty-five dollars ($25.00), and where a limited license to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.

For the initial and annual ~~registration~~ licensure of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount.

For the initial and annual licensure of an anesthesiologist assistant, the Board may require the payment of a fee not to exceed one hundred fifty dollars ($150.00)."

SECTION 3. G.S. 90-18(c) is amended by adding a new subdivision to read:

"(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

...

(20) The provision of anesthesia services by a licensed anesthesiologist assistant under the supervision of an anesthesiologist licensed under Article 1 of this Chapter in accordance with rules adopted by the Board."

SECTION 4. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-18.5. Limitations on anesthesiologist assistants.

(a) Any person who is licensed to provide anesthesia services as an assistant to an anesthesiologist licensed under Article 1 of this Chapter may use the title 'anesthesiologist assistant.' Any other person who uses the title in any form or holds himself or herself out to be an anesthesiologist assistant or to be so licensed without first obtaining a license shall be deemed in violation of this Article. A student in any anesthesiologist assistant training program shall be identified as a 'student anesthesiologist assistant' or an 'anesthesiologist assistant student,' but under no circumstances shall the student use or permit to be used on the student's behalf the terms 'intern,' 'resident,' or 'fellow.'

(b) Anesthesiologist assistants are authorized to provide anesthesia services under the supervision of an anesthesiologist licensed under Article 1 of this Chapter under the following conditions:

(1) The North Carolina Medical Board has adopted rules governing the provision of anesthesia services by an anesthesiologist assistant consistent with the requirements of subsection (c) of this section.

(2) The anesthesiologist assistant holds a current license issued by the Board or is a student anesthesiologist assistant participating in a training program leading to certification by the National Commission for Certification of Anesthesiologist Assistants and licensure as an anesthesiologist assistant under G.S. 90-11(a1).

(c) The North Carolina Medical Board shall adopt rules to implement this section that include requirements and limitations on the provision of anesthesia services by an anesthesiologist assistant as determined by the Board to be in the best interests of patient health and safety. Rules adopted by the Board pursuant to this section shall include the following requirements:

(1) That an anesthesiologist assistant be supervised by an anesthesiologist licensed under this Article who is actively engaged in clinical practice and immediately available on site to provide assistance to the anesthesiologist assistant.

(2) That an anesthesiologist may supervise no more than two anesthesiologist assistants or student anesthesiologist assistants at one time. The limitation on the number of anesthesiologist assistants and student anesthesiologist assistants that an anesthesiologist may supervise in no way restricts the number of other qualified anesthesia providers an anesthesiologist may concurrently supervise. After January 1, 2010, the Board may allow an anesthesiologist to supervise up to four licensed anesthesiologist assistants concurrently and may revise the supervision limitations of student anesthesiologist assistants such that the supervision requirements for student anesthesiologist assistants are similar to the supervision requirements for student nurse anesthetists.

(3) That anesthesiologist assistants comply with all continuing education requirements and recertification requirements of the National Commission for Certification of Anesthesiologist Assistants or its successor organization.

(d) Nothing in this section shall limit or expand the scope of practice of physician assistants under existing law."

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 1492:
Anesthesiologist Assistants Licensure

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Reps. England, J. Harrell	**Summary by:**	Cindy Avrette
Version:	PCS to Second Edition H1492-CSRB		Committee Counsel

SUMMARY: ***House Bill 1492 would authorize the North Carolina Medical Board to license and regulate anesthesiologist assistants. The proposed committee substitute clarifies the number of anesthesiologist assistants and student anesthesiologist assistants an anesthesiologist may supervise.***

CURRENT LAW: Anesthesiologist assistants are not currently licensed in North Carolina and are unable to practice in North Carolina because to do so would be to practice medicine without a license.

BILL ANALYSIS: House Bill 1492 would authorize the practice of anesthesiologist assistant by a person who is licensed by the North Carolina Medical Board (Board) in this field and who is supervised by a practicing anesthesiologist.

The Bill requires applicants for licensure (initial and renewal) as anesthesiologist assistants meet the following criteria:

- Satisfy the Board that the applicant is of good moral character.
- Complete a graduate level training program accredited by the Commission of Accreditation of Allied Health Education Programs.
- Pass a certification examination administered by the National Commission of Certification of Anesthesiologist Assistants (NCCAA).
- Comply with all continuing education and recertification requirements of the NCCAA.
- Meet any other qualifications for the issuance of a license as determined by the Board.
- Pay an annual licensure fee.

The Board must establish the fee amount by rule, not to exceed one hundred fifty dollars ($150).

The bill directs the Board to adopt rules to implement this act and provides the provision of services by a licensed anesthesiologist assistant under the supervision of a licensed anesthesiologist is not the practice of medicine or surgery.

The bill creates a new section G.S. 90-18.5 which limits the use of the title 'anesthesiologist assistant' to persons licensed under G.S. 90-11 and provides students in anesthesiologist assistant training programs may not be identified as 'intern', 'resident', or 'fellow'.

The rules adopted pursuant to this act shall include the following supervision requirements:

- An anesthesiologist providing supervision must be licensed by the Board and actively engaged in clinical practice. The supervising anesthesiologist must also be onsite and immediately available.
- One anesthesiologist may not supervise more than two anesthesiologist assistants or student anesthesiologist assistants at one time. (After January 1, 2010, the Board is authorized to

expand that number, by rule, to four anesthesiologist assistants and revise the limitation on student anesthesiologist assistants to reflect the supervision requirements of student nurse anesthetists.) This limitation in no way restricts the number of other qualified anesthesia service providers an anesthesiologist may concurrently supervise.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Federal law recognizes anesthesiology assistants as qualified providers eligible for reimbursement from Medicare and Medicaid. Currently nine states and the District of Columbia license anesthesiology assistants to provide anesthesia services under the supervision of a licensed anesthesiologist.

The Legislative Committee on New Licensing Boards recommends the licensing of anesthesiologist assistants.

Shawn Parker, counsel to the House Health Committee, substantially contributed to this summary.

H1492e2-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1484

Short Title:	Sales Tax Medicaid Swap.	(Public)
Sponsors:	Senator Rand.	
Referred to:	Finance.	

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO SHIFT THE ENTIRE NONFEDERAL SHARE OF MEDICAID TO THE STATE AND TO MAKE CORRESPONDING CHANGES TO STATE AND LOCAL REVENUE STREAMS.

The General Assembly of North Carolina enacts:

PART I. MEDICAID CHANGES

SECTION 1.1. Effective July 1, 2007, the nonfederal share of Medical Assistance Program costs, excluding administrative costs, shall be borne by the State.

SECTION 1.2. This part is effective when it becomes law.

PART II. SALES AND USE TAX CHANGES

SECTION 2.1. The lead-in language of G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent ~~(4%).~~(4%) plus any amount converted to a State tax under Articles 39 and 40 of this Chapter.

...."

SECTION 2.2. Article 39 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-475. Conversion to State tax; hold harmless.**

(a) Conversion. – Effective July 1, 2007, a portion of a tax levied under this Article is converted to a State sales and use tax. The portion of the tax that is converted to a State tax is equal to fifty percent (50%) of the tax imposed. On or after that date, a county has the authority to enact or repeal the local portion of the tax only.

(b) City Hold Harmless. – A county shall ensure that the municipalities within the county receive the same distribution that they received from a tax levied under this Article for the 2006-2007 fiscal year."

SECTION 2.3. Chapter 1096 of the 1967 Session Laws is amended by adding a new section to read:

"Section 10.4. Effective July 1, 2007, a portion of a tax levied under this act is converted to a State sales and use tax. The portion of the tax that is converted to a State tax is equal to fifty percent (50%) of the tax imposed. On or after that date, Mecklenburg County has the authority to enact or repeal the local portion of the tax only. Mecklenburg County shall ensure that the municipalities within the County receive the same distribution that they received from a tax levied under this act for the 2006-2007 fiscal year."

SECTION 2.4. G.S. 105-481 is repealed.

SECTION 2.5. G.S. 105-486 is repealed.

SECTION 2.6. G.S. 105-487 is repealed.

SECTION 2.7. Article 40 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-487.1. Conversion to State tax; hold harmless.**

(a) Conversion. – Effective July 1, 2007, a tax levied under this Article is converted to a State sales and use tax. On or after that date, a county has no authority to enact or repeal the tax.

(b) City Hold Harmless. – A county shall ensure that the municipalities within the county receive the same distribution that they received from a tax levied under this Article for the 2006-2007 fiscal year."

SECTION 2.8. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"**§ 105-535. Short title.**

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"**§ 105-537. Levy.**

The board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax under this Article. The board of county commissioners must specify the rate of tax in the resolution levying the tax. The rate of a tax levied under this Article may not exceed one percent (1%) and must be an increment of one-quarter percent (1/4%). A county may levy multiple taxes under this Article so long as the total rate of all taxes levied under this Article does not exceed one percent (1%).

"**§ 105-538. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, distribution, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. Notwithstanding the provisions of

G.S. 105-466, a tax may be imposed under this Article as early as July 1, 2007. The provisions of Article 39 regarding advisory referenda do not apply to a tax levied under this Article. The provisions of G.S. 105-472 requiring counties to share the proceeds of a tax with municipalities in the county do not apply to a tax levied under this Article."

SECTION 2.9. A tax levied under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 46 of Chapter 105 of the General Statutes.

SECTION 2.10. G.S. 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, ~~40,~~ 42, 43, ~~and~~ 4444, 45, and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, ~~105-486, and 105-501~~105-501, 105-510, 105-520, 105-531, and 105-538 do not apply to tax proceeds distributed under this section."

SECTION 2.11. Sections 2.1, 2.4, 2.5, and 2.6 of this part become effective July 1, 2007, and apply to sales made on or after that date. Section 2.10 of this part is effective for taxable years beginning on or after January 1, 2008. The remainder of this part is effective when it becomes law.

PART III. EFFECTIVE DATE

SECTION 3.1. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 242:
Reform Tax Appeals/Close REIT Loophole

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 6, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Trina Griffin and Cindy Avrette Committee Counsel
Version:	PCS to First Edition S242-CSSVx-30 [v. 21]		

SUMMARY: A Proposed Committee Substitute for Senate Bill 242 was presented in Senate Finance on May 16, 2007. After that meeting, various interested parties provided input, much of which has been incorporated into the bill. This summary highlights only the substantive changes made to the bill since it was last presented in committee on May 16, 2007.

This Proposed Committee Substitute also adds a provision that would limit a corporation's ability to use a real estate investment trust to avoid paying State taxes.

BILL ANALYSIS:

REFORM TAX APPEALS

The Proposed Committee Substitute makes the following substantive changes to the version previously distributed on May 16, 2007 (S242-CSSVf-30 [v.5]) regarding the review of disputed tax matters:

- ***Statement of basis.*** – The revised PCS would require a taxpayer to provide the basis for a request for a refund. However, the statement of the basis of the claim would not limit the taxpayer from changing the basis at a later time. Similarly, when the Department is required to provide a basis for a proposed assessment, a proposed denial of a refund, or a final determination, a statement has been added in the revised PCS that the statement of the basis does not prevent the Department from changing the basis at a later time. [Section 1, G.S. 105-241.7, -241.9, -241.14].

- ***Response to request for additional information.*** – Once a taxpayer has requested a refund, the Department may request additional information from the taxpayer. The revised PCS adds language stating that if a taxpayer does not respond to the request, the Department may deny the refund and send a notice of proposed denial. If the taxpayer does provide the information, then it alters the time period that the Department has to take action on the request, including a time period mutually agreed upon by the parties. [Section 1, G.S. 105-241.7(c)(4)].

- ***Limits on refunds and assessments after a federal determination.*** – The revised PCS creates a new G.S. 105-241.10 relating to a federal determination. A federal determination is a correction or a final determination by the federal government of the amount of a federal tax due. If a taxpayer files a return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment has expired, then a request for refund or proposed assessment is limited to the adjustment in State tax payable reflecting the federal determination. In other words, filing a return reflecting a federal determination does not open up a taxpayer's return to all items on that return, but only to those items that changed as a result of the federal determination. Similarly, a taxpayer cannot request a refund for items beyond the scope of the federal determination. [Section 1, G.S. 105-241.10]

- ***Definition of filing.*** – The revised PCS creates a definition for "filing" for purposes of a taxpayer filing a request for review of a proposed denial of a refund or a proposed assessment. Regardless of

the method of delivery, the request is considered filed when the Department receives it. [Section 1, G.S. 105-241.11].

- ***Result when no review requested.*** – The revised PCS clarifies that when a taxpayer fails to timely file for review of a proposed denial or a proposed assessment, then the proposed actions of the Department become final. Once a proposed denial of a refund becomes final, the taxpayer may not file another amended return or claim for refund to obtain the denied refund. Once a proposed assessment becomes final, a taxpayer may not seek further administrative or judicial review of the assessment. However, the Department is required to send the taxpayer a "notice of collection" indicating that the assessment is final and collectible and stating the collection options available to the Department. [Section 1, G.S. 105-241.12].

- ***Conference.*** – The revised PCS changes the notice requirement prior to conference from 10 days to 30 days before the conference, or within a shorter period if the Department and taxpayer agree to change the period. The revised PCS also removes the requirement that the Department and the taxpayer stipulate the facts and issues upon which the parties can agree. [Section 1, G.S. 105-241.13].

- ***Time limit for Departmental review process.*** – The Departmental review process, which may include an internal review, a conference with the taxpayer, and the issuance of a final determination, must conclude within nine months from the date the taxpayer filed the request for review. The revised PCS authorizes the parties to extend this time period by mutual agreement. [Section 1, G.S. 105-241.14].

- ***Payment of tax prior to filing civil action.*** – The revised PCS provides that one of the circumstances under which a tax becomes collectible is when the Office of Administrative Hearings dismisses a petition for lack of jurisdiction because the sole issue is the constitutionality of a statute on its face. Once OAH dismisses a petition for this reason, a taxpayer may bring a civil action in order to challenge the constitutionality of a tax statute. Therefore, a taxpayer must pay the tax in order to file a civil action challenging a tax, and the payment must be made immediately but the taxpayer still has two years to file a civil action. This provision is different from the prior version of the PCS where a taxpayer was required to pay the tax before filing a civil action, but the payment could be made at any time within two years of the OAH dismissal. [Section 1, G.S. 105-241.17 and G.S. 105-241.22(6)].

- ***Filing of bond in lieu of payment.*** – The revised PCS removes the option of filing a bond in lieu of paying the tax in order to seek judicial review or file a civil action regarding a disputed tax matter. [Section 1, G.S. 105-241.16 and 241.17].

- ***Class actions.*** – The revised PCS provides that a taxpayer must opt-in to a class action by filing a request for a refund with the Department and by filing a copy with the court. [Section 1, G.S. 105-241.18].

- ***Collection of tax.*** – G.S. 105-241.22 is a new section in the bill, but the provisions are substantially similar to the current law with the exception of the language related to contested cases at OAH. [Section 1, G.S. 105-241.22]. It sets out when a tax is collectible by the Department.

- ***Federal corrections regarding withholding taxes.*** – When the federal government corrects or otherwise determines the amount of an estate, gift, or income that is subject to tax, the taxpayer must file a State return that reflects that change. In 2006, the General Assembly reduced the period of time in which a taxpayer must report a federal change from two years to six months.[1] The change was based on a model uniform statute adopted by the Multistate Tax Commission for reporting federal changes. There are six statutes in Chapter 105 that address federal changes, but only five

[1] S.L. 2006-18.

were amended. The revised PCS corrects this oversight by changing from two years to six months the period that an employer has to file a return reflecting any federal changes with regard to withholding taxes. [Section 16].

- ***Certificate of tax liability.*** – A certificate of tax liability (CTL) is similar to a judgment for taxes owed. The Secretary transmits the certificate, which sets out the taxpayer's tax liability, to the clerk of superior court in any county where the taxpayer resides or has property. Once docketed, the certificate may be executed upon in the same manner as a judgment. The certificate is valid for 10 years. At the end of the 10-year period, any tax that has not been collected is abated. However, even though the 10-year period has expired, an execution sale instituted prior to the expiration may be completed, and the Secretary may accept voluntary payments.

  The revised PCS makes several changes to this statute. It clarifies that the legal rate of interest (8%) and not the rate in G.S. 105-241.21 applies to CTLs. This codifies current practice, which is not explicitly set out in statute. It authorizes the Department to file a CTL against a nonresident in Wake County to assist with collection in a foreign state. It provides that the tax on a CTL is a lien on real and personal property from the date it is recorded. Under current law, the tax in a CTL is a lien on real property from the date of docketing and a lien on personal property from the date of levy. Finally, it provides that the 10-year period in which a CTL is enforceable is tolled if the taxpayer waives the 10-year period to the end of the period extended by the waiver. [Section 30].

- ***Publication of final decision.*** – The revised PCS would require the Department of Revenue to publish final decisions in contested tax cases in redacted form to remove identifying taxpayer information. [Sections 34 and 35].

- ***Contested tax cases.*** – The revised PCS makes some special provisions for contested tax cases heard at the Office of Administrative Hearings. First, it gives the Chief ALJ general authority to simplify the procedures that apply to a contested tax case involving a taxpayer who is not represented by an attorney. It also requires an administrative law judge assigned to a contested tax case to make reasonable efforts to assist unrepresented taxpayers. Second, it requires that the venue for all contested tax cases is Wake County, unless the parties agree otherwise. Third, it provides that the record, the proceedings, and the decision are confidential until the final decision is issued in the case. Fourth, it allows a law enforcement report to be admitted into evidence without the testimony of personnel from the law enforcement agency. Finally, it creates an exemption in the confidentiality statute regarding taxpayer information for purposes of complying with a discovery request in a contested tax case. [Sections 37 and 41].

CLOSE REIT LOOPHOLE

Sections 44, 45, and 46 of the revised PCS would limit a corporation's ability to use captive real estate investment trusts (REITs) to avoid State taxes. A REIT is an organization that uses the pooled capital of many investors to purchase and mange real estate. Under current federal and state law, a REIT is taxable only on income that is not distributed to shareholders. The amount of income a REIT distributes[2] is not subject to tax because the REIT is allowed a deduction for the dividends it pays. The amounts received by the shareholders of the REIT are taxable.

A REIT that is owned or controlled by a single entity is commonly referred to as a captive REIT.[3] Two common types of captive REITs are rental REITs and mortgage REITs.

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[2] A REIT must distribute at least 90% of its taxable income to its shareholders.

[3] To qualify under the IRC as a REIT, beneficial ownership in the organization must be held by at least 100 people for at least 335 days during the 12-month year.

In a rental REIT, a corporation that owns real property and uses the property in its business, such as a retail store, forms a REIT and transfers ownership of the property to the REIT. The corporation that operates the stores and uses the property makes rental payments to the REIT, which reduces the State income tax liability of the corporation. The REIT is not taxed on the rental income, because it is allowed a dividend paid deduction under federal law.[4]

If the corporation receives dividends from the REIT directly, the corporation will pay tax on the dividends it receives. If, however, an affiliated corporation receives the dividends from the REIT and then transfers the dividends to the corporation, the corporation will not pay tax on the amount it receives because it will be able to deduct the amount received from the affiliated corporation under another deduction allowed under federal and state law -- the dividend received deduction. If the affiliated company that receives the dividends from the captive REIT is outside the State and has no nexus with the State, the out-of-state holding company will pay no State tax on the income.

As a result of this chain of transfers, the corporation is allowed a deduction for rental expenses, the REIT that receives the rental income is allowed a dividend paid deduction when it distributes the rental income, the out-of-state affiliate that receives the dividend from the REIT is not subject to tax in North Carolina (because of lack of nexus), and the corporation that receives the dividend from its affiliated out-of-state holding company is not subject to tax on the amount it receives because of the dividend received deduction. The corporation has in effect been allowed a deduction for its rental expenses and been able to receive the amount it deducted as tax-free income in the form of a dividend received.

In a mortgage REIT, a financial institution forms a REIT and transfers to the captive REIT mortgages or mortgage-backed securities originated by the financial institution. The interest income that would have accrued to the financial institution now accrues to the REIT. The REIT takes the dividend paid deduction when it distributes its income.

Sections 44 and 46 prevent this tax avoidance strategy by disallowing the dividend paid deduction when a REIT is a captive REIT. Under the proposed committee substitute, the captive REIT is not allowed to take the dividend paid deduction. Instead, the captive REIT will be subject to tax on those dividends. If the real property the captive REIT owns is in North Carolina, the REIT will have nexus with the State because it owns property located in North Carolina and the income will be apportioned accordingly.

Section 46 defines a 'captive REIT' as a REIT whose shares or certificates of beneficial interest are not regularly traded on an established securities market and are owned or controlled, at any time during the last half of the tax year, by a person that is subject to tax under this Part and is not:

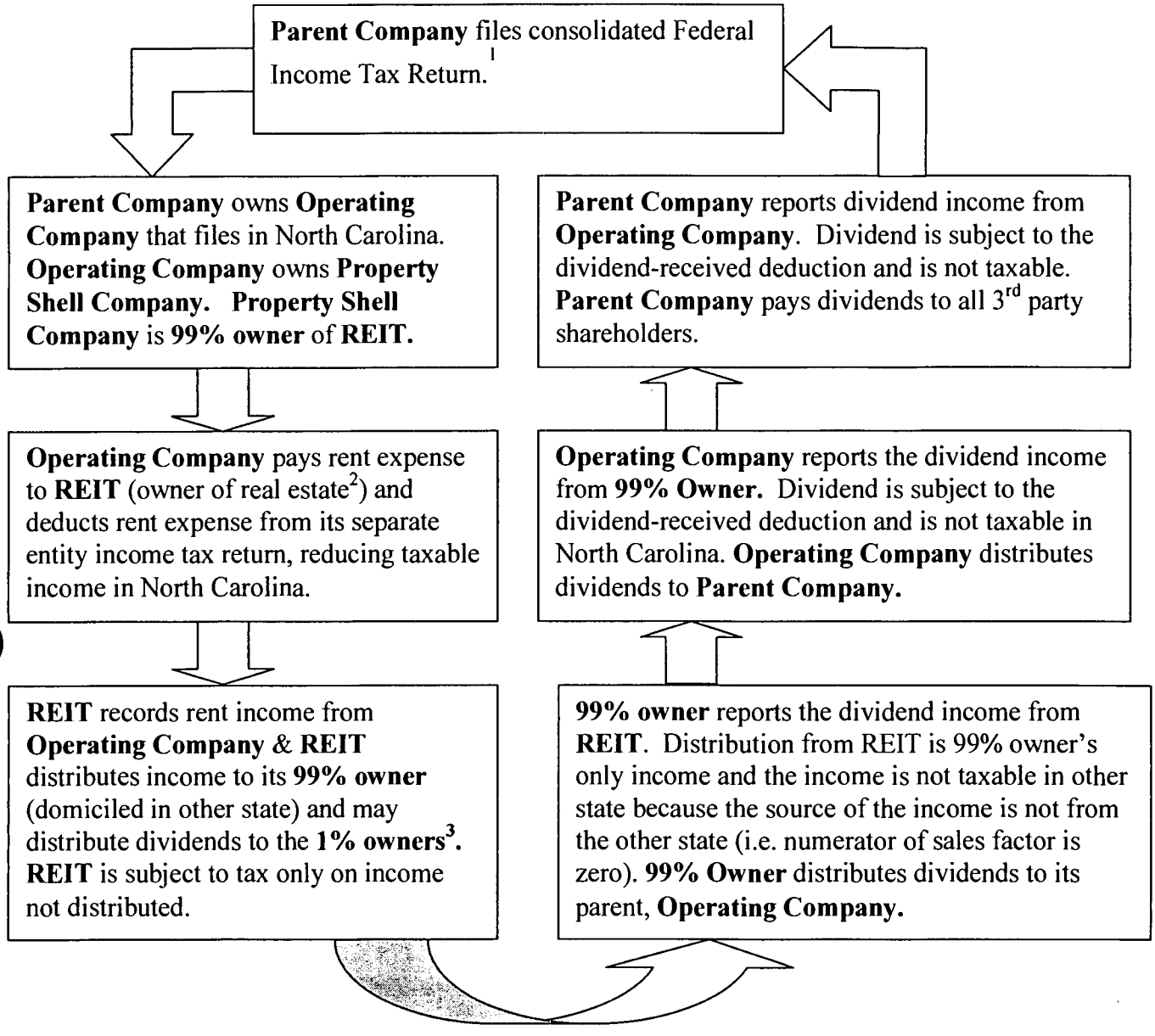
- A REIT; or
- A listed Australian property trust. A listed Australian property trust is Australia's version of a U.S. publicly traded REIT.

Section 44 provides a dividend received deduction for a dividend received from a captive REIT so that the dividend is not taxed twice.

Several states have enacted captive REIT legislation similar to these proposed provisions. The states are: Maryland (HB 1257 of the 2007 Session), Kentucky, Indiana, Pennsylvania, Louisiana, and Mississippi.

[4] The federal dividends received deduction is meant to reduce the negative effects of the double tax on C corporation profits distributed as dividends to corporate shareholders. NC adopted the federal dividends received deduction in 2001.

REIT Income Shifting Structure
Cash Flow



[1]Note: REIT is not included in the consolidated US Federal income tax return for Parent Company and Subsidiaries pursuant to the Internal Revenue Code. One requirement for qualification as a REIT is that the REIT must distribute at least 90% of its income to its shareholders.

[2]REIT assets consist of real estate or real estate mortgages.

[3]A REIT is required to have 100 beneficial owners.

Summary result: Operating income subject to tax in North Carolina is diluted by a "manufactured" rental expense. The entity receiving the rental income is not taxable in North Carolina.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 242 (Unknown Edition)

SHORT TITLE: Uniform Tax Refund Procedure.

SPONSOR(S): Senator Clodfelter

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:		****See Assumptions and Methodology****			
EXPENDITURES:					
Department of Revenue		**No impact anticipated**			
Office of Administrative Hearings	**$72,942**	**$145,884**	**$145,884**	**$145,884**	**$145,884**
Department of Justice	-	**$526,642**	**$526,642**	**$526,642**	**$526,642**
Judicial	-	**$74,211**	**$69,912**	**$69,912**	**$69,912**
POSITIONS (cumulative):	**2**	**13**	**13**	**13**	**13**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Justice, Office of Administrative Hearings, Administrative Office of the Courts

EFFECTIVE DATE: January 1, 2008

BILL SUMMARY:

The Proposed Committee Substitute for Senate Bill 242 substantially revises the process for the review of disputed tax matters to provide taxpayers with the opportunity for an independent hearing outside the Department prior to paying the tax. These revisions include administrative review by the Office of Administrative Hearings, elimination of the Tax Review Board, and expansion of the Business Court to include tax cases. The bill would also authorize opt-in class actions for taxpayers seeking a refund of tax based on the constitutionality of a tax statute.

This bill addresses two distinct yet related issues. First, the bill substantially revises the overall procedure for disputing tax matters. Second, the bill provides statutory guidance with regard to class actions involving a constitutional challenge to a tax statute. The second issue is a subset of the first, but it specifically relates to recent judicial interpretations of the 'payment under protest' rule.

Sections 44, 45, and 46 of the revised PCS would limit a corporation's ability to use captive real estate investment trusts (REITs) to avoid State taxes. A REIT is an organization that uses the pooled capital of many investors to purchase and mange real estate. Under current federal and state law, a REIT is taxable only on income that is not distributed to shareholders. The amount of income a REIT distributes is not subject to tax because the REIT is allowed a deduction for the dividends it pays. The amounts received by the shareholders of the REIT are taxable.

ASSUMPTIONS AND METHODOLOGY:

Department of Revenue

This Proposed Committee Substitute changes the manner in which tax cases are heard and appealed. Under this bill, a uniform procedure would exist within the Department of Revenue for handling contested assessments **which would require no additional resources**, and the process after the Secretary's final determination would change, as would the destination for final appeals.

Office of Administrative Hearings

Currently, appeals of the Secretary's final determination in a tax case are heard by the Assistant Secretary for Administrative Services, an employee of the Department of Revenue hired by the Secretary acting as a Hearings Officer. This PCS would transfer that responsibility to the Office of Administrative Hearings. OAH has ten Administrative Law Judges who conduct hearings in a broad array of administrative law matters, but none in taxation work. In order to meet the mandates of this bill, OAH would need additional staffing with specific training in taxation matters. Based on current caseloads at OAH, one additional Administrative Law Judge would be required, along with a clerk, to handle the increase in case filings. The salary of an ALJ is $91,238, and the salary of a clerk would be $48,546, in addition to $6,100 in non-recurring start-up expenses, at a total cost of $145,884. This estimate does not include potential changes to the judicial salaries proposed in this year's budget bill.

The Senate version of House Bill 1473, the 2007 budget bill, includes a Type I transfer of both positions from Revenue to OAH. This provision is in controversy in the conference committee because the House budget moves the two Revenue positions to the Department of Administration. Both houses remove the two appeals positions from Revenue. The Type I transfer in the Senate budget would transfer the positions, and the current occupants of those positions, at their current levels. The current operation within DOR is handled by one Hearings Officer with one associated support position, at a combined salary of $167,283. These differences will have to be resolved depending upon which bill passes first.

Administrative Office of the Courts

S 242 makes a change to the process of appeal tax decisions beyond the administrative hearings level. Under current law, these cases can be appealed to Superior Court, but under this bill, these cases would be automatically designated as complex business cases and referred to the Business

Court in Wake County. The Business Court is a specialized court process for complex cases designated by the Chief Justice. The judges who hear these complex cases are Special Superior Court Judges appointed by the Governor; they are not resident judges within any district.

Since this bill would establish a new process for handling appeals, AOC does not project how many cases may be appealed from the Office of Administrative Hearings to the Business Court. If the increased formalization of the process through the administrative hearings statutes reduces the number of appeals to court, it is likely that the current Business Court operation could handle all appeals with no expansion. If, however, this bill produces the worst case of increase in Business Court caseload, the AOC projects the need for an additional Business Court Judge and complement of staff, comprising a deputy clerk of court, a law clerk, and a judicial assistant. The cost of an additional Business Court operation is $313,478; no impact would be expected in the first year, due to the effective date of the bill.

According to the senior Business Court Judge, if the caseload is around ten to twelve complex cases per year, and under 100 routine tax appeals, the court could handle the change with the current number of judges, but would need an additional staff attorney position under any circumstance since their current law clerks turn over each year, and a tax caseload would require specialized knowledge and experience. A staff attorney's position cost would be $74,211 in the first year.

Department of Justice

The Attorney General's Office provides legal counsel to the Department of Revenue in tax appeals upon request. In recent years, the DOJ has become involved in only two cases per year. Moving the hearings process to OAH will, according to DOJ's understanding, require them to represent the Department in all cases currently heard by the Revenue Hearings Officer. That number of cases varies from year to year: in 2005, 255; in 2006, 160. Providing legal representation in this number of cases would be a significant increase in workload for the DOJ Revenue Section. The most conservative estimate of attorney needs would be five new attorney positions, based on current workload in the section. DOJ requests that new positions be funded at the Attorney III level. The Revenue section is currently staffed mostly with Attorney IIIs; the position cost is $91,794. To support these positions, DOJ also would require an Office Assistant ($29,935) and a Paralegal ($37,737). Because the bill's effective date is January 1, 2008, and it would take several months before any cases reached the point of involving the Department of Justice, no impact is anticipated in the first year.

Close REIT Loophole

Senate Bill 242 includes a provision that disallows a deduction of the dividends paid by captive Real Estate Income Trusts (REIT) from North Carolina taxable income. Captive REITs are defined as entities whose shares or certificates of beneficial interest are not regularly traded on an established securities market and are owned or controlled by a person that is not one of the following entities:

a. A REIT whose shares or certificates of beneficial interest are regularly traded on an established securities market.
b. A listed Australian property trust.

Based on the most recent data collected by the Department of Revenue on C-corporation taxpayers, the total captive REIT deductions taken against North Carolina taxable income was an estimated $9 million. It is the department's position that nearly half of those dollars will be included in taxable income going forward because of the Settlement Initiative. The balance, according to DOR is currently under litigation. Moreover, under current law through forced combined reporting, DOR states it can retain captive REIT dollars when determining a C-corporation's North Carolina taxable income (pending litigation may or may no support the department's position). As such, the captive REIT provisions in S242 will not generate new General Fund revenue.

SOURCES OF DATA: Department of Revenue, Department of Justice, Administrative Office of the Courts.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Dou glas Holbrook and Barry Boardman

DR Holbrook

Barry Boardman

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

Lynn Muchmore

DATE: June 20, 2007

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 242

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S242-ASV-11 [v.5]

Date June 20 ,2007

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Senator Clodfelter

moves to amend the bill on page 8, lines 19-34, by rewriting the lines to read:
"**§ 105-241.18.** Reserved.";

on page 8, line 36, by deleting "105-241.18" and substituting "105-241.17";

and on page 11, by deleting the period at the end of line 28 and by inserting the following between lines 28-29:
G.S. 150B-28(b).

and on page 37, lines 6-7, by inserting the following new section between the lines:
"**SECTION 47.** The Revenue Laws Study Committee is directed to study whether any legislative changes should be made regarding the use and scope of class actions to challenge the constitutionality of a tax in light of the decision reached by the North Carolina Supreme Court in Dunn v. State of North Carolina. The Committee must report its findings, along with any legislative recommendations, to the 2007 General Assembly, 2008 Regular Session.";

and on page 37, line 9, by inserting the following sentence after the first period:
"Sections 47 and 48 are effective when they become law.";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 242

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S242-ASV-11 [v.5]

and renumbering the remaining section accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 384
PROPOSED COMMITTEE SUBSTITUTE S384-CSSVx-35 [v.1]

6/12/2007 4:22:22 PM

Short Title: Granville County Occupancy Tax Modifications. (Local)

Sponsors:

Referred to:

February 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE GRANVILLE COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO EXTEND THE SUNSET ON THE CURRENT DISTRIBUTION FORMULA.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, is amended by adding a new subsection to read:

"(a1) Authorization of additional tax. – In addition to the tax authorized by subsection (a) of this section, the Granville County Board of Commissioners may levy an additional room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Granville County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

SECTION 2. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, reads as rewritten:

"(e) Distribution and Use of Tax Revenue.

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection ~~to promote travel and tourism in~~for financing capital expenditures for tourism-related projects in Granville County and shall use the remainder ~~for tourism-related expenditures.~~to promote travel and tourism.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

SECTION 3. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, and as amended by Section 2 of this act, reads as rewritten:

"(e) Distribution and Use of Tax Revenue.

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection ~~for financing capital expenditures for tourism-related projects~~to promote travel and tourism in Granville County and shall use the remainder ~~to promote travel and tourism.~~for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

SECTION 4. Sections 1 and 4 are effective when they become law, and a tax levied under Section 1 may not become effective before October 1, 2007. Section 2 of this act becomes effective October 1, 2007, and applies to taxes paid on or after that date. The remainder of this act becomes effective October 1, 2014, and applies to taxes paid on or after that date.

SENATE BILL 384:
Granville County Occupancy Tax Modifications

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 20, 2007
Introduced by:	Sen. Berger of Franklin	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 384 authorizes Granville County to levy an additional 1% room occupancy tax and extends the sunset on the current distribution formula, which is a reversal of the standard formula under the occupancy tax guidelines. The PCS makes a technical correction in the effective date.

CURRENT LAW: In 1993, the General Assembly authorized Granville County to levy a 5% room occupancy tax, at least two-thirds of which was required to be used for tourism promotion and the remainder was to be used for tourism-related expenditures. The original legislation did not require the creation of a tourism development authority.

In 2000, the local act was modified. The modification changed the rate to 3%, reversed the distribution formula for a period of seven years, and required the creation of a tourism development authority. Under the current formula, the proceeds are required to be used as follows: at least two-thirds must be used for tourism-related expenditures, which may include (1) developing facilities for fishing tournaments, skiing tournaments, and boating events; (2) constructing facilities for festivals; (3) constructing tournament-grade multipurpose athletic facilities; and (4) financing other similar capital expenditures, and the remainder must be used for tourism promotion. As of October 1, 2007, the occupancy tax rate may be increased to 5% and the distribution of proceeds will revert back to the original formula.

BILL ANALYSIS: Senate Bill 384 does two things:

- It authorizes Granville County to levy an additional 1% occupancy tax, beginning October 1, 2007, for a total county occupancy tax rate of 6%.
- It extends the sunset on the current distribution formula for an additional seven years. The current distribution formula is a reversal of the standard formula under the occupancy tax guidelines adopted by the House Finance Committee. Specifically, the current formula requires that at least two-thirds of the proceeds be used to finance capital expenditures for tourism-related projects and the remainder be used to promote travel and tourism. Beginning in 2014, the proceeds would be distributed in accordance with the occupancy tax guidelines adopted by the House Finance Committee with at least two-thirds of the proceeds being used for tourism promotion and the remainder for tourism-related expenditures.

EFFECTIVE DATE: The bill would become effective when it becomes law, but the additional 1% occupancy tax may not be levied until October 1, 2007. The change to the distribution formula, which conforms to the guidelines, would not become effective until October 1, 2014.

S0384e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 384

Short Title:	Granville County Occupancy Tax Modifications.	(Local)
Sponsors:	Senator Berger of Franklin.	
Referred to:	Finance.	

February 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE GRANVILLE COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, is amended by adding a new subsection to read:

"(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Granville County Board of Commissioners may levy an additional room occupancy tax of up to one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Granville County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

SECTION 2. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, reads as rewritten:

"(e) Distribution and Use of Tax Revenue.

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection ~~to promote travel and tourism in~~for financing capital expenditures for tourism-related projects in Granville County and shall use the remainder ~~for tourism-related expenditures.~~to promote travel and tourism.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract

tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

SECTION 3. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, and as amended by Section 2 of this act, reads as rewritten:

"(e) Distribution and Use of Tax Revenue.

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection ~~for financing capital expenditures for tourism-related projects~~to promote travel and tourism in Granville County and shall use the remainder ~~to promote travel and tourism.~~for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

SECTION 4. Sections 1 and 4 are effective when they become law, and a tax levied under Section 1 may not become effective before October 1, 2004. Section 2 of this act becomes effective October 1, 2007, and applies to taxes paid on or after that date. The remainder of this act becomes effective October 1, 2014, and applies to taxes paid on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 384 (First Edition)

SHORT TITLE: Granville County Occupancy Tax Modifications.

SPONSOR(S): Senator Berger of Franklin

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
General Fund	**No Impact to General Fund**				
Granville County	**$33,569**	**$34,274**	**$34,994**	**$35,764**	**$36,586**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Granville County

EFFECTIVE DATE: When bill becomes law

BILL SUMMARY:

Amends SL 1993-454, as amended, to authorize the Granville County Board of Commissioners to levy an additional room occupancy tax of up to 1%. Provides that the tax must be levied, administered, collected, and repealed in the same way as the existing tax. Effective October 1, 2007, requires the Granville County Tourism Development Authority (Authority) to use at least two-thirds of the total occupancy tax proceeds for capital expenditures for tourism-related projects and the remainder to promote travel and tourism. Beginning October 1, 2014, the Authority must use at least two-thirds of the proceeds to promote travel and tourism in Granville County and the remainder for tourism-related expenditures.

ASSUMPTIONS AND METHODOLOGY:
Actual occupancy tax collections for Granville County in fiscal year 2004-05 were $96,797. This was used as a base which was then grown out using Moody's economy.com consumer price index to give the following revenue stream.

Fiscal Year	Current 3% Tax	Additional 1%
2007-08	$ 100,708	$33,569
2008-09	$ 102,822	$34,274
2009-10	$ 104,982	$34,994
2010-11	$ 107,291	$35,764
2011-12	$ 109,759	$36,586

SOURCES OF DATA: NC Dept. of State Treasurer, Moody's Economy.com

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Joseph Futima & Rodney Bizzell

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1362

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/15/07

PROPOSED COMMITTEE SUBSTITUTE S1362-CSMCxf-32 [v.2]

6/20/2007 8:50:46 AM

Short Title: Amend Dry-Cleaning Solvent Cleanup Act. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT TO CLARIFY THE DEFINITION OF DRY-CLEANING SOLVENT, TO AUTHORIZE THE USE OF FUNDS FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR THE INVESTIGATION OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES REASONABLY BELIEVED TO BE CONTAMINATED BY DRY-CLEANING SOLVENT, TO PROVIDE THAT ALL SITE WORK WILL BE PERFORMED BY A PRIVATE CONTRACTOR RETAINED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION, TO MODIFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO POTENTIALLY RESPONSIBLE PARTIES, TO AUTHORIZE TEMPORARY RULE-MAKING, AND TO INCREASE THE ANNUAL SPENDING CAP FOR THE CLEANUP OF SITES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.104B(b) reads as rewritten:

"(b) Unless a different meaning is required by the context, the following definitions apply in this Part. The definitions set out in this subsection apply only to the implementation of this Part and do not define or limit the scope of any other remedial program:

...

(9) "Dry-cleaning solvent" means ~~Perchloroethylene F-1,1,3 or 1,1,1 tricholorethane, a petroleum-based solvent, another comparable product used as a cleaning agent~~any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these ~~hazardous substances.~~solvents.

(10) "Dry-cleaning solvent assessment agreement" or "assessment agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to assess~~an assessment of whether a release of dry-cleaning solvents at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility may be eligible for remediation under this Part and whether any other contaminants that are identified in the agreement may require remediation under other remedial programs operated or administered by the Department.

...

(12) "Dry-cleaning solvent remediation agreement" or "remediation agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to clean up~~the cleanup of dry-cleaning solvent contamination resulting from a release at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility under this Part and any other contaminants that are identified in the agreement under other remedial programs operated or administered by the Department.

(13) "Facility" means a dry-cleaning facility or a wholesale distribution facility.

(14) "Fund" means the Dry-Cleaning Solvent Cleanup Fund.

(14a) "Halogenated hydrocarbon" means any hydrocarbon where at least one hydrogen atom is substituted by a halogen atom.

(15) "Hazardous waste" ~~shall have~~ has the same meaning ~~ascribed to it~~as in G.S. 130A-290.

(15a) "Hydrocarbon" means any linear, branched, saturated, or unsaturated compound whose molecules contain only carbon and hydrogen atoms.

..."

SECTION 2. G.S. 143-215.104C reads as rewritten:

"**§ 143-215.104C. Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. – The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. – The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the Fund under G.S. 105-164.44E.

(5) Application fees pursuant to G.S. 215.104F(a1).

(c) Disbursements. – A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay ~~or reimburse~~ claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay ~~or reimburse~~ any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay ~~or reimburse~~ costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities.

(d) Up to one percent (1%) of the amount of the Fund balance may be used by the Department in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department reasonably believes to be contaminated by dry-cleaning solvent. If the contamination is determined to originate from a dry-cleaning facility, a potentially responsible party may petition for certification of the facility or abandoned facility site. Acceptance of a petition shall be conditioned upon the written acceptance by the petitioner of responsibility for the costs of investigation incurred by the Department pursuant to this subsection. Costs of investigation that are recovered pursuant to this subsection shall not exceed, and shall be credited toward, the financial responsibility of the petitioner pursuant to G.S. 143-215.104F(f). If a potentially responsible party does not petition for certification of the facility or abandoned facility site, the Commission may request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this subsection."

SECTION 3. G.S. 143-215.104D reads as rewritten:

"**§ 143-215.104D. Powers of the Commission.**

(a) Administrative Functions. – The Commission may delegate any or all of the powers enumerated in this subsection to the Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation ~~activities that are reimbursable from the Fund.~~activities.

~~(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.~~

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, and certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund ~~to reimburse~~for the costs of assessment and remediation.

(b) Rule making. – The Commission shall adopt rules as are necessary to implement the provisions of this Part. Rules adopted by the Commission shall be consistent with and shall not duplicate, but may incorporate by reference, the rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes. The Commission shall not delegate the rule-making powers provided in this subsection.

(1) The Commission may adopt rules governing:

~~a. Fees for response costs reimbursable under this Part.~~

b. The certification and decertification of facilities or abandoned sites.

c. The prioritization of facilities or abandoned sites and scheduling of funding for assessment and remediation activities. These rules shall provide for:

1. Consideration of the degree of harm or risk to public health and the environment.

2. Consideration of the order in which certification is issued for the facility or abandoned site.

3. Consideration of the relative cost of assessment and remediation activities.

4. Use of the Fund so as to maximize the reduction of harm or risk posed by certified facilities, certified abandoned sites, uncertified facilities and uncertified sites.

d. The disbursement of revenue from the Fund for payment ~~or reimbursement~~ of approved assessment or remediation costs.

e. The determination whether assessment or remediation is necessary at a contamination site.

f. The determination that all necessary assessment and remediation has been completed at a contamination site.

g. The terms and conditions of dry-cleaning solvent assessment agreements and remediation agreements.

h. The determination whether additional assessment or remediation is necessary at a contamination site previously closed under this Part.

(2) The Commission may adopt rules establishing minimum management practices for handling of dry-cleaning solvent at dry-cleaning facilities and wholesale distribution facilities. The rules may:

a. Require that all perchloroethylene dry-cleaning machines installed at a dry-cleaning facility after the effective date of the rule or temporary rule meet air emission standards that equal or exceed the standards that apply to comparable dry-to-dry perchloroethylene dry-cleaning machines with integral refrigerated condensation.

b. Prohibit the discharge of dry-cleaning solvents or water that contains dry-cleaning solvents into sanitary sewers, septic systems, storm sewers, or waters of the State.

c. Require spill containment structures around dry-cleaning machines, filters, stills, vapor adsorbers, solvent storage areas, and waste solvent storage areas.

d. Require floor sealants for cleaning room areas if the Commission finds the sealants to be effective.

e. Require, by 1 January 2002, the use of improved solvent transfer systems to prevent releases at the time of delivery of solvents to a dry-cleaning facility.

f. Require any other solvent-handling practices the Commission may find necessary and appropriate to minimize the risk of releases at dry-cleaning facilities or wholesale distribution facilities.

(3) The Commission shall adopt rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination resulting from releases at facilities or abandoned sites certified pursuant to G.S. 143-215.104G. The rules shall address, at a minimum:

a. Criteria and methods for determining remediation requirements, including the level of remediation necessary to assure adequate protection of public health and the environment.

b. The circumstances under which information specific to the dry-cleaning solvent contamination site should be considered and required.

c. The circumstances under which restrictions on the future use of any remediated dry-cleaning solvent contamination site should be considered and required as a means of achieving and maintaining an adequate level of protection for public health and the environment.

d. Strategies for the assessment and remediation of dry-cleaning solvent contamination, including presumptive remedial responses sufficient to provide an adequate level of protection as described under sub-subdivision a. of this subdivision.

(c) All rules adopted by the Commission shall be applicable to all dry-cleaning facilities, wholesale distribution facilities, and abandoned dry-cleaning facilities in the State and shall, to the maximum extent practicable, be cost-effective and technically feasible while protecting public health and the environment from the release of dry-cleaning solvents.

(d) Unless otherwise provided in this Part, the Commission may delegate any of its rights, duties, and responsibilities under this Part to the Department."

SECTION 4. G.S. 143-215.104F reads as rewritten:

"**§ 143-215.104F. Requirements for certification, assessment agreements, and remediation agreements.**

(a) General Requirements. – Any person petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(a1) Application Fees. – Each person petitioning or co-petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G shall pay an application fee of one thousand dollars ($1,000) to the Commission.

(b) Requirements for Potentially Responsible Persons Generally. – Every petitioner shall provide the Commission with:

(1) Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner, has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. – In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide

the Commission a written agreement authorizing the ~~Commission~~ Commission, ~~or~~ its ~~agent~~ agent, and its private contractor to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement. (c1) Costs incurred by the petitioner for activities to obtain certification of a facility or abandoned site shall not be reimbursable from the Fund.

(d) The Commission ~~shall~~ may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

~~(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:~~

~~(1)~~(4) The petitioner fails to provide the information required by subsection (b) of this section.

~~(2)~~(5) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. The financial responsibility required shall be as follows:

(1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first five thousand dollars ($5,000) of the costs of assessment or remediation and~~ one percent (1%) of the costs of assessment or remediation ~~in excess of two hundred thousand dollars ($200,000) but~~ not exceeding one million dollars ($1,000,000).

(2) For abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first ten thousand dollars ($10,000) of the costs of assessment or remediation, two percent (2%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and~~ one and one-half percent ~~(1%)~~ (1.5%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

(3) For wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first fifteen thousand dollars ($15,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%)~~ two percent (2%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

~~(4) For wholesale distribution facilities and abandoned dry-cleaning facility sites, the first twenty-five thousands dollars ($25,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).~~

(g) Repealed by Session Laws 2000, c. 19, s. 3."

SECTION 5. G.S. 143-215.104H reads as rewritten:

"§ 143-215.104H. Dry-Cleaning Solvent Assessment Agreements.

(a) Assessment Agreements. – One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. The Commission may require the petitioners to provide the Commission with any information necessary to demonstrate:

(1) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission.

~~(2) The projected schedule for funding of assessment activities is adequate.~~

~~(3) The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.~~

~~(4) The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.~~

~~(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or abandoned site.~~

(5) The petitioner has and will continue to have available the financial resources necessary to pay ~~the costs of assessment activities and~~ the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

~~(8) The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.~~

(9) The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

(1) Repealed by Session Laws 2000, c. 19, s. 9.

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount for which the petitioner is responsible under G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and that are otherwise consistent with the requirements of this Part.

~~(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.~~

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the petitioner's share of the response costs required by G.S. 143-215.104F.

~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.~~

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay ~~or reimburse~~ any ~~response~~ costs otherwise payable ~~or reimbursable~~ under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

SECTION 6. G.S. 143-215.104I reads as rewritten:

"§ 143-215.104I. Dry-Cleaning solvent remediation agreements.

(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate:

(1) Repealed by Session Laws 2000, c. 19, s. 10.
(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.
(3) There is a public benefit commensurate with the liability protection provided under this Part.
~~(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.~~
(5) The petitioner has complied with or will comply with all applicable procedural requirements.
(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.
(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.
~~(8) The projected schedule for funding of remediation activities.~~
(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.
~~(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.~~
(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement.

(b) In negotiating a remediation agreement, parties may rely on land-use restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M. A remediation agreement may provide for remediation in accordance with standards that are based on those land-use restrictions.

(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

(1) Any remediation, including remediation of contaminants other than dry-cleaning solvents, to be conducted on the property, including:

a. A description of specific areas where remediation is to be conducted.
b. The remediation method or methods to be employed.
~~c. The resources that the petitioner will make available and the degree to which the petitioner intends to rely on the Fund for resources.~~
d. A schedule of remediation activities.
e. Applicable remediation standards. Applicable remediation standards for dry-cleaning solvent contamination shall not exceed the requirements adopted by the Commission pursuant to G.S. 143-104D(b)(3).
f. A schedule and the method or methods for evaluating the remediation.

(2) Any land-use restrictions that will apply to the contamination site or other property.
(3) The desired results of any remediation or land-use restrictions with respect to the contamination site.
(4) The guidelines, including parameters, principles, and policies within which the desired results are to be accomplished.
(5) The consequences of achieving or not achieving the desired results.
(6) The priority ranking of the facility or abandoned site.
~~(7) The person who will conduct the remediation if that person is not the potentially responsible party entering the remediation agreement.~~

(d) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with any petitioner ~~if:~~if

~~(1) The petitioner will not accept financial responsibility for the share of the response costs established in G.S. 143-215.104F. This requirement shall not apply to a petitioner who (i) is the owner of property upon which the dry-cleaning solvent contamination is located, and (ii) is not a current or former owner or operator of a facility believed to be responsible for the contamination.~~
~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking remediation activities required by the Commission.~~
~~(3) The~~ the petitioner fails to provide any information that is necessary to demonstrate the facts required to be shown by subsection (a) of this section.

(e) In addition to the ~~bases~~ basis set forth in subsection (d) of this section, the Commission may refuse to enter into a dry-cleaning solvent remediation agreement with ~~the~~ an owner of the property on which a contamination site is located if the owner refuses to accept limitations on the future use of the property and to give notice of these limitations pursuant to G.S. 143-215.104M.

(f) The refusal of the Commission to enter into a dry-cleaning remediation agreement with any petitioner shall not affect the rights of any other petitioner, other

than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The refusal of the Commission to enter into a remediation agreement may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site.

(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. ~~A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part.~~ A remediation agreement ~~may~~ shall provide that the ~~Commission~~ Commission's private contractor conduct assessment and remediation activities at the facility or abandoned site.

(h) Any failure of a petitioner or the petitioner's agents or employees to comply with the dry-cleaning solvent remediation agreement constitutes a violation of this Part by the petitioner."

SECTION 7. G.S. 143-215.104J(a) reads as rewritten:

"(a) The Commission may decertify a facility or abandoned site or renegotiate or terminate an assessment agreement or remediation agreement with respect to any party thereto in the following circumstances:

(1) The owner or operator of the facility, at any time subsequent to the certification of the facility, violates any of the minimum management requirements adopted by the Commission pursuant to G.S. 143-215.104D(b)(2).

(2) In the case of dry-cleaning contamination on property that is owned by a petitioner, the petitioner fails to file a Notice of Dry-Cleaning Solvent Remediation, if required, as provided in G.S. 143-215.104M.

(3) The potentially responsible persons who are parties to a dry-cleaning solvent assessment agreement are unable to reach an agreement with the Commission to enter into a dry-cleaning solvent remediation agreement within the time specified in the assessment agreement.

(4) The payment of taxes assessed to the facility under Article 5D of Chapter 105 of the General Statutes is delinquent.

(5) Repealed by Session Laws 2000, c. 19, s. 3.

(6) The owner or operator fails to comply with all applicable requirements of this Part ~~to complete any assessment or remediation activities required by~~or fails to comply with all applicable requirements of an assessment agreement or remediation agreement.

(7) The owner or operator of a facility for which an assessment or remediation activity is scheduled or in progress transfers the ownership or operation of the facility or abandoned site to another person without the prior consent of the Commission and the execution of a substitute assessment agreement or remediation agreement.

(8) The standards applied to the dry-cleaning solvent contamination remediation or containment under the provisions of this Part and the dry-cleaning solvent remediation agreement will, or are likely to, cause the Department to fail to comply with the terms and conditions under which it operates and administers a remediation program by delegation or similar authorization from the United States or one of its departments or agencies, including the Environmental Protection Agency.

(9) A petitioner fails to pay the Commission any amounts for which a petitioner is responsible pursuant to G.S. 143-215.104F."

SECTION 8. G.S. 143-215.104K(a) reads as rewritten:

"(a) A potentially responsible party who enters into an assessment agreement or remediation agreement with the Commission and who is complying with the agreement shall not be held liable for assessment or remediation of areas of contamination identified in the agreement except as specified in the assessment agreement or remediation agreement, so long as ~~the~~ any activities conducted at the contamination site by or under the control or direction of the petitioner do not increase the risk of harm to public health or the environment and the petitioner is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section. The liability protection provided under this Part applies to all of the following persons to the same extent as the petitioner, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties and the person is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section:

~~(1) Any person under the direction or control of the petitioner who directs or contracts for assessment, remediation, or redevelopment of the contamination site.~~

(2) Any future owner of the contamination site.

(3) A person who ~~develops or~~ occupies the contamination site.

(4) A successor or assign of any person to whom the liability protection provided under this Part applies.

(5) Any lender or fiduciary that provides financing ~~for assessment, remediation, or redevelopment of the contamination site.~~to the petitioner to pay the petitioner's financial obligations under G.S. 143-215.104F."

SECTION 9. G.S. 143-215.104L reads as rewritten:

"§ 143-215.104L. Public notice and community involvement.

(a) If a petitioner desires to enter into a dry-cleaning solvent remediation agreement based on remediation standards that rely on the creation of land-use restrictions, the Commission or the Commission's private contractor on behalf of the petitioner shall notify the public and the community in which the facility or abandoned site is located of the planned remediation and redevelopment activities. ~~The petitioner~~On behalf of the petitioner, the Commission or the Commission's private contractor shall ~~submit~~ prepare a Notice of Intent to Remediate a Dry-Cleaning Solvent

Facility or Abandoned Site and a summary of the Notice of ~~Intent to the Commission.~~Intent. The Notice of Intent shall provide, to the extent known, a legal description of the location of the contamination site, a map showing the location of the contamination site, a description of the contaminants involved and their concentrations in the media of the contamination site, a description of the future use of the contamination site, any proposed investigation and remediation, and a proposed Notice of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed dry-cleaning solvent remediation agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Commission, ~~the petitioner~~the Commission or the Commission's private contractor shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the contamination site. The ~~petitioner~~ Commission or Commission's private contractor shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the contamination is located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register. The ~~petitioner~~ Commission or the Commission's private contractor shall also conspicuously post a copy of the summary of the Notice of Intent at the contamination site.

(b) Publication of the approved summary of the Notice of Intent in the North Carolina Register and publication in a newspaper of general circulation shall begin a public comment period of at least 60 days from the later date of publication. During the public comment period, members of the public, residents of the community in which the contamination site is located, and local governments having jurisdiction over the contamination site may submit comment on the proposed dry- cleaning solvent remediation agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed dry- cleaning solvent remediation agreement shall submit a written request for a public meeting to the Commission within 30 days after the public comment period begins. The Commission shall consider all requests for a public meeting and shall hold a public meeting if the Commission determines that there is significant public interest in the proposed remediation agreement. If the Commission decides to hold a public meeting, the Commission shall, at least 30 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to any other person who had previously requested notice. The Commission shall also ~~direct the petitioner to~~ publish, at least 30 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in the county where the contamination site is located. In any county in which there is more than one newspaper having general circulation, the Commission shall ~~direct the petitioner to~~ publish a copy of the notice in as many newspapers having general circulation in the county as the Commission in its discretion determines to be necessary to assure that the

notice is generally available throughout the county. The Commission shall prescribe the form and content of the notice to be published. The Commission shall prescribe the procedures to be followed in the public meeting. The Commission shall take detailed minutes of the meeting. The minutes shall include any written dry-cleaning solvent remediation agreement. The Commission shall take into account the comment received during the comment period and at the public meeting if the Commission holds a public meeting. The Commission shall incorporate into the remediation agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Commission shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis."

SECTION 10. G.S. 143-215.104M(a) reads as rewritten:

"(a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health or the environment posed by a dry-cleaning solvent contamination site, the owner of property upon which dry-cleaning solvent contamination has been discovered may ~~prepare and submit to the Commission for approval~~file a Notice of Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which the contamination has been discovered and providing for current or future restrictions on the use of the property. If a petitioner requests that a contamination site be remediated to standards that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning Solvent Remediation for the remediation agreement to become effective."

SECTION 11. G.S. 143-215.104N reads as rewritten:

"§ 143-215.104N. ~~Reimbursement—~~Disbursement of dry-cleaning solvent assessment and remediation costs; limitations; ~~collection—of reimbursement.~~cost recovery.

(a) ~~Reimbursement.~~Allowable Costs. – To the extent monies are available in the ~~Fund for reimbursement of response costs.~~Fund, the Commission shall ~~reimburse any person, including a private contractor, responsible for implementing~~ pay for reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.

(2) Costs of treatment or replacement of potable water supplies affected by the contamination.

(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.

(4) Monitoring of the contamination.

(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment.

(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

(1) For costs incurred in connection with facilities or abandoned sites not certified pursuant to G.S. 143-215.104G.

(2) For costs not incurred pursuant to a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement.

~~(3) For costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site for which funds obligated by petitioners pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in accordance with G.S. 143-214.104F(f) are overdue.~~

(4) For costs at a contamination site that has been identified by the United States Environmental Protection Agency as a federal Superfund site pursuant to 40 Code of Federal Regulations, Part 300 (1 July 1996 Edition), except that the Commission may authorize distribution of the required State match in an amount not to exceed two hundred thousand dollars ($200,000) per year per site. The Commission shall not delegate its authority to disburse funds pursuant to this subdivision.

(5) For remediation beyond the level required under the Commission's risk-based criteria for determining the appropriate level of remediation.

(6) For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in excess of ~~two~~ five hundred thousand dollars ~~($200,000)~~ ($500,000) per year. However, that the Commission may disburse up to ~~four hundred thousand~~ one million dollars ~~($400,000)~~($1,000,000) per year for assessment and remediation costs incurred in connection with a ~~certified~~ facility or a ~~certified~~ an abandoned site ~~that~~ if the facility or abandoned site has been certified and poses an imminent hazard.

(7) That would result in a diminution of the Fund balance below one hundred thousand dollars ($100,000), unless an emergency exists in connection with a dry-cleaning solvent contamination abandoned site that constitutes an imminent hazard.

(8) For any costs incurred in connection with dry-cleaning solvent contamination from a facility located on a United States military base or owned by the United States or a department or agency of the United States.

(9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State.

~~(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation~~

~~agreement until the petitioners who are party to the agreement have paid all sums due under the agreement.~~

(d) ~~Each dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreements made by the Commission pursuant to this Part shall expressly state that the Commission's obligation to reimburse response costs incurred pursuant to these agreements shall be contingent upon the availability of monies from the Fund and that the State and its departments and agencies have no obligation to reimburse otherwise eligible expenses if monies are not available in the Fund to pay the reimbursements.~~ If, at any time, the Commission determines that the cost of assessment and remediation activities ~~reimbursable~~ incurred pursuant to existing dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements equals or exceeds the total revenues expected to be credited to the Fund over the life of the Fund, the Commission shall publish notice of the determination in the North Carolina Register. Following the publication of a notice pursuant to this section, the Commission may continue to enter into dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements until the day of adjournment of the first regular session of the General Assembly that begins after the date the notice is published, but shall have no authority to enter into additional dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements after that date unless the Commission first determines either (i) that revenues will be available from the Fund to ~~reimburse~~ pay the costs of assessment and remediation activities expected to be ~~reimbursable~~ incurred pursuant to the agreements, or (ii) that assessment and remediation activities undertaken pursuant to the agreements will be paid entirely from sources other than the Fund. For the purposes of this subsection, the term "day of adjournment" shall mean: (i) in the case of a regular session held in an odd-numbered year, the day the General Assembly adjourns by joint resolution for more than 10 days, and (ii) in the case of a regular session held in an even-numbered year, the day the General Assembly adjourns sine die.

(e) ~~The Commission shall pay the reimbursable response costs of eligible parties as they are incurred.~~ If the cleanup of the contamination site is not completed through fault of the petitioner as required by the remediation agreement, the petitioner shall reimburse the Fund for any response costs previously ~~reimbursed~~ disbursed from the fund for the ~~cleanup shall be repaid to the Fund.~~cleanup, with interest. The Commission shall request the Attorney General to commence a civil action to secure repayment of response costs and interest of the costs."

SECTION 12. G.S. 143-215.104P(a) reads as rewritten:

"(a) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) or, if the violation involves a hazardous waste, as defined in G.S. 130-290, of not more than twenty-five thousand dollars ($25,000) against any person who:

(1) Repealed by Session Laws 2000, c. 19, s. 3.

(2) Engages in dry-cleaning operations using dry-cleaning solvent for which the appropriate sales or use tax has not been paid.

(3) Fails to comply with rules adopted by the Commission pursuant to this Part.

(3a) Fails to comply with the rules adopted by the Commission pursuant to Article 21B of Chapter 143 of the General Statutes that apply to dry-cleaning solvents at facilities as defined in this Part. This enforcement authority does not apply to facilities located in counties that have been delegated as local air pollution control programs by the Commission pursuant to G.S. 143-215.112.

(3b) Fails to comply with rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes that apply to dry-cleaning solvents at facilities as defined in this Part.

(4) Fails to file, submit, or make available, as the case may be, any documents, data, or reports required by this Part.

(5) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.2.

(6) Falsifies or tampers with any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(7) Knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(8) Knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Part or rule implementing this Part.

(9) Knowingly makes a false statement of material fact in a rule-making proceeding or contested case under this Part.

(10) Refuses access to the Commission or its duly designated representative to any premises for purposes of conducting a lawful inspection provided for in this Part or rule implementing this Part."

SECTION 13. G.S. 143-215.104T(b) reads as rewritten:

"(b) Notwithstanding the provision of the Tort Claims Act, G.S. 143-291 through G.S. 143-300.1 or any other provision of law waiving the sovereign immunity of the State of North Carolina, the State, its agencies, officers, employees, and agents shall be absolutely immune from any liability in any proceeding for any injury or claim arising from negotiating, entering into, implementing, monitoring, or enforcing a dry-cleaning solvent assessment agreement, a dry-cleaning solvent remediation agreement, or a Notice of Dry-Cleaning Solvent Remediation under this Part or any other action implementing this Part."

SECTION 14. G.S. 105-187.31 reads as rewritten:

"**§ 105-187.31. Tax imposed.**

A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise tax is imposed on dry-cleaning solvent purchased outside the State for storage, use, or consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the

excise tax is ten dollars ($10.00) for each gallon of halogenated hydrocarbon-based dry-cleaning solvent ~~that is chlorine-based~~ and one dollar and thirty-five cents ($1.35) for each gallon of hydrocarbon-based dry-cleaning ~~solvent that is hydrocarbon-based.~~ solvent. These taxes are in addition to all other taxes."

SECTION 15. If the Environmental Management Commission adopts rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination, the original notice of text for which was published at 21 N.C. Reg. 1818 (April 16, 2007); the Rules Review Commission approves these rules, including any changes incorporated as a result of public comments or Rules Review Commission requirements; and the Rules Review Commission receives 10 or more letters of objection to these rules in accordance with G.S. 150B-21.3(b2), the Environmental Management Commission, notwithstanding the requirements of G.S. 150B-21.1 and 150B-21.3, may adopt these rules as temporary rules in accordance with the temporary rulemaking procedures set out in Chapter 150B.

SECTION 16. G.S. 143-215.104F(a1), as enacted by Section 4 of this act, becomes effective on August 1, 2007, and applies to applications for certifications made, and assessment agreements and remediation agreements entered into, on or after that date. G.S. 143-215.104F(f), as amended by Section 4 of this act, is effective retroactively to August 1, 2001, and applies to assessment agreements and remediation agreements entered into on or after that date. The Environmental Management Commission shall credit any payment received from a petitioner prior to July 1, 2007, against the petitioner's future co-payment obligation, but the Environmental Management Commission shall not repay to a petitioner any funds received prior to July 1, 2007. Section 15 of this act is effective when it becomes law. All other amendments to G.S. 143-215.104F, as enacted by Section 4 of this act, and all other sections of this act become effective July 1, 2007.

SENATE BILL 1362:
Amend Dry-Cleaning Solvent Cleanup Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 19, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Dan Ettefagh
Version:	PCS to Second Edition S1362-CSMC		Committee Counsel

SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 1362 would amend the Dry-Cleaning Solvent Cleanup Act by:

- *Clarifying the definition of dry-cleaning solvent.*
- *Authorizing the use of funds from the Dry-Cleaning Solvent Cleanup Fund for the investigation of inactive hazardous waste disposal sites.*
- *Providing that all site work be performed by a private contractor retained by the Environmental Management Commission (EMC).*
- *Modifying the financial responsibility requirements applicable to potentially responsible parties.*
- *Authorizing temporary rule-making authority by the EMC.*
- *Increasing annual spending cap for site cleanup.*

[As introduced, this bill was identical to H1778, as introduced by Reps. Gibson, Allen, which is currently in House Appropriations.]

BILL ANALYSIS: The PCS for Senate Bill 1362 would make the following changes to the Dry-Cleaning Solvent Cleanup Act (Act):

- **Section 1:** would change the definition for the term "dry-cleaning solvent" and would add new definitions for the terms "halogenated hydrocarbon," and "hydrocarbon."
- **Sections 2 and 4:** would replace the existing co-payment scheme with a one-time $1,000.00 application fee and would revise the current financial responsibility requirements payment schedule as follows:
  - *Dry-cleaning facilities owned by persons who employ fewer than 5 full-time employees*: 1% of the costs of assessment or remediation, but not exceeding $1,000,000.
  - *Dry-cleaning facilities owned by persons who employ at least 5 but fewer than 10 full-time employees* AND *abandoned dry-cleaning facility sites*: 1.5% of the costs of assessment or remediation, but not exceeding $1,000,000.
  - *Dry-cleaning facilities owned by persons who employ 10 or more full-time employees* AND *wholesale distribution facilities*: 2% of the costs of assessment or remediation, but not exceeding $1,000,000.

  Section 2 would also authorize the Department of Environment and Natural Resources to use up to 1% of the balance in the Dry-Cleaning Solvent Fund in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department believes to be contaminated by dry-cleaning solvent.

Section 4 would also provide the EMC with discretion in rejecting petitions made by operators who are not in compliance with minimum management practices for handling of solvents or operators delinquent in paying solvent taxes.

- **Sections 3, 5, 6, 7, 8, 9, 10, and 13:** would modify language throughout the Act to clarify that all site assessment and cleanup procedures will be performed by private contractors hired by the EMC. These changes would clarify that the State is responsible for the hiring and awarding of contracts pursuant to the Act.
- **Section 11:** would increase the amount of money that may be disbursed to a site per year from the Dry-Cleaning Solvent Cleanup Fund as follows:
    - For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement from $200,000 to $500,000 per year.
    - For assessment and remediation costs incurred in connection with a certified facility or an abandoned site that poses an imminent hazard from $400,000 to $1,000,000 per year.
- **Section 12:** would authorize the Environmental Management Commission and the Commission for Health Services to assess civil penalties for violations of hazardous waste and air quality regulations respectively that apply to dry-cleaning facilities.
- **Section 14:** would make conforming changes to the Dry-Cleaning Solvent Tax under Article 5D of Chapter 105 of the General Statutes.
- **Section 15**: would authorize the EMC to adopt temporary rules if the Rules Review Commission receives 10 or more letters of objection to the rules establishing a risk-based approach to dry-cleaning solvent contamination published at 21 N.C. Reg. 1818 (April 16, 2007).

EFFECTIVE DATE: The application fee requirements amended under Section 4 of this act would become effective August 1, 2007 and apply to applications for certifications made, and assessment agreements and remediation agreements entered into on or after that date. The financial responsibility requirements as amended under Section 4 of this act would become effective retroactively to August 1, 2001 and apply to assessment agreements and remediation agreements entered into on or after that date. Section 15 of this act is effective when it becomes law. All other amendments in Section 4 of this act and all other sections of this act become effective July 1, 2007.

BACKGROUND: There are an estimated 900 active and abandoned dry-cleaning sites in North Carolina. At many of these sites, the groundwater is contaminated with the solvents used in the cleaning process. In 1997, the General Assembly enacted a statute to address this contamination. The dry-cleaning solvent cleanup program is designed to provide a fund, administered by the Department of Environment and Natural Resources, to assess and clean contaminated dry-cleaning sites using State-lead contractors. The source for the cleanup fund is a tax on dry-cleaning and dry-cleaning solvents (both perchloroethylene and petroleum-based solvents).

Drycleaners or dry-cleaning site property owners may petition for entry into this program. Once in the program, drycleaners are subject to deductibles and co-payments. The program will manage the assessment and cleanup work. (From the North Carolina Department of Environment and Natural Resources, Dry-Cleaning Solvent Cleanup Act Program Website, http://www.ncdsca.org/).

S1362e2-SMMC-CSMC

Jennifer Mundt, Legislative Analyst for Senate Committee for Agriculture, Environment, and Natural Resources, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 1362

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/15/07

Short Title: Amend Dry-Cleaning Solvent Cleanup Act. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT TO CLARIFY THE DEFINITION OF DRY-CLEANING SOLVENT, TO AUTHORIZE THE USE OF FUNDS FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR THE INVESTIGATION OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES REASONABLY BELIEVED TO BE CONTAMINATED BY DRY-CLEANING SOLVENT, TO PROVIDE THAT ALL SITE WORK WILL BE PERFORMED BY A PRIVATE CONTRACTOR RETAINED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION, TO MODIFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO POTENTIALLY RESPONSIBLE PARTIES, AND TO INCREASE THE ANNUAL SPENDING CAP FOR THE CLEANUP OF SITES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.104B(b) reads as rewritten:

"(b) Unless a different meaning is required by the context, the following definitions apply in this Part. The definitions set out in this subsection apply only to the implementation of this Part and do not define or limit the scope of any other remedial program:

...

(9) "Dry-cleaning solvent" means ~~Perchloroethylene F-1,1,3 or 1,1,1 tricholorethane, a petroleum-based solvent, another comparable product used as a cleaning agent~~any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these ~~hazardous substances.~~solvents.

(10) "Dry-cleaning solvent assessment agreement" or "assessment agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to assess~~an assessment of whether a release of dry-cleaning solvents at a dry-cleaning facility, an

abandoned dry-cleaning facility site, or a wholesale distribution facility may be eligible for remediation under this Part and whether any other contaminants that are identified in the agreement may require remediation under other remedial programs operated or administered by the Department.

...

(12) "Dry-cleaning solvent remediation agreement" or "remediation agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to clean up~~the cleanup of dry-cleaning solvent contamination resulting from a release at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility under this Part and any other contaminants that are identified in the agreement under other remedial programs operated or administered by the Department.

(13) "Facility" means a dry-cleaning facility or a wholesale distribution facility.

(14) "Fund" means the Dry-Cleaning Solvent Cleanup Fund.

(14a) "Halogenated hydrocarbon" means any hydrocarbon where at least one hydrogen atom is substituted by a halogen atom.

(15) "Hazardous waste" ~~shall have~~ has the same meaning ~~ascribed to it~~as in G.S. 130A-290.

(15a) "Hydrocarbon" means any linear, branched, saturated, or unsaturated compound whose molecules contain only carbon and hydrogen atoms.

..."

SECTION 2. G.S. 143-215.104C reads as rewritten:

"**§ 143-215.104C. Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. – The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. – The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the Fund under G.S. 105-164.44E.

(5) Application fees pursuant to G.S. 215.104F(a1).

(c) Disbursements. – A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay ~~or reimburse~~ claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay ~~or reimburse~~ any costs for which monies are not available in

the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay ~~or reimburse~~ costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities.

(d) Up to one percent (1%) of the amount of the Fund balance may be used by the Department in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department reasonably believes to be contaminated by dry-cleaning solvent. If the contamination is determined to originate from a dry-cleaning facility, a potentially responsible party may petition for certification of the facility or abandoned facility site. Acceptance of a petition shall be conditioned upon the written acceptance by the petitioner of responsibility for the costs of investigation incurred by the Department pursuant to this subsection. Costs of investigation that are recovered pursuant to this subsection shall not exceed, and shall be credited toward, the financial responsibility of the petitioner pursuant to G.S. 143-215.104F(f). If a potentially responsible party does not petition for certification of the facility or abandoned facility site, the Commission may request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this subsection."

SECTION 3. G.S. 143-215.104D reads as rewritten:

"**§ 143-215.104D. Powers of the Commission.**

(a) Administrative Functions. – The Commission may delegate any or all of the powers enumerated in this subsection to the Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation ~~activities that are reimbursable from the Fund.~~activities.

~~(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.~~

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified

wholesale distribution facilities, and certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund ~~to reimburse~~for the costs of assessment and remediation.

(b) Rule making. – The Commission shall adopt rules as are necessary to implement the provisions of this Part. Rules adopted by the Commission shall be consistent with and shall not duplicate, but may incorporate by reference, the rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes. The Commission shall not delegate the rule-making powers provided in this subsection.

(1) The Commission may adopt rules governing:

~~a. Fees for response costs reimbursable under this Part.~~

b. The certification and decertification of facilities or abandoned sites.

c. The prioritization of facilities or abandoned sites and scheduling of funding for assessment and remediation activities. These rules shall provide for:

1. Consideration of the degree of harm or risk to public health and the environment.

2. Consideration of the order in which certification is issued for the facility or abandoned site.

3. Consideration of the relative cost of assessment and remediation activities.

4. Use of the Fund so as to maximize the reduction of harm or risk posed by certified facilities, certified abandoned sites, uncertified facilities and uncertified sites.

d. The disbursement of revenue from the Fund for payment ~~or reimbursement~~ of approved assessment or remediation costs.

e. The determination whether assessment or remediation is necessary at a contamination site.

f. The determination that all necessary assessment and remediation has been completed at a contamination site.

g. The terms and conditions of dry-cleaning solvent assessment agreements and remediation agreements.

h. The determination whether additional assessment or remediation is necessary at a contamination site previously closed under this Part.

(2) The Commission may adopt rules establishing minimum management practices for handling of dry-cleaning solvent at dry-cleaning facilities and wholesale distribution facilities. The rules may:

a. Require that all perchloroethylene dry-cleaning machines installed at a dry-cleaning facility after the effective date of the

rule or temporary rule meet air emission standards that equal or exceed the standards that apply to comparable dry-to-dry perchloroethylene dry-cleaning machines with integral refrigerated condensation.

b. Prohibit the discharge of dry-cleaning solvents or water that contains dry-cleaning solvents into sanitary sewers, septic systems, storm sewers, or waters of the State.

c. Require spill containment structures around dry-cleaning machines, filters, stills, vapor adsorbers, solvent storage areas, and waste solvent storage areas.

d. Require floor sealants for cleaning room areas if the Commission finds the sealants to be effective.

e. Require, by 1 January 2002, the use of improved solvent transfer systems to prevent releases at the time of delivery of solvents to a dry-cleaning facility.

f. Require any other solvent-handling practices the Commission may find necessary and appropriate to minimize the risk of releases at dry-cleaning facilities or wholesale distribution facilities.

(3) The Commission shall adopt rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination resulting from releases at facilities or abandoned sites certified pursuant to G.S. 143-215.104G. The rules shall address, at a minimum:

a. Criteria and methods for determining remediation requirements, including the level of remediation necessary to assure adequate protection of public health and the environment.

b. The circumstances under which information specific to the dry-cleaning solvent contamination site should be considered and required.

c. The circumstances under which restrictions on the future use of any remediated dry-cleaning solvent contamination site should be considered and required as a means of achieving and maintaining an adequate level of protection for public health and the environment.

d. Strategies for the assessment and remediation of dry-cleaning solvent contamination, including presumptive remedial responses sufficient to provide an adequate level of protection as described under sub-subdivision a. of this subdivision.

(c) All rules adopted by the Commission shall be applicable to all dry-cleaning facilities, wholesale distribution facilities, and abandoned dry-cleaning facilities in the State and shall, to the maximum extent practicable, be cost-effective and technically feasible while protecting public health and the environment from the release of dry-cleaning solvents.

(d) Unless otherwise provided in this Part, the Commission may delegate any of its rights, duties, and responsibilities under this Part to the Department."

SECTION 4. G.S. 143-215.104F reads as rewritten:

"§ 143-215.104F. Requirements for certification, assessment agreements, and remediation agreements.

(a) General Requirements. – Any person petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(a1) Application Fees. – Each person petitioning or co-petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G shall pay an application fee of one thousand dollars ($1,000) to the Commission.

(b) Requirements for Potentially Responsible Persons Generally. – Every petitioner shall provide the Commission with:

(1) Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner, has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. – In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the ~~Commission~~ Commission, ~~or~~ its ~~agent~~ agent, and its private contractor to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement. (c1) Costs incurred by the petitioner

for activities to obtain certification of a facility or abandoned site shall not be reimbursable from the Fund.

(d) The Commission ~~shall~~ may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner fails to provide the information required by subsection (b) of this section.

(2) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. The financial responsibility required shall be as follows:

(1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first five thousand dollars ($5,000) of the costs of assessment or remediation and~~ one percent (1%) of the costs of assessment or remediation ~~in excess of two hundred thousand dollars ($200,000) but~~ not exceeding one million dollars ($1,000,000).

(2) For abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first ten thousand dollars ($10,000) of the costs of assessment or~~

~~remediation, two percent (2%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and~~ one and one-half percent ~~(1%)~~ (1.5%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

(3) For wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first fifteen thousand dollars ($15,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%)~~ two percent (2%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

~~(4) For wholesale distribution facilities and abandoned dry-cleaning facility sites, the first twenty-five thousands dollars ($25,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).~~

(g) Repealed by Session Laws 2000, c. 19, s. 3."

SECTION 5. G.S. 143-215.104H reads as rewritten:

"§ 143-215.104H. Dry-Cleaning Solvent Assessment Agreements.

(a) Assessment Agreements. – One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. The Commission may require the petitioners to provide the Commission with any information necessary to demonstrate:

(1) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission.

~~(2) The projected schedule for funding of assessment activities is adequate.~~

~~(3) The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.~~

~~(4) The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.~~

~~(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or abandoned site.~~

(5) The petitioner has and will continue to have available the financial resources necessary to pay ~~the costs of assessment activities and~~ the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

~~(8) The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.~~

(9) The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

(1) Repealed by Session Laws 2000, c. 19, s. 9.

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount for which the petitioner is responsible under G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and that are otherwise consistent with the requirements of this Part.

~~(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.~~

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the petitioner's share of the response costs required by G.S. 143-215.104F.

~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.~~

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay ~~or reimburse~~ any ~~response~~ costs otherwise payable ~~or reimbursable~~ under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

SECTION 6. G.S. 143-215.104I reads as rewritten:

"**§ 143-215.104I. Dry-Cleaning solvent remediation agreements.**

(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate:

(1) Repealed by Session Laws 2000, c. 19, s. 10.

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning

solvent contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

~~(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.~~

(5) The petitioner has complied with or will comply with all applicable procedural requirements.

(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.

(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.

~~(8) The projected schedule for funding of remediation activities.~~

(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.

~~(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.~~

(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement.

(b) In negotiating a remediation agreement, parties may rely on land-use restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M. A remediation agreement may provide for remediation in accordance with standards that are based on those land-use restrictions.

(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

(1) Any remediation, including remediation of contaminants other than dry-cleaning solvents, to be conducted on the property, including:

a. A description of specific areas where remediation is to be conducted.

b. The remediation method or methods to be employed.

~~c. The resources that the petitioner will make available and the degree to which the petitioner intends to rely on the Fund for resources.~~

d. A schedule of remediation activities.

e. Applicable remediation standards. Applicable remediation standards for dry-cleaning solvent contamination shall not exceed the requirements adopted by the Commission pursuant to G.S. 143-104D(b)(3).

f. A schedule and the method or methods for evaluating the remediation.

(2) Any land-use restrictions that will apply to the contamination site or other property.

(3) The desired results of any remediation or land-use restrictions with respect to the contamination site.

(4) The guidelines, including parameters, principles, and policies within which the desired results are to be accomplished.

(5) The consequences of achieving or not achieving the desired results.

(6) The priority ranking of the facility or abandoned site.

~~(7) The person who will conduct the remediation if that person is not the potentially responsible party entering the remediation agreement.~~

(d) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with any petitioner ~~if:~~if

~~(1) The petitioner will not accept financial responsibility for the share of the response costs established in G.S. 143-215.104F. This requirement shall not apply to a petitioner who (i) is the owner of property upon which the dry-cleaning solvent contamination is located, and (ii) is not a current or former owner or operator of a facility believed to be responsible for the contamination.~~

~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking remediation activities required by the Commission.~~

~~(3) The~~ the petitioner fails to provide any information that is necessary to demonstrate the facts required to be shown by subsection (a) of this section.

(e) In addition to the ~~bases~~ basis set forth in subsection (d) of this section, the Commission may refuse to enter into a dry-cleaning solvent remediation agreement with ~~the~~ an owner of the property on which a contamination site is located if the owner refuses to accept limitations on the future use of the property and to give notice of these limitations pursuant to G.S. 143-215.104M.

(f) The refusal of the Commission to enter into a dry-cleaning remediation agreement with any petitioner shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The refusal of the Commission to enter into a remediation agreement may be the basis for

rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site.

(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. ~~A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part.~~ A remediation agreement ~~may~~ shall provide that the ~~Commission~~ Commission's private contractor conduct assessment and remediation activities at the facility or abandoned site.

(h) Any failure of a petitioner or the petitioner's agents or employees to comply with the dry-cleaning solvent remediation agreement constitutes a violation of this Part by the petitioner."

SECTION 7. G.S. 143-215.104J(a) reads as rewritten:

"(a) The Commission may decertify a facility or abandoned site or renegotiate or terminate an assessment agreement or remediation agreement with respect to any party thereto in the following circumstances:

(1) The owner or operator of the facility, at any time subsequent to the certification of the facility, violates any of the minimum management requirements adopted by the Commission pursuant to G.S. 143-215.104D(b)(2).

(2) In the case of dry-cleaning contamination on property that is owned by a petitioner, the petitioner fails to file a Notice of Dry-Cleaning Solvent Remediation, if required, as provided in G.S. 143-215.104M.

(3) The potentially responsible persons who are parties to a dry-cleaning solvent assessment agreement are unable to reach an agreement with the Commission to enter into a dry-cleaning solvent remediation agreement within the time specified in the assessment agreement.

(4) The payment of taxes assessed to the facility under Article 5D of Chapter 105 of the General Statutes is delinquent.

(5) Repealed by Session Laws 2000, c. 19, s. 3.

(6) The owner or operator fails to comply with all applicable requirements of this Part ~~to complete any assessment or remediation activities required by~~or fails to comply with all applicable requirements of an assessment agreement or remediation agreement.

(7) The owner or operator of a facility for which an assessment or remediation activity is scheduled or in progress transfers the ownership or operation of the facility or abandoned site to another person without the prior consent of the Commission and the execution of a substitute assessment agreement or remediation agreement.

(8) The standards applied to the dry-cleaning solvent contamination remediation or containment under the provisions of this Part and the

dry-cleaning solvent remediation agreement will, or are likely to, cause the Department to fail to comply with the terms and conditions under which it operates and administers a remediation program by delegation or similar authorization from the United States or one of its departments or agencies, including the Environmental Protection Agency.

(9) A petitioner fails to pay the Commission any amounts for which a petitioner is responsible pursuant to G.S. 143-215.104F."

SECTION 8. G.S. 143-215.104K(a) reads as rewritten:

"(a) A potentially responsible party who enters into an assessment agreement or remediation agreement with the Commission and who is complying with the agreement shall not be held liable for assessment or remediation of areas of contamination identified in the agreement except as specified in the assessment agreement or remediation agreement, so long as ~~the~~ any activities conducted at the contamination site by or under the control or direction of the petitioner do not increase the risk of harm to public health or the environment and the petitioner is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section. The liability protection provided under this Part applies to all of the following persons to the same extent as the petitioner, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties and the person is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section:

~~(1) Any person under the direction or control of the petitioner who directs or contracts for assessment, remediation, or redevelopment of the contamination site.~~

(2) Any future owner of the contamination site.

(3) A person who ~~develops or~~ occupies the contamination site.

(4) A successor or assign of any person to whom the liability protection provided under this Part applies.

(5) Any lender or fiduciary that provides financing ~~for assessment, remediation, or redevelopment of the contamination site.~~to the petitioner to pay the petitioner's financial obligations under G.S. 143-215.104F."

SECTION 9. G.S. 143-215.104L reads as rewritten:

"**§ 143-215.104L. Public notice and community involvement.**

(a) If a petitioner desires to enter into a dry-cleaning solvent remediation agreement based on remediation standards that rely on the creation of land-use restrictions, the Commission or the Commission's private contractor on behalf of the petitioner shall notify the public and the community in which the facility or abandoned site is located of the planned remediation and redevelopment activities. ~~The petitioner~~On behalf of the petitioner, the Commission or the Commission's private contractor shall ~~submit~~ prepare a Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site and a summary of the Notice of ~~Intent to the Commission.~~Intent. The Notice of Intent shall provide, to the extent known, a legal

description of the location of the contamination site, a map showing the location of the contamination site, a description of the contaminants involved and their concentrations in the media of the contamination site, a description of the future use of the contamination site, any proposed investigation and remediation, and a proposed Notice of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed dry-cleaning solvent remediation agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Commission, ~~the petitioner~~the Commission or the Commission's private contractor shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the contamination site. The ~~petitioner~~ Commission or Commission's private contractor shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the contamination is located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register. The ~~petitioner~~ Commission or the Commission's private contractor shall also conspicuously post a copy of the summary of the Notice of Intent at the contamination site.

(b) Publication of the approved summary of the Notice of Intent in the North Carolina Register and publication in a newspaper of general circulation shall begin a public comment period of at least 60 days from the later date of publication. During the public comment period, members of the public, residents of the community in which the contamination site is located, and local governments having jurisdiction over the contamination site may submit comment on the proposed dry- cleaning solvent remediation agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed dry- cleaning solvent remediation agreement shall submit a written request for a public meeting to the Commission within 30 days after the public comment period begins. The Commission shall consider all requests for a public meeting and shall hold a public meeting if the Commission determines that there is significant public interest in the proposed remediation agreement. If the Commission decides to hold a public meeting, the Commission shall, at least 30 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to any other person who had previously requested notice. The Commission shall also ~~direct the petitioner to~~ publish, at least 30 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in the county where the contamination site is located. In any county in which there is more than one newspaper having general circulation, the Commission shall ~~direct the petitioner to~~ publish a copy of the notice in as many newspapers having general circulation in the county as the Commission in its discretion determines to be necessary to assure that the notice is generally available throughout the county. The Commission shall prescribe the form and content of the notice to be published. The Commission shall prescribe the

procedures to be followed in the public meeting. The Commission shall take detailed minutes of the meeting. The minutes shall include any written dry-cleaning solvent remediation agreement. The Commission shall take into account the comment received during the comment period and at the public meeting if the Commission holds a public meeting. The Commission shall incorporate into the remediation agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Commission shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis."

SECTION 10. G.S. 143-215.104M(a) reads as rewritten:

"(a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health or the environment posed by a dry-cleaning solvent contamination site, the owner of property upon which dry-cleaning solvent contamination has been discovered may ~~prepare and submit to the Commission for approval~~file a Notice of Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which the contamination has been discovered and providing for current or future restrictions on the use of the property. If a petitioner requests that a contamination site be remediated to standards that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning Solvent Remediation for the remediation agreement to become effective."

SECTION 11. G.S. 143-215.104N reads as rewritten:

"**§ 143-215.104N. ~~Reimbursement~~ Disbursement of dry-cleaning solvent assessment and remediation costs; limitations; ~~collection of reimbursement.~~cost recovery.**

(a) ~~Reimbursement.~~Allowable Costs. – To the extent monies are available in the ~~Fund for reimbursement of response costs.~~Fund, the Commission shall ~~reimburse any person, including a private contractor, responsible for implementing~~ pay for reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.
(2) Costs of treatment or replacement of potable water supplies affected by the contamination.
(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.
(4) Monitoring of the contamination.
(5) Inspection and supervision of activities described in this subsection.
(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.
(7) Other activities reasonably required to protect public health and the environment.

(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

(1) For costs incurred in connection with facilities or abandoned sites not certified pursuant to G.S. 143-215.104G.

(2) For costs not incurred pursuant to a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement.

~~(3) For costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site for which funds obligated by petitioners pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in accordance with G.S. 143-214.104F(f) are overdue.~~

(4) For costs at a contamination site that has been identified by the United States Environmental Protection Agency as a federal Superfund site pursuant to 40 Code of Federal Regulations, Part 300 (1 July 1996 Edition), except that the Commission may authorize distribution of the required State match in an amount not to exceed two hundred thousand dollars ($200,000) per year per site. The Commission shall not delegate its authority to disburse funds pursuant to this subdivision.

(5) For remediation beyond the level required under the Commission's risk-based criteria for determining the appropriate level of remediation.

(6) For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in excess of ~~two~~ five hundred thousand dollars ~~($200,000)~~ ($500,000) per year. However, that the Commission may disburse up to ~~four hundred thousand~~ one million dollars ~~($400,000)~~($1,000,000) per year for assessment and remediation costs incurred in connection with a certified facility or a certified abandoned site that poses an imminent hazard.

(7) That would result in a diminution of the Fund balance below one hundred thousand dollars ($100,000), unless an emergency exists in connection with a dry-cleaning solvent contamination abandoned site that constitutes an imminent hazard.

(8) For any costs incurred in connection with dry-cleaning solvent contamination from a facility located on a United States military base or owned by the United States or a department or agency of the United States.

(9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State.

~~(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement until the petitioners who are party to the agreement have paid all sums due under the agreement.~~

(d) ~~Each dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreements made by the Commission pursuant to this Part shall expressly state that the Commission's obligation to reimburse response costs incurred pursuant to these agreements shall be contingent upon the availability of monies from the Fund and that the State and its departments and agencies have no obligation to reimburse otherwise eligible expenses if monies are not available in the Fund to pay the reimbursements.~~ If, at any time, the Commission determines that the cost of assessment and remediation activities ~~reimbursable~~ incurred pursuant to existing dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements equals or exceeds the total revenues expected to be credited to the Fund over the life of the Fund, the Commission shall publish notice of the determination in the North Carolina Register. Following the publication of a notice pursuant to this section, the Commission may continue to enter into dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements until the day of adjournment of the first regular session of the General Assembly that begins after the date the notice is published, but shall have no authority to enter into additional dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements after that date unless the Commission first determines either (i) that revenues will be available from the Fund to ~~reimburse~~ pay the costs of assessment and remediation activities expected to be ~~reimbursable~~ incurred pursuant to the agreements, or (ii) that assessment and remediation activities undertaken pursuant to the agreements will be paid entirely from sources other than the Fund. For the purposes of this subsection, the term "day of adjournment" shall mean: (i) in the case of a regular session held in an odd-numbered year, the day the General Assembly adjourns by joint resolution for more than 10 days, and (ii) in the case of a regular session held in an even-numbered year, the day the General Assembly adjourns sine die.

(e) ~~The Commission shall pay the reimbursable response costs of eligible parties as they are incurred.~~ If the cleanup of the contamination site is not completed through fault of the petitioner as required by the remediation agreement, the petitioner shall reimburse the Fund for any response costs previously ~~reimbursed~~ disbursed from the fund for the ~~cleanup shall be repaid to the Fund,~~cleanup, with interest. The Commission shall request the Attorney General to commence a civil action to secure repayment of response costs and interest of the costs."

SECTION 12. G.S. 143-215.104P(a) reads as rewritten:

"(a) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) or, if the violation involves a hazardous waste, as defined in G.S. 130-290, of not more than twenty-five thousand dollars ($25,000) against any person who:

(1) Repealed by Session Laws 2000, c. 19, s. 3.

(2) Engages in dry-cleaning operations using dry-cleaning solvent for which the appropriate sales or use tax has not been paid.

(3) Fails to comply with rules adopted by the Commission pursuant to this Part.

(3a) Fails to comply with the rules adopted by the Commission pursuant to Article 21B of Chapter 143 of the General Statutes that apply to

dry-cleaning solvents at facilities as defined in this Part. This enforcement authority does not apply to facilities located in counties that have been delegated as local air pollution control programs by the Commission pursuant to G.S. 143-215.112.

(3b) Fails to comply with rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes that apply to dry-cleaning solvents at facilities as defined in this Part.

(4) Fails to file, submit, or make available, as the case may be, any documents, data, or reports required by this Part.

(5) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.2.

(6) Falsifies or tampers with any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(7) Knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(8) Knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Part or rule implementing this Part.

(9) Knowingly makes a false statement of material fact in a rule-making proceeding or contested case under this Part.

(10) Refuses access to the Commission or its duly designated representative to any premises for purposes of conducting a lawful inspection provided for in this Part or rule implementing this Part."

SECTION 13. G.S. 43-215.104T(b) reads as rewritten:

"(b) Notwithstanding the provision of the Tort Claims Act, G.S. 143-291 through G.S. 143-300.1 or any other provision of law waiving the sovereign immunity of the State of North Carolina, the State, its agencies, officers, employees, and agents shall be absolutely immune from any liability in any proceeding for any injury or claim arising from negotiating, entering into, implementing, monitoring, or enforcing a dry-cleaning solvent assessment agreement, a dry-cleaning solvent remediation agreement, or a Notice of Dry-Cleaning Solvent Remediation under this Part or any other action implementing this Part."

SECTION 14. G.S. 105-187.31 reads as rewritten:

"**§ 105-187.31. Tax imposed.**

A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise tax is imposed on dry-cleaning solvent purchased outside the State for storage, use, or consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the excise tax is ten dollars ($10.00) for each gallon of halogenated hydrocarbon-based dry-cleaning solvent ~~that is chlorine-based~~ and one dollar and thirty-five cents ($1.35)

for each gallon of hydrocarbon-based dry-cleaning ~~solvent that is hydrocarbon-based.~~ solvent. These taxes are in addition to all other taxes."

SECTION 15. G.S. 143-215.104F(a1), as enacted by Section 4 of this act, becomes effective on 1 August 2007 and applies to applications for certifications made, and assessment agreements and remediation agreements entered into, on or after that date. G.S. 143-215.104F(f), as amended by Section 4 of this act, is effective retroactively to 1 August 2001 and applies to assessment agreements and remediation agreements entered into on or after that date. The Environmental Management Commission shall credit any payment received from a petitioner prior to 1 July 2007 against the petitioner's future co-payment obligation, but the Environmental Management Commission shall not repay to a petitioner any funds received prior to 1 July 2007. All other amendments to G.S. 143-215.104F, as enacted by Section 4 of this act, and all other sections of this act become effective 1 July 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 20, 2007

TO: Senate Finance Committee

FROM: Kristin Walker
Bryce Ball
Fiscal Research Division

RE: Senate Bill 1362 (Unknown Edition)

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Dry Cleaning Solvent Fund		See Assumptions & Methodology.			
Civil Penalty & Forfeiture Fund		See Assumptions & Methodology.			
EXPENDITURES:					
Dry Cleaning Solvent Fund		See Assumptions & Methodology.			
General Fund:					
Judicial		See Assumptions & Methodology.			
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Dry Cleaning Solvent Cleanup Fund; Civil Penalty & Forfeiture Fund; Attorney General's Office; Judicial Branch.

EFFECTIVE DATE: New GS 143-215.105F(a1) is effective on August 1, 2007, and applies to applications for certifications made and assessment and remediation agreements entered into on or after that date. The amendments to GS 143-215.104F(f) are effective retroactively to August 1, 2001. All other amendments to GS 143-215.104F are effective July 1, 2007.

BILL SUMMARY:

- Changes the definition of *dry-cleaning solvent* in GS 143-215.104B(b) to *any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these solvents.*
- Adds a new definition of *halogenated hydrocarbon* and enacts new GS 143-215.104C(d) authorizing the Department of Environment and Natural Resources to use up to 1% of the Dry-Cleaning Solvent Cleanup Fund balance each fiscal year to investigate inactive hazardous substance disposal sites that the Department believes are contaminated by dry-cleaning solvents.
- Enacts new GS 143-215.104F(a1) providing that each person petitioning for certification of a facility or an abandoned site pursuant to GS 143-215.104G must pay an application fee of $1,000 to the Environmental Management Commission, to be credited to the Dry-Cleaning Solvent Cleanup Fund, as noted above and makes conforming change to GS 143-215.104C. Also makes stylistic changes to GS 143-215.104G(a).
- Amends GS 143-215.104G(d) to make it permissive, rather than required, for the Commission to reject petitions for certification under the circumstances set forth in the subsection.
- Amends GS 143-215.104G(f) to provide that the financial responsibility required of persons petitioning the Commission to certify a facility or abandoned site is (1) 1% of the costs of assessment or remediation not exceeding $1 million for dry-cleaning facilities owned by persons who employ fewer than the equivalent of five full-time employees, (2) 1.5% of the costs of assessment or remediation not exceeding $1 million for abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than ten full-time employees, and (3) 2% of the costs of assessment or remediation not exceeding $1 million for wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ ten or more full-time employees.
- Repeals GS 143-215.104G(f)(4), which set forth financial responsibility requirements for abandoned sites and wholesale facilities.
- Amends GS 105-187.31 (privilege tax on dry-cleaning solvent retailers) by changing the reference to a *dry-cleaning solvent that is chlorine based* to *halogenated hydrocarbon-based dry-cleaning solvent.*

ASSUMPTIONS AND METHODOLOGY:

Revenues – Dry Cleaning Solvent Fund

SB 1362 makes three changes to the amount of revenue received into the Dry Cleaning Solvent Fund each year: 1.) Section 4 creates a new $1,000 application fee for each person petitioning or co-petitioning for certification of a facility or an abandoned site; 2.) Section 4 changes the financial responsibility requirements, effectively decreasing the co-payments into the Fund; and 3.) Section 14 broadens the base of solvents covered by the dry-cleaning solvent tax.

1.) Application Fee

A $1,000 application fee would now be charged for each person petitioning or co-petitioning for certification of a facility or an abandoned site. The table below projects the number of petitioners each year and the application fee revenue generated.

	2007-08	2008-09	2009-10	2010-11	2011-12
Estimated # of Petitioners	50*	54	81	81	81
Application Fee Generated	$50,000	$54,000	$81,000	$81,000	$81,000

*prorated by one month due to August 1, 2007 effective date

DENR anticipates that the number of petitioners will increase for three reasons:
1.) the decrease in financial responsibility requirements will make the program less costly for responsible parties; 2.) the implementation of risk-based rules will attract more responsible parties to participate; 3.) entry into the program will sunset on January 1, 2012.

2.) Financial Responsibility Requirements

Section 4 would decrease the financial responsibility requirements for potentially responsible persons. *An exact estimate of the decrease in revenue from this change is not available at this time.*

Under existing law, responsible parties must pay a flat deductible and then a percentage co-payment of the clean-up costs after those costs have reached a certain dollar threshold. Under the new provisions in SB 1362, responsible parties would no longer pay a deductible, but rather they would pay the application fee explained above and then pay a percentage of the cleanup costs as a co-payment.

The illustration below provides an example of the decrease in revenue assuming the following conditions: A.)100 sites active in the program with 60 "abandoned" sites, 13 "large facility" sites, 11 "medium," and 16 "small;" and B.) an average site clean-up cost of $250,000.

Under Existing Law

Site Type	# of Sites	Deductible	% Co-payment	Avg. Site Cost	Total Owed by Petitioners
Abandoned	60	$25,000	0.03	$250,000	$1,590,000
Large	13	$15,000	0.03	$250,000	$214,500
Medium	11	$10,000	0.02	$250,000	$126,500
Small	16	$5,000	0.01	$250,000	$104,000
Total Revenue Received for 100 Sites					**$2,035,000**

As Proposed Under SB 1362

Site Type	# of Sites	% Co-payment	Avg. Site Cost	Total Owed by Petitioners
Abandoned	60	0.015	$250,000	$225,000
Large	13	0.020	$250,000	$65,000
Medium	11	0.015	$250,000	$41,250
Small	16	0.010	$250,000	$40,000
Total Revenue Received for 100 Sites				**$371,250**

As the above example illustrates, the loss of revenue would be $1,663,750 for these 100 sites. It should be noted that this loss of revenue does not take place in one fiscal year, but rather would most likely be spread out across three years – with 40% of costs being collected in the first year, 40% in the second year, and 20% in the third year. Thus, a one-year loss of revenue might reasonably be estimated at $665,500.

3.) Solvent Tax

Section 14 broadens the base of solvents covered by the tax. The change from "chlorine-based" to "halogenated hydrocarbon-based" will encompass bromide solvents. Industry sources estimate that approximately 200 gallons of bromide solvents are sold each year. Thus, approximately $2,000 in new revenue will be raised.

	2007-08	2008-09	2009-10	2010-11	2011-12
New Tax Revenue*	$2,042	$2,085	$2,129	$2,175	$2,226

*adjusted annually for inflation

Revenues – Civil Penalties

Section 12 adds new situations for which civil penalties may be assessed. To date, the Dry-Cleaning Compliance Program has not issued any civil penalties. Based on experience with other DENR compliance programs, the Department estimates that five civil penalties each year would be assessed for the new offenses contained in the PCS with a penalty range of $400 to $25,000.

Expenditures – Dry Cleaning Solvent Fund

This PCS makes two changes to expenditures from the Fund: 1.) Section 2 stipulates that up to 1% of the Fund balance may be used in each fiscal year by the Department for investigation of sites; and, that the Attorney General may bring a civil action to secure reimbursement of costs incurred, per Commission request; and 2.) Section 11 increases the cap on the amount disbursed per year for any individual dry-cleaning solvent assessment agreement or remediation agreement and increases the cap for a certified facility or certified abandoned site that poses an imminent hazard.

1.) Use of Fund Balance for Investigation of Sites

The Dry Cleaning Solvent Fund balance has grown over the past six years and as of June 19, 2007, the Fund balance was $35,441,005. The Department anticipates that they will expend $10 million per year by 2008-09. Revenues have fluctuated but are in the range of $9.5 to $10.5 million per year. Thus, the Fund balance may remain in the $35 million range for several years. *Therefore, the Department could expend up to $3.5 million annually for investigation of sites.*

Existing G.S. 143-215.104C authorizes the Commission to expend 20% of annual Fund revenue to defray the costs incurred by the Department and the Attorney General's Office for administration of the Program. Assuming annual revenues of $10 million, $2 million would be available for such costs – the Department estimates approximately $700,000 in annual administrative costs, leaving $1.3 million to cover any costs incurred by the Attorney General. Section 2 authorizes the Attorney General to initiate civil action to secure reimbursements of the costs incurred in connection with the investigation of inactive hazardous substance disposal sites, per request from the Commission. In addition, existing G.S. 143-215.104R authorizes the AG to initiate civil action for injunctive relief from violations alleged by the Commission. The Department anticipates only one or two injunctive relief actions annually; however, the number of potential civil actions

initiated for reimbursements is unknown. Nevertheless, Fiscal Research anticipates that available funds will offset any additional workload increases experienced by the Attorney General's Office.

2.) Increase in Annual Spending Caps

An estimate as to how much additional money may be expended from the Fund due to the new, higher caps is not available. As stated above, total expenditures from the Fund are expected to reach $10 million per year by 2008-09. The majority of the increase in spending will come as a result of risk-based remediation rules being implemented in the fall of 2007. These rules will allow the Program to begin remediation at some sites, and it is anticipated that the remediation work will exceed the previous cap limits at some sites.

Expenditures – General Fund

Judicial Branch: As previously indicated, Section 2 expands current G.S. 143-215.104C to authorize the Attorney General (per Environmental Management Commission request) to initiate civil action to recover the costs incurred by the Department of Environment and Natural Resources in investigating inactive hazardous substance disposal sites contaminated by dry-cleaning solvent, where a potentially responsible party is not willing to pay such costs. It is not known how many additional investigations would be conducted or civil actions filed.

In addition, Section 12 expands current G.S. 143-215.104P(a) by imposing a civil penalty of $10,000 or less (or $25,000 or less if hazardous waste is involved) against violators of hazardous waste and air quality regulations that apply to dry-cleaning facilities. Consequently, expanding the pool of defendants who could be subject to a civil penalty may increase the opportunity for appeals to superior court. It is not known how many violators would contest the imposition of these penalties.

SOURCES OF DATA: Department of Environment and Natural Resources; N.C. Association of Launderers and Cleaners; Moody's economy.com; Judicial Branch.

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1484
PROPOSED COMMITTEE SUBSTITUTE S1484-CSRBx-34 [v.1]

6/20/2007 12:13:39 PM

Short Title: State Assume Medicaid Responsibilities. (Public)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE COUNTY SHARE OF THE NONFEDERAL SHARE OF MEDICAID COSTS; TO MAKE CORRESPONDING CHANGES TO STATE AND LOCAL REVENUE STREAMS; TO AUTHORIZE COUNTIES TO LEVY AN ADDITIONAL ONE-HALF CENT (1/2¢) LOCAL OPTION SALES TAX; AND TO PROVIDE A NONREFUNDABLE EARNED INCOME TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1.(a). Effective January 1, 2008, fifty percent (50%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(b) Effective July 1, 2008, seventy-five percent (75%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(c) Effective July 1, 2009, G.S. 108A-54 reads as rewritten:

"**§ 108A-54. Authorization of Medical Assistance Program.**

The Department is authorized ~~and empowered~~ to establish a Medical Assistance Program ~~from federal, State and county appropriations~~ and to adopt rules ~~and regulations under which payments are to be made in accordance with the provisions of this Part.~~ to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. A county is responsible for the county's cost of administering the Program in that county. ~~The nonfederal share may be divided between the State and the counties, in a manner consistent with the provisions of the federal Social Security Act, except that the share required from the counties may not exceed the share required from the state. If a portion of the nonfederal share is required from the counties, the boards of county commissioners of the several counties shall levy, impose and collect the taxes required for the special purpose of medical assistance as provided in this Part, in an amount sufficient to cover each county's share of such assistance.~~"

SECTION 1.(d) Subsection (a) of this section becomes effective January 1, 2008, and applies to Medicaid costs incurred on or after that date. Subsection (b) of this section becomes effective July 1, 2008, and applies to Medicaid costs incurred on or after that date. Subsection (c) of this section becomes effective July 1, 2009, and applies to Medicaid costs incurred on or after that date.

SECTION 2.(a) Article 44 of Chapter 105 is repealed.

SECTION 2.(b) Article 40 of Chapter 105 reads as rewritten:

"Article 40.

~~First One-Half Cent (1/2¢)~~ Three hundred seventy-five thousandths Percent (0.375%) Local Government Sales and Use Tax.

§ 105-480. Short title.

This Article shall be known as the First ~~One-Half Cent (1/2¢)~~ Three hundred seventy-five thousandths Percent (0.375%) Local Government Sales and Use Tax Act.

§ 105-481. Purpose and intent.

It is the purpose of this Article to afford the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs, and to reduce their reliance on other revenues, such as the property tax, by providing all counties of the State that are subject to this Article with authority to levy ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use taxes.

§ 105-482. Limitations.

This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws.

§ 105-483. Levy and collection of additional taxes.

Any county subject to this Article may levy ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article 40 of this Chapter. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

§ 105-484. Form of ballot.

(a) The form of the question to be presented on a ballot for a special election concerning the additional taxes authorized by this Article shall be: "FOR additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes" or "AGAINST additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes."

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: "FOR repeal of the additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes" or "AGAINST repeal of the additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes."

§ 105-485: Repealed by Session Laws 1991, c. 689, s. 318.

§ 105-486. Distribution of additional taxes.

(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net proceeds of the additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.

(b) Adjustment. – The Secretary shall then adjust the amount allocated to each county under subsection (a) by multiplying the amount by the appropriate adjustment factor set out in the table below. If, after applying the adjustment factors, the resulting total of the amounts allocated is greater or lesser than the net proceeds to be distributed, the amount allocated to each county shall be proportionally adjusted to eliminate the excess or shortage.

County	Adjustment Factor
Dare	1.49
Brunswick	1.17
Orange	1.15
Carteret and Durham	1.14
Avery	1.12
Moore	1.11
Transylvania	1.10
Chowan, McDowell, and Richmond	1.09
Pitt and New Hanover	1.07
Beaufort, Perquimans, Buncombe, and Watauga	1.06
Cabarrus, Jackson, and Surry	1.05
Alleghany, Bladen, Robeson, Washington, Craven, Henderson, Onslow, and Vance	1.04
Gaston, Granville, and Martin	1.03
Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe, Haywood, Swain, and Wilkes	1.02
Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and Cleveland	1.01
Alexander, Anson, Johnston, Northampton, Pasquotank, Person, Polk, and Yadkin	1.00
Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and Tyrrell	0.99
Cherokee, Cumberland, Davidson, Graham, Hyde, Macon, Rutherford, Scotland, and Wilson	0.98
Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren	0.97
Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth	0.96
Caswell, Gates, Mitchell, and Greene	0.95
Currituck and Guilford	0.94
Davie and Nash	0.93
Rowan and Camden	0.92

Jones	0.90
Mecklenburg	0.89
Lenoir	0.88
Columbus	0.81

(c) Distribution Between Counties and Cities. – The amount allocated to each taxing county shall then be divided among the county and its municipalities in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

(d) No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.

§ 105-487. Use of additional tax revenue by counties.

(a) Except as provided in subsection (c), forty percent (40%) of the revenue received by a county from additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the county and thirty percent (30%) of the revenue received by a county from these taxes in the next 23 fiscal years in which the taxes are in effect in the county may be used by the county only for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes.

(b) Repealed by Session Laws 1998-98, s. 31.

(c) The Local Government Commission may, upon petition by a county, authorize the county to use part or all its tax revenue, otherwise required by subsection (a) of this section to be used for public school capital needs, for any lawful purpose. The petition shall be in the form of a resolution adopted by the Board of County Commissioners and transmitted to the Local Government Commission. The petition shall demonstrate that the county can provide for its public school capital needs without restricting the use of part or all of the designated amount of the additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use tax revenue for that purpose.

In making its decision, the Local Government Commission shall consider information contained in the petition concerning not only the public school capital needs, but also the other capital needs of the petitioning county. The Commission may also consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the public school capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) of this section that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) of this section for any

lawful purpose are final and shall continue in effect until the restrictions imposed by that subsection expire. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(d) For purposes of determining the number of fiscal years in which ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use taxes levied under this Article have been in effect in a county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

(e) A county may expend part or all of the revenue restricted for public school capital needs pursuant to subsection (a) of this section in the fiscal year in which the revenue is received, or the county may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes."

SECTION 2.(c) A county that levied and imposed the first one –half cent (1/2¢) local sales and use tax under Article 40 of Chapter 105 of the General Statutes on December 31, 2007, may levy and impose the three hundred seventy-five hundredths cent (0.375¢) local sales and use tax authorized under this Article, as amended by this act, without any further action on its part. A resolution enacted to levy the first one-half cent (1/2¢) local sales and use tax prior to January 1, 2008, is considered to be a resolution authorizing the levy of the three hundred seventy-five hundredths cent (0.375¢) local sales and use tax authorized under this Article, as amended by this act.

SECTION 2.(d) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four percent (4%).~~four and six hundred twenty-five thousandths percent (4.625%)."

SECTION 2.(e) G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

(1) ~~Nineteen and forty-two one-hundredths percent (19.42%)~~ Eighteen and three one-hundredths percent (18.03%) minus two million six hundred twenty thousand nine hundred forty-eight dollars ($2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."

(2) ~~Eight percent (8%)~~ Seven and twenty-three one-hundredths percent (7.23%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 2.(f) G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars ($2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) ~~Twenty-five percent (25%)~~ Twenty-two and sixty-one one-hundredths percent (22.61%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) ~~Thirty-seven and five-tenths percent (37.5%)~~ Thirty-seven percent (37%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 2.(g) Subsections (a) through (d) of this section become effective January 1, 2008, and apply to sales made on or after that date. Subsections (e) and (f) of this section apply to distributions made on or after April 1, 2008 for calendar quarters ending on or after January 1, 2008.

SECTION 3.(a) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must ~~credit one-half of the proceeds to the county's general fund and~~ remit the ~~remaining one-half of the proceeds, less the county's allowance for administrative expenses,~~ proceeds to the Department of Revenue on a monthly basis. ~~A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the~~ The Department ~~of Revenue~~ must credit the proceeds remitted to it as follows:

(1) Fifty percent (50%) to the General Fund.

(2) ~~seventy-five percent (75%)~~ Thirty-seven and five-tenths percent (37.5%) to the Parks and Recreation Trust Fund established under ~~G.S. 113-44.15 and~~ G.S. 113-44.15.

(3) ~~twenty-five percent (25%)~~ Twelve and five-tenths percent (12.5%) to the Natural Heritage Trust Fund established under G.S. 113-77.7."

SECTION 3.(b) G.S. 105-228.33 and G.S. 105-228.37 are repealed.

SECTION 3.(c) G.S. 105-228.35 reads as rewritten:

"**§ 105-228.35. Administrative provisions.**

~~Except as otherwise provided in this Article, the~~ The provisions of Article 9 of this Chapter apply to this Article.

Before a tax imposed under this Article may be refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the Secretary when the correcting instrument has been recorded."

SECTION 3.(d) This section becomes effective January 1, 2008, and applies to transfers occurring on or after that date.

SECTION 4.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

(b) ~~Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One-fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One-fourteenth (1/14)~~
~~After 9/30/00~~	~~Five sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 4.(b) G.S. 115C-546.2(a), (b), and (c) are repealed.

SECTION 4.(c) Subsection (a) of this section becomes effective January 1, 2008. Subsection (b) of this section becomes effective upon certification by the Department of Public Instruction that all revenue allocated to the Public School Building Capital Fund from corporate income tax revenue has been disbursed.

SECTION 5.(a) G.S. 105-113.82 reads as rewritten:

"**§ 105-113.82. Distribution of part of beer and wine taxes.**

(a) Amount, Method. – The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March 31, less the amount of the net proceeds credited to the Department of Commerce under G.S. 105-113.81A, to

the ~~counties and~~ cities in which the retail sale of these beverages is ~~authorized in the entire county or city:~~authorized and to the cities in a county in which ABC stores have been established by petition. The amount distributed to each city is to be determined on the basis of its population relative to the population of all the cities that receive a distribution under this section. The amounts distributed under each subdivision shall be computed separately.

(1) Of the tax on malt beverages levied under G.S. 105-113.80(a), ~~twenty-three and three-fourths percent (23¾%);~~ fifteen percent (15%).

(2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), ~~sixty-two percent (62%); and~~ thirty-nine and nine-tenths percent (39.9%).

(3) Of the tax on fortified wine levied under G.S. 105-113.80(b), ~~twenty-two percent (22%).~~ fifteen and one-tenths percent (15.1%).

~~If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributed under subdivisions (1), (2), and (3) shall be computed separately.~~

(b) Repealed by Session Laws 2000, c. 173, s. 3, effective August 2, 2000.

(c) ~~Exception. – Notwithstanding subsection (a), in a county in which ABC stores have been established by petition, the revenue shall be distributed as though the entire county had approved the retail sale of a beverage whose retail sale is authorized in part of the county.~~

(d) Time. – The revenue shall be distributed to cities ~~and counties~~ within 60 days after March 31 of each year. The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution.

(e) Population Estimates. – To determine the population of a city ~~or county~~ for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State Budget Officer.

(f) City Defined. – As used in this section, the term "city" means a city as defined in G.S. 153A-1(1) or an urban service district defined by the governing body of a consolidated city-county.

(g) Use of Funds. – Funds distributed to a ~~county or~~ city under this section may be used for any public purpose.

(h) Disqualification. – No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets is open to the public. The previous

sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

SECTION 5.(b) This section becomes effective January 1, 2008, and applies to distributions made on or after that date.

SECTION 6.(a) G.S. 105-228.5(b1) reads as rewritten:

"(b1) Calculation of Tax Base. – In determining the amount of gross premiums from business in this State, all gross premiums received in this State, credited to policies written or procured in this State, or derived from business written in this State shall be deemed to be for contracts covering persons, property, or risks resident or located in this State unless one of the following applies:

(1) The premiums are properly reported and properly allocated as being received from business done in some other nation, territory, state, or states.

(2) The premiums are from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

Gross premiums from business done in this State in the case of life insurance contracts, including supplemental contracts providing for disability benefits, accidental death benefits, or other special ~~benefits that are not annuities,~~ benefits, means all premiums collected in the calendar year, other than for contracts of reinsurance, for policies the premiums on which are paid by or credited to persons, firms, or corporations resident in this State, or in the case of group policies, for contracts of insurance covering persons resident within this State. The only deductions allowed shall be for premiums refunded on policies rescinded for fraud or other breach of ~~contract and~~ contract; premiums that were paid in advance on life insurance contracts and subsequently refunded to the insured, premium payer, beneficiary or ~~estate.~~ estate; and in the case of group annuity contracts, premiums returned because of a change in the composition of the group covered. Gross premiums shall be deemed to have been collected for the amounts as provided in the policy contracts for the time in force during the year, whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend, or by any other means except waiver of premiums by companies under a contract for waiver of premium in case of disability.

Gross premiums from business done in this State for all other health care plans and contracts of insurance, including contracts of insurance required to be carried by the Workers' Compensation Act, means all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether the premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for the premiums, and with no deduction for dividends whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums,

deposits, fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies."

SECTION 6.(b) G.S. 105-228.5(c) reads as rewritten:

"(c) Exclusions. ~~In computing the premium tax, shall exclude all of the following from the gross amount of premiums, and the gross amount of excluded~~ The following premiums ~~is~~ are exempt from the tax imposed by this section:

(1) ~~All premiums~~ Premiums received ~~on or after July 1, 1973,~~ from policies or contracts issued in connection with the funding of a pension, annuity, or profit-sharing plan qualified or exempt under section 401, 403, 404, 408, ~~457~~ 457, or 501 of the ~~Code as defined in G.S. 105-228.90~~ Code.

~~(2)~~ ~~Premiums or considerations received from annuities, as defined in G.S. 58-7-15.~~

(3) Funds or considerations received in connection with funding agreements, as defined in G.S. 58-7-16.

(4) The following premiums, to the extent federal law prohibits their taxation under this Article:

a. Federal Employees Health Benefits Plan premiums.

b. Medicaid or Medicare premiums."

SECTION 6.(c) Subsections (a) and (b) of this subsection becomes effective for taxable years beginning on or after January 1, 2009.

SECTION 7.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"One-Half Cent (1/2¢) County Sales and Use Tax.

"**§ 105-535. Short title.**

This Article is the One-Half Cent (1/2¢) County Sales and Use Tax Act.

"**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"**§ 105-537. Levy.**

(a) After Vote. – If a majority of those voting in a special election held pursuant to this Article vote for the levy of the taxes in a county, the board of commissioners of a county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Without Vote. – If the question of whether to levy taxes under this Article has not been defeated in a special election held in the county within two years, the board of commissioners of a county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Before adopting a resolution under this subsection, the board of commissioners

must give at least 10 days' public notice of its intent to adopt the resolution and must hold a public hearing on the issue of adopting the resolution.

(c) Effective Date. – A tax levied under this Article may not become effective before January 1, 2008.

"**§ 105-538. County election on adoption of tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct a special election on the question of whether to levy local one-half percent (1/2%) sales and use taxes in the county as provided in this Article. The election must be held on a date jointly agreed upon by the two boards and must be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. – The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article must be in the following form:

[ ] FOR [ ] AGAINST
one-half percent (1/2%) county sales and use taxes, in
addition to all current State and local sales and use taxes.

"**§ 105-539. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, distribution, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B. The provisions of G.S. 105-472 requiring counties to share the proceeds of a tax with municipalities in the county do not apply to a tax levied under this Article.

"**§ 105-540. Distribution of additional taxes.**

The Secretary must, on a monthly basis, allocate to each taxing county the net proceeds of the additional one-half percent (1/2%) sales and use taxes collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county. The Secretary must allocated the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

"**§ 105-541. Use of additional tax revenue by counties.**

(a) Use of Revenue. – At least seventy-five percent (75%) of the revenue received by a county under this Article must be used by the county only for one or more of the purposes listed in this subsection. The remainder of the revenue may be used for any public purpose. The authorized purposes are:

(1) Public school capital outlay.
(2) Community college capital outlay.
(3) Water, sewer, or other infrastructure.
(4) Retirement of indebtedness incurred by the county for one or more of the purposes listed in this subsection during the period beginning three years prior to the effective date of the levy of the tax.

(b) Nonsupplant. – It is the purpose of this Article for counties to appropriate at least seventy-five percent (75%) of the funds generated under this Article to increase the

level of county spending for the purposes listed in subsection (a) of this section above the level of spending before the levy of the tax authorized in this Article. A county that levies a tax under this Article must continue to spend for the purposes listed in subsection (a) of this section the same amount of money it would have spent for those purposes if it had not levied the tax."

SECTION 7.(b) A tax levied under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 46 of Chapter 105 of the General Statutes.

SECTION 7.(c) G.S. 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, 40, 42, 43, ~~and 44~~ 45, and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, 105-486, ~~and 105-501~~105-501, 105-510, and 105-538 do not apply to tax proceeds distributed under this section."

SECTION 7.(d) This section is effective when it becomes law.

SECTION 8.(a) Article 39 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-472.1. City hold-harmless.**

A county must reimburse a municipality located in it for the amount of sales tax revenue the municipality received under Article 44 of this Chapter before its repeal. The reimbursement amount is the amount the municipality received in fiscal year 2006-2007 under that Article. The Secretary must withhold from the amount to be distributed to a county under G.S. 105-472 the amount distributed to the municipalities in that county for the same period in fiscal year 2006-2007 and must re-distribute the withheld amount to the municipalities."

SECTION 8.(b) Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding a new subdivision to read:

"Sec. 6.1. City Hold-Harmless. Mecklenburg County must reimburse a municipality located in it for the amount of sales tax revenue the municipality received under Article 44 of Chapter 105 of the General Statutes before its repeal. The reimbursement amount is the amount the municipality received in fiscal year 2006-2007 under that Article. The Secretary must withhold from the amount to be distributed to Mecklenburg County under this division the amount distributed to the municipalities in Mecklenburg County for the same period in fiscal year 2006-2007 and must re-distribute the withheld amount to the municipalities.

SECTION 9. A county's hold harmless threshold for a fiscal year is the county's Medicaid service costs assumed by the State under G.S. 108A-54 for the fiscal year plus one hundred thousand dollars ($100,000). If the amount of local sales tax revenue available to a county under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, for a fiscal year is less than the county's hold harmless threshold for that fiscal year, the Secretary of Revenue must send to the county the difference between the amount of revenue available to the county under Article 46 of Chapter 105 of the General Statutes for the fiscal year and the county's hold harmless threshold. The Secretary of Revenue must send this amount to the county by August 15 following the end of the fiscal year.

If a county imposes a tax under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, effective January 1, 2008, the amount of sales tax available to a county under that Article for fiscal year 2007-2008 is the amount distributed under that Article plus the amount distributed under repealed Article 44 of Chapter 105 of the General Statutes after January 1, 2008. If a county does not impose a tax under Article 46 of Chapter 105 of the General Statutes effective January 1, 2008, the amount of sales tax available to a county under that Article for fiscal year 2007-2008 is the amount it would have received under that Article if it had imposed the tax effective January 1, 2008, plus the amount distributed to it under repealed Article 44 after January 1, 2008.

For fiscal year 2008-2009, the amount of sales tax available to a county that imposes a tax under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, effective by April 1, 2008, is the amount distributed to it under that Article during the fiscal year. For all other counties, the amount of sales tax available to the county under Article 46 of Chapter 105 is the amount the county would have received under that Article if it had imposed the tax effective by April 1, 2008.

The Secretary must determine the amount of sales tax available to a county under Article 46 of Chapter 105 of the General Statutes, as enacted by this act. If a county does not impose a tax under that Article, the Secretary must make the determination based on the amount of taxes distributed to the county under Article 39 of this Chapter or Chapter 1096 of the 1969 Session Laws, not including any amount distributed for taxes on food that is subject to local sales taxes but not State sales taxes. The Secretary of the Department of Health and Human Resources must certify to the Secretary of Revenue the amount of Medicaid service costs assumed by the State for each county under G.S. 108A-54 for fiscal years 2007-2008 and 2008-2009.

This section applies only to fiscal years 2007-2008 and 2008-2009.

SECTION 10.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.31. Earned income tax credit.**

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to twelve percent (12%) of the amount of credit the individual qualified for under section 32 of the Code.

(b) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the

fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013."

SECTION 10.(b) G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.

(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.

(3) G.S. 105-151.18. Credit for the disabled.

(4) G.S. 105-151.24. Credit for children.

(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.

(6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.

(7) G.S. 105-151.28. Credit for long-term care insurance.

(8) G.S. 105-151.30. Credit for recycling oyster shells.

(9) G.S. 105-151.31. Earned income tax credit."

SECTION 10.(c) This section is effective for taxable years beginning on or after January 1, 2007.

SECTION 11. This act does not affect the rights or liabilities of the State, a county, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 12. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 1484:
State Assume Medicaid Responsibilities

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 19, 2007
Introduced by:	Sen. Rand	**Summary by:**	Cindy Avrette
Version:	S1484-CSRBx-34		Committee Counsel

SUMMARY: The proposed committee substitute for Senate Bill 1484 does the following:

- ***It phases out the county's share of the nonfederal share of Medicaid costs, beginning January 1, 2008. The State will completely assume the county's share of the costs of the medical services provided under the Medicaid Program by July 1, 2009. The cost of assuming the county share of the Program expenses is estimated to be $617 million in fiscal year 2009-10.***
- ***It makes corresponding changes to State and local revenue streams, effective January 1, 2008.***
    - ***Repeals the third ½% local sales tax, repeals .125% of the first ½% local sales tax, and increases the State sales tax rate by a corresponding 0.625%.***
    - ***It provides that all of the excise tax on conveyances will be remitted to the State.***
    - ***It repeals the corporate income tax earmarking to the Public School Building Capital Fund.***
    - ***It repeals the distribution of the excise tax on wine and beer to the counties.***
- ***It authorizes counties to impose additional ½% sales and use tax. The sales tax revenue would not be shared with the municipalities. At least 75% of the revenue from the tax must be used for public school capital needs, community college plant fund purposes, water and sewer, and other infrastructure needs.***
- ***It requires each county to hold harmless the municipalities located in it from the repeal of the ½% local sales and use tax. The Secretary of Revenue will redistribute from the county's share of the 1% local sales and use tax proceeds an amount equal to the amount the municipalities in that county received in fiscal year 2006-07 under Article 44 before its repeal.***
- ***It holds the counties harmless in fiscal year 2007-08 and fiscal year 2008-09 from the changes made by this act.***
- ***It expands the gross premiums tax base to include the taxation of annuities, effective for taxable years beginning on or after January 1, 2009.***
- ***It establishes a nonrefundable earned income tax credit, effective for taxable years beginning on or after January 1, 2007, and expiring for taxable years beginning on or after January 1, 2013.***

BILL ANALYSIS: The estimated Medicaid Program service expenditures for fiscal year 2007-08 total $9,665,505,739. Of this amount, $517,161,525 is the estimated county share. This amount continues to grow. The proposed committee substitute for Senate Bill 1484 would relieve the counties of the costs of medical services provided under the Medicaid Program. The counties would continue to be responsible for the costs of administering the Program. The State would assume the costs as follows:

- Effective for Medicaid costs incurred on or after January 1, 2008, the State would assume 50% of the nonfederal share.

- Effective for Medicaid costs incurred on or after July 1, 2008, the State would assume 75% of the nonfederal share.
- Effective for Medicaid costs incurred on or after July 1, 2009, the State would assume 100% of the nonfederal share.

The bill makes corresponding changes to State and local revenue streams to enable the State to assume the county's share of the costs of the medical services provided under the Medicaid Program.

SALES TAX 'SWAP': Effective January 1, 2008, section 2 of the bill would do the following:

- Repeal the county's authority to levy local ½% sales and use tax under Article 44 of Chapter 105 of the General Statutes.
- Repeal 0.125% of the county's authority to levy local ½% sales and use tax under Article 40 of Chapter 105 of the General Statutes. Counties would continue to levy a 0.375% local sales and use tax under Article 40.
- Simultaneous to the repeal of the local sales tax, the State sales and use tax rate would increase by 0.625% from 4% to 4.625%.

COUNTY LOCAL OPTION ½% SALES TAX: Section 7 of the bill would authorize all counties of the State to levy a one-half cent sales tax. Like the local tax being repealed, this new tax would not apply to food. As with the existing statewide local options sales taxes, the county could choose to levy the tax by resolution after 10 days' public notice and a public hearing, or could choose to submit the question to the voters in a special election held after 30 days' public notice. The earliest the new tax could become effective in a county is January 1, 2008. Unlike the local tax being repealed, all of the net proceeds of the tax would be allocated to the counties on a point-of-origin basis. A county must use at least 75% of the tax proceeds for one or more of the following purposes: public school capital outlay; community college capital outlay; water, sewer, or other infrastructure; and retirement of indebtedness incurred by the county for one or more of the authorized purposes during the period beginning three years prior to the effective date of the levy of the tax. As with the existing local sales taxes, the State's costs of collecting and administering the new tax come from the local tax proceeds.

CITY HOLD HARMLESS: Section 8 of the bill would direct the Secretary of Revenue to withhold from a county the amount distributed in fiscal year 2006-07 to the municipalities located in that county under Article 44 before its repeal. This section holds the cities harmless from the repeal of the local option sales tax; however, it does not provide the cities with the potential growth of revenue from a sales tax.

COUNTY HOLD HARMLESS: Section 9 of the bill would provide that counties would benefit from the changes made by this bill. The section defines a county's hold harmless threshold for a fiscal year as the county's Medicaid service costs assumed by the State for that fiscal year plus $100,000. If the amount of local sales tax revenue available to a county under Article 46 of Chapter 105 for a fiscal year is less than the county's hold harmless threshold for that fiscal year, the Secretary of Revenue must send to the county the difference between the amount of revenue available to the county under Article 46 and the county's hold harmless threshold amount. The Secretary must send this amount to the county by August 15 following the end of the fiscal year. This section applies only to fiscal years 2007-2008 and 2008-2009.

EXCISE TAX ON CONVEYANCES: The excise tax on conveyances, known as the deed stamp tax, is a State tax on instruments transferring an interest in real property. The register of deeds of the county in which the property is located collects the tax when the deed transferring the property is recorded. The tax rate is $1.00 for each $500.00 (0.2%) of the value of the property conveyed. The

county retains one-half of the net proceeds of the tax and remits the remaining one-half to the State. 75% of the funds remitted to the State is dedicated to the Parks and Recreation Trust Fund created in G.S. 113-44.15 and 25% is dedicated to the Natural Heritage Trust Fund created in G.S. 113-77.7. None of the State's share of the deed stamp tax goes to the General Fund.

Effective January 1, 2008, section 3 of the bill would eliminate the county's share of this tax revenue. The entire proceeds of the deed stamp tax would be remitted to the State. Of that amount, 50% would be credited to the General Fund. The remaining 50% would continue to be dedicated to the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund. This section repeals the statutes that require the counties to enforce the collection of the tax and to refund overpayments of the tax. These responsibilities would be assumed by the State and governed by the general administrative tax provisions of Article 9 of Chapter 105 of the General Statutes.

CORPORATE INCOME TAX EARMARKING: In 1987, as part of a tax package that included repeal of the property tax on inventories, the corporate income tax was increased to 7% and one-half of the additional 1% was dedicated to public school capital needs. Effective January 1, 2008, section 4 of this bill would eliminate the corporate income tax earmarking to the Public School Building Capital Fund.

COUNTY SHARE OF BEER AND WINE TAX PROCEEDS: The excise tax on beer and wine is a State imposed tax. However, the State distributes a portion of the tax revenue to counties and cities in which the retail sale of these beverages is authorized. Effective January 1, 2008, section 5 of this bill would repeal the sharing of this revenue with counties. Cities would continue to receive the same relative distribution percentage.

EXPAND GROSS PREMIUMS TAX TO INCLUDE ANNUITIES: Prior to 1995, the 1.9% gross premiums tax included the taxation of annuities. Effective for taxable years beginning on or after January 1, 2009, section 6 of this bill would expand the tax base to include annuities.[1] The taxation of annuities under this section differs from the taxation of annuities prior to 1995 in that it taxes annuities on the "front end" as opposed to the "back end". Under the 1994 law, the tax was paid when the annuity payments began rather than when money was deposited with the insurance company to fund the annuity. When payments on an annuity began, the tax was calculated as 1.9% of the present value of the stream of income to be received under the annuity. The insurer deducted the amount of the tax from the initial payments to be made under the annuity.

NONREFUNDABLE EARNED INCOME TAX CREDIT: Section 10 of the bill would establish a nonrefundable State earned income tax credit. The credit would be equal to 12% of an individual's federal earned income tax credit. It would become effective for taxable years beginning on or after January 1, 2007, and expire for taxable years beginning on or after January 1, 2013.

The Internal Revenue Code provides a refundable earned income tax credit for individuals who work and whose adjusted gross income does not exceed a specified amount.[2] The credit is intended to offset some of the increases in living expenses and social security taxes and provide an incentive for low-income families to work instead of collect welfare. If the credit allowed exceeds the amount of tax imposed, the excess is refundable to the taxpayer.

To be eligible for the credit, an individual must meet the following requirements:

- Have a valid social security number.

[1] The increase in the gross premiums tax base will also mean an increase in revenues derived from the insurance regulatory fee, unless the rate is reduced.

[2] Congress enacted the credit in 1975.

- Have earned income from employment or self-employment.[3]
- Be a U.S. citizen, a resident alien all year, or a nonresident alien married to a U.S. citizen or resident alien and filing a joint return.
- Can not be a qualifying child of another person.
- Have a qualifying child OR meet the following requirements:
    - Age 25 but under age 65 at the end of the year.
    - Live in the U.S. for more than half the year.

The amount of the federal credit varies depending upon whether the taxpayer has children and the amount of earned income the taxpayer has. The credit is phased out as the taxpayer's earned income rises. To qualify for the credit in 2006, an individual's earned income may not exceed $38,348 for an individual who is married filing jointly with two or more qualifying children.[4] The maximum federal credit amount allowed in 2006 is $4,536 for an individual with two or more qualifying children; for North Carolina, the maximum credit amount would be approximately $544. The maximum federal credit amount in 2006 for an individual with no children is $412; for North Carolina the maximum credit amount would be approximately $49. The earned income amounts and the credit amounts are indexed to inflation.

In the 2005 tax year, more than 22 million individuals received $41.4 billion in the federal earned income tax credit. However, the IRS estimates that 20 to 25% of people who qualify for the credit do not claim it. As of 2006, 20 states offer an earned income tax credit. In most instances, the credit is refundable. North Carolina has three other refundable tax credits: credit for qualifying expenses of a production company, credit for low-income housing, and credit for reinvestment by major recycling facilities.

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[3] Earned income includes wages, salaries, tips, and net earnings from self-employment. It does not include interest and dividends, social security benefits, pensions or annuities, alimony, child support, or unemployment compensation, etc.
[4] The income limit is $12,120 ($14,120 MFJ) if no qualifying children; the income limit is $32,001 ($34,001 if MFJ) if one qualifying child. A person's investment income must be $2,800 or less for the year to qualify.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1484

Short Title:	Sales Tax Medicaid Swap.	(Public)
Sponsors:	Senator Rand.	
Referred to:	Finance.	

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO SHIFT THE ENTIRE NONFEDERAL SHARE OF MEDICAID TO THE STATE AND TO MAKE CORRESPONDING CHANGES TO STATE AND LOCAL REVENUE STREAMS.

The General Assembly of North Carolina enacts:

PART I. MEDICAID CHANGES

SECTION 1.1. Effective July 1, 2007, the nonfederal share of Medical Assistance Program costs, excluding administrative costs, shall be borne by the State.

SECTION 1.2. This part is effective when it becomes law.

PART II. SALES AND USE TAX CHANGES

SECTION 2.1. The lead-in language of G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent ~~(4%).~~(4%) plus any amount converted to a State tax under Articles 39 and 40 of this Chapter.

...."

SECTION 2.2. Article 39 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-475. Conversion to State tax; hold harmless.**

(a) Conversion. – Effective July 1, 2007, a portion of a tax levied under this Article is converted to a State sales and use tax. The portion of the tax that is converted to a State tax is equal to fifty percent (50%) of the tax imposed. On or after that date, a county has the authority to enact or repeal the local portion of the tax only.

(b) City Hold Harmless. – A county shall ensure that the municipalities within the county receive the same distribution that they received from a tax levied under this Article for the 2006-2007 fiscal year."

SECTION 2.3. Chapter 1096 of the 1967 Session Laws is amended by adding a new section to read:

"Section 10.4. Effective July 1, 2007, a portion of a tax levied under this act is converted to a State sales and use tax. The portion of the tax that is converted to a State tax is equal to fifty percent (50%) of the tax imposed. On or after that date, Mecklenburg County has the authority to enact or repeal the local portion of the tax only. Mecklenburg County shall ensure that the municipalities within the County receive the same distribution that they received from a tax levied under this act for the 2006-2007 fiscal year."

SECTION 2.4. G.S. 105-481 is repealed.

SECTION 2.5. G.S. 105-486 is repealed.

SECTION 2.6. G.S. 105-487 is repealed.

SECTION 2.7. Article 40 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-487.1. Conversion to State tax; hold harmless.**

(a) Conversion. – Effective July 1, 2007, a tax levied under this Article is converted to a State sales and use tax. On or after that date, a county has no authority to enact or repeal the tax.

(b) City Hold Harmless. – A county shall ensure that the municipalities within the county receive the same distribution that they received from a tax levied under this Article for the 2006-2007 fiscal year."

SECTION 2.8. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"**§ 105-535. Short title.**

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"**§ 105-537. Levy.**

The board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax under this Article. The board of county commissioners must specify the rate of tax in the resolution levying the tax. The rate of a tax levied under this Article may not exceed one percent (1%) and must be an increment of one-quarter percent (1/4%). A county may levy multiple taxes under this Article so long as the total rate of all taxes levied under this Article does not exceed one percent (1%).

"**§ 105-538. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, distribution, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. Notwithstanding the provisions of

G.S. 105-466, a tax may be imposed under this Article as early as July 1, 2007. The provisions of Article 39 regarding advisory referenda do not apply to a tax levied under this Article. The provisions of G.S. 105-472 requiring counties to share the proceeds of a tax with municipalities in the county do not apply to a tax levied under this Article."

SECTION 2.9. A tax levied under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 46 of Chapter 105 of the General Statutes.

SECTION 2.10. G.S. 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, ~~40,~~ 42, 43, ~~and 44~~44, 45, and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, ~~105-486, and 105-501~~105-501, 105-510, 105-520, 105-531, and 105-538 do not apply to tax proceeds distributed under this section."

SECTION 2.11. Sections 2.1, 2.4, 2.5, and 2.6 of this part become effective July 1, 2007, and apply to sales made on or after that date. Section 2.10 of this part is effective for taxable years beginning on or after January 1, 2008. The remainder of this part is effective when it becomes law.

PART III. EFFECTIVE DATE

SECTION 3.1. Except as otherwise provided, this act is effective when it becomes law.

Senate Medicaid Swap Proposal ($Million)

June 20, 2007

	Effective Date	07-08	08-09	09-10	10-11	11-12
State General Fund						
State takes over 100% of Local Medicaid Service Costs (phase-in)	1/01/08	-129.2	-424.5	-617.0	-672.5	-733.0
State picks up 1/2 cent sales tax* (Article 44)	1/01/08	244.6	511.0	535.6	563.4	592.6
State picks up 1/8 cent Article 40 sales tax (no food)	1/01/08	61.2	127.8	133.9	140.9	148.2
State takes county portion of deed stamp tax	1/01/08	29.4	72.1	74.1	76.1	77.9
Corporate earmarking for school facilities eliminated	1/01/08	43.0	90.0	99.9	105.7	112.1
Repeal beer/wine distribution to counties	1/01/08	12.0	12.3	12.7	13.0	13.4
12% EITC (non-refundable)	1/01/07	-24.1	-24.8	-25.1	-25.2	-25.7
Tax annuities at insurance premiums tax rate (exempt qualified)	1/01/09		49.4	52.4	55.5	58.8
State holds harmless counties ($100,000 minumum gain)		-33.4	-9.4			
Net State Impact		**203.5**	**403.9**	**266.5**	**256.9**	**244.3**
Counties						
State takes over 100% of Local Medicaid Service Costs	1/01/08	129.2	424.5	617.0	672.5	733.0
Counties' lose 1/2 cent sales tax (Article 44)	1/01/08	-172.7	-360.8	-378.1	-397.8	-418.4
Counties' lose 1/8 cent Article 40 sales tax	1/01/08	-43.2	-90.2	-94.5	-99.4	-104.6
State takes county portion of deed stamp tax	1/01/08	-29.4	-72.1	-74.1	-76.1	-77.9
Corporate earmarking for school facilities eliminated	1/01/08	-43.0	-90.0	-99.9	-105.7	-112.1
Repeal beer/wine distribution to counties	1/01/08	-12.0	-12.3	-12.7	-13.0	-13.4
Counties authorized to levy 1/2 cent sales tax (point of sale, 100% county, no food)	1/01/08	244.6	511.0	535.6	563.4	592.6
Subtotal: Counties		73.5	310.1	493.2	543.9	599.3
Hold harmless cities at FY07 level		-89.9	-179.8	-179.8	-179.8	-179.8
State holds harmless counties		33.4	9.4			
Net Counties' Impact		**17.0**	**139.7**	**313.4**	**364.1**	**419.5**

County Summary

County	2007-08	2008-09	2009-10
Alamance	100,000	1,682,448	4,361,978
Alexander	100,000	100,000	631,413
Alleghany	100,000	230,696	543,600
Anson	332,442	1,702,143	2,927,913
Ashe	100,000	620,501	1,291,055
Avery	100,000	195,901	602,552
Beaufort	285,663	2,159,743	3,860,842
Bertie	180,700	1,234,985	2,179,201
Bladen	192,938	1,445,497	2,667,531
Brunswick	100,000	100,000	576,903
Buncombe	416,106	5,662,659	10,887,918
Burke	100,000	1,511,596	3,549,271
Cabarrus	100,000	468,842	2,862,200
Caldwell	100,000	1,310,022	3,141,655
Camden	100,000	100,000	100,000
Carteret	100,000	100,000	1,156,168
Caswell	100,000	329,251	939,423
Catawba	100,000	2,100,298	4,840,525
Chatham	100,000	100,000	100,000
Cherokee	140,918	898,888	1,664,138
Chowan	100,000	545,422	1,057,461
Clay	100,000	100,000	262,462
Cleveland	297,523	3,073,481	5,923,632
Columbus	794,817	3,580,986	5,863,880
Craven	100,000	1,051,092	3,008,349
Cumberland	100,000	3,470,673	9,414,224
Currituck	100,000	100,000	139,729
Dare	100,000	478,295	979,481
Davidson	100,000	1,480,646	4,491,751
Davie	100,000	100,000	351,821
Duplin	100,000	1,164,547	2,544,253
Durham	100,000	4,387,751	9,688,745
Edgecombe	484,225	2,790,253	4,774,307
Forysth	944,830	7,736,350	14,372,424
Franklin	100,000	375,609	1,540,505
Gaston	485,790	5,480,493	10,724,599
Gates	100,000	100,000	356,306
Graham	100,000	379,656	678,780
Granville	100,000	100,000	1,048,563
Greene	100,000	315,192	839,974
Guilford	245,866	7,379,995	15,174,606
Halifax	569,674	3,363,911	5,775,385
Harnett	100,000	561,612	2,520,429
Haywood	100,000	1,313,640	2,680,931
Henderson	100,000	795,230	2,621,093
Hertford	280,564	1,501,888	2,516,106
Hoke	100,000	170,570	1,073,470
Hyde	100,000	204,419	389,731

Iredell	100,000	932,979	3,297,658
Jackson	100,000	100,000	526,971
Johnston	100,000	929,530	3,748,418
Jones	100,000	215,697	497,795
Lee	100,000	1,162,241	2,268,220
Lenoir	408,174	2,640,734	4,568,194
Lincoln	100,000	153,587	1,407,885
Macon	100,000	731,791	1,438,884
Madison	100,000	354,645	905,497
Martin	288,852	1,456,060	2,478,558
McDowell	100,000	555,291	1,561,139
Mecklenburg	100,000	6,872,983	19,671,445
Mitchell	100,000	530,672	986,501
Montgomery	100,000	694,531	1,467,018
Moore	100,000	268,087	1,670,373
Nash	100,000	1,709,224	3,801,076
New Hanover	340,895	3,745,406	7,390,608
Northhampton	100,000	647,991	1,417,740
Onslow	100,000	100,000	1,054,053
Orange	100,000	100,000	237,532
Pamlico	100,000	129,319	472,185
Pasquotank	148,639	1,276,385	2,349,952
Pender	100,000	100,000	798,161
Perquimans	100,000	100,000	304,801
Person	100,000	574,228	1,461,828
Pitt	520,131	4,652,225	8,652,233
Polk	100,000	100,000	223,895
Randolph	100,000	993,996	3,545,691
Richmond	146,770	1,800,134	3,438,556
Robeson	1,452,989	7,727,476	13,284,716
Rockingham	100,000	1,519,814	3,715,319
Rowan	100,000	1,986,824	4,734,483
Rutherford	100,000	1,614,144	3,324,092
Sampson	235,395	2,098,619	3,967,417
Scotland	261,437	1,801,693	3,166,648
Stanly	100,000	1,005,570	2,258,562
Stokes	100,000	100,000	700,090
Surry	100,000	1,651,574	3,416,946
Swain	100,000	200,543	541,277
Transylvania	100,000	340,931	980,785
Tyrrell	100,000	100,000	107,725
Union	100,000	100,000	100,000
Vance	100,000	1,375,197	2,921,238
Wake	100,000	1,065,741	10,551,602
Warren	100,000	542,700	1,209,949
Washington	105,096	764,684	1,373,205
Watauga	100,000	154,228	705,166
Wayne	202,458	2,989,613	5,882,153
Wilkes	100,000	1,462,176	3,203,483
Wilson	311,552	2,594,006	4,751,880
Yadkin	100,000	382,456	1,148,880
Yancey	100,000	382,311	875,077

SENATE FINANCE COMMITTEE
Monday, June 25, 2007
6:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 6:00 p.m. on Monday, June 25, 2007, in room 544 of the Legislative Office Building. Thirty-five members of the committee were present. Senators David Hoyle presided.

S.B. 1484 – Sales Tax Medicaid Swap.

Senator Purcell moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Rand and Cindy Avrette, Research Division staff attorney, were recognized to explain the PCS. Senator Smith spoke in opposition to the bill, but in favor of taking Medicaid responsibilities from the counties. Senator Nesbitt was recognized to offer an amendment that removed Buncombe County from the bill and moved for its adoption. The amendment failed. Senator Nesbitt offered a second amendment that would explain the Earned Income Tax Credit to benefit additional lower income residents. The amendment failed. Senator Kinnaird was recognized to offer an amendment that would fold in towns with pending incorporations and moved for its adoption. The amendment failed. Senator Rand offered a technical amendment and moved for its adoption. The motion carried. Ellis Hankins, NC League of Municipalities, was recognized to speak in opposition to the bill. Jim Blackburn, NC County Commissioners Association attorney, was recognized to speak in favor of the bill. George Miller, representing the Teachers Insurance and Annuity Association, spoke in opposition to the annuities section of the bill. George Teague, representing various insurance agencies, was recognized to speak in opposition to the annuities section of the bill. Senator Rand moved to adopt the PCS as amended and the motion carried. A copy of the bill, the proposed committee substitute, the amendments, the summary, and descriptive handouts is attached.

The meeting adjourned at 8:46 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Senate Finance Committee
Monday, June 25, 2007, 6:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Bills

SB 1484	Sales Tax Medicaid Swap.	Senator Rand

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCMBA
Lisa Martin	NC Home Builders
Alastair Macaulay	NCMBA
Rick Zechini	NC Assn. of Realtors
Andy Munn	REBIC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chip Bass	News
[illegible]	JP, NC, PA
[illegible]	NCALTCF
[illegible]	NASW + ASW
[illegible]	SM
[illegible]	Civ. Tg
ROBERT M. ZIMMERS	NC DOA.
Suzanne Beasley Malysz	SEANC
Bruce Thompson	PACOM POS
DAVID RICE	MANNING FULTON
John McMillan	" "

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Dalton	NCRMA
George W. Miller Jr	TIAA-CREF
[illegible]	NMRS
Bill Lowe	NC Justice Center
Meg Gray	BTC
Chris Fitzsimon	NC Policy Watch
Rudolph E. Ho[illegible]	R. Ho[illegible] & Assoc.
Attorney [illegible]	[illegible]
Bill McKay	NC Rural Center
Bob Phillips	Common Cause
Louisa Warren	NC Coalition for Responsible Lobbying Reform

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ed Hudgins	BP
Tommy Stevens	NCPC
[illegible]	NCP
Katherine Joyce	NCASA
David Young	NCACC
Patrice Pearson	NACC
Jim Blackburn	NC Association of County Commissioners
Chip Killian	Nelson Mullins
Allen Jones	City of Winston Salem
Bean Mills	NC Metropolitan Coalition
Robert B. Martin	NCLM

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Susanne Stebs	NCRLA
Emily Atkinson	Capstrat
Danice Brown	Kennedy Covington
Jim Stegall	U.C.P.S.
Bill O'Donnell	NCSBA
Sandy Sanders	WCSR
Cecil Bond	NCAE
Lori K. Schmidt	Action for Children NC
Laura A. Hogg	Wake UP Wake County
Stan Wainwright	Wake UP "
Robert Pasichal	Young, Moore

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
	NCSBA
	NCLM
	Wake County GNL
	City of Charlotte
	WCPSS
	EIGR
	NCPPC
	AEP

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1484
PROPOSED COMMITTEE SUBSTITUTE S1484-CSRBx-36 [v.3]

6/25/2007 5:42:51 PM

Short Title: State Assume Medicaid Responsibilities. (Public)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE COUNTY SHARE OF THE NONFEDERAL SHARE OF MEDICAID COSTS; TO MAKE CORRESPONDING CHANGES TO STATE AND LOCAL REVENUE STREAMS; TO AUTHORIZE COUNTIES TO LEVY AN ADDITIONAL ONE-HALF CENT (1/2¢) LOCAL OPTION SALES TAX; AND TO PROVIDE A NONREFUNDABLE EARNED INCOME TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1.(a). Effective January 1, 2008, fifty percent (50%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(b) Effective July 1, 2008, seventy-five percent (75%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(c) Effective July 1, 2009, G.S. 108A-54 reads as rewritten:

"**§ 108A-54. Authorization of Medical Assistance Program.**

The Department is authorized ~~and empowered~~ to establish a Medical Assistance Program ~~from federal, State and county appropriations~~ and to adopt rules ~~and regulations under which payments are to be made in accordance with the provisions of this Part.~~ to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. A county is responsible for the county's cost of administering the Program in that county. ~~The nonfederal share may be divided between the State and the counties, in a manner consistent with the provisions of the federal Social Security Act, except that the share required from the counties may not exceed the share required from the state. If a portion of the nonfederal share is required from the counties, the boards of county commissioners of the several counties shall levy, impose and collect the taxes required for the special purpose of medical assistance as provided in this Part, in an amount sufficient to cover each county's share of such assistance.~~"

SECTION 1.(d) Subsection (a) of this section becomes effective January 1, 2008, and applies to Medicaid costs incurred on or after that date. Subsection (b) of this section becomes effective July 1, 2008, and applies to Medicaid costs incurred on or after that date. Subsection (c) of this section becomes effective July 1, 2009, and applies to Medicaid costs incurred on or after that date.

SECTION 2.(a) G.S. 105-515, 105-516, 105-517, 105-518, 105-519, and 105-520 are repealed.

SECTION 2.(b) Article 42 of Chapter 105 reads as rewritten:

"Article 42.

~~Second One-Half Cent (1/2¢)~~ Three-Eighths Cent (3/8¢) Local Government Sales and Use Tax.

§ 105-495. Short title.

This Article shall be known as the ~~Second One-Half Cent (1/2¢)~~ Three-Eighths Cent (3/8¢) Local Government Sales and Use Tax Act.

§ 105-496. Purpose and intent.

It is the purpose of this Article to afford the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs, and to reduce their reliance on other revenues, such as the property tax and federal revenue sharing, by providing all counties of the State that are subject to this Article with authority to levy ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use taxes.

§ 105-497. Limitations.

This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws and also levy one-half percent (1/2%) local sales and use taxes under Article 40 of this Chapter.

§ 105-498. Levy and collection of additional taxes.

Any county subject to this Article may levy ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article 42 of this Chapter. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

§ 105-499. Form of ballot.

(a) The form of the question to be presented on a ballot for a special election concerning the additional taxes authorized by this Article shall be: "FOR ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes in addition to the current one and one-half percent (1 1/2%) local sales and use taxes" or "AGAINST ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes in addition to the current one and one-half percent (1 1/2%) local sales and use taxes."

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: "FOR repeal of the additional one~~-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent (1 1/2%)" or "AGAINST repeal of the additional ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent (1 1/2%)."

§ 105-501. Distribution of additional taxes.

The Secretary shall, on a monthly basis, allocate the net proceeds of the ~~additional one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.

In determining the net proceeds of the tax to be distributed, the Secretary shall deduct from the collections to be allocated an amount equal to one-twelfth of the costs during the preceding fiscal year of:

(1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.

(1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.

(2) The Property Tax Commission.

(3) The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.

(4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.

§ 105-502. Use of additional tax revenue by counties.

(a) Sixty percent (60%) of the revenue received by a county under this Article during the first 25 fiscal years in which the tax is in effect may be used by the county only for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes during the period beginning five years prior to the date the taxes took effect.

(b) The Local Government Commission may, upon petition by a county, authorize a county to use part or all of its tax revenue, otherwise required by subsection (a) to be used for public school capital outlay purposes, for any lawful purpose. The petition shall be in the form of a resolution adopted by the Board of County Commissioners and transmitted to the Local Government Commission. The petition shall demonstrate that the county can provide for its public school capital needs without restricting the use of part or all of the designated amount of the ~~additional one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use tax revenue for these purposes.

In making its decision, the Local Government Commission shall consider information in the petition concerning not only the public school capital needs but also the other capital needs of the petitioning county. The Commission may consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the public school capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and shall continue in effect until the restrictions imposed by those subsections expire. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) A county may expend part or all of the revenue restricted for public school capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the county may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes.

(d) For purposes of this section in determining the number of fiscal years in which ~~one-half percent (1/2%)~~ three hundred seventy-five thousandths percent (0.375%) sales and use taxes levied under this Article have been in effect in a county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect."

SECTION 2.(c) A county that levied and imposed the second one –half cent (1/2¢) local sales and use tax under Article 42 of Chapter 105 of the General Statutes on December 31, 2007, may levy and impose the three-eighths cent (3/8¢)local sales and use tax authorized under this Article, as amended by this act, without any further action on its part. A resolution enacted to levy the second one-half cent (1/2¢) local sales and use tax prior to January 1, 2008, is considered to be a resolution authorizing the levy of the three-eights cent (3/8¢) local sales and use tax authorized under this Article, as amended by this act.

SECTION 2.(d) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four percent (4%).~~four and six hundred twenty-five thousandths percent (4.625%)."

SECTION 2.(e) G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

(1) ~~Nineteen and forty-two one-hundredths percent (19.42%)~~ Seventeen and eighty-four one-hundredths percent (17.84%) minus two million six hundred twenty thousand nine hundred forty-eight dollars ($2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."

(2) ~~Eight percent (8%)~~ Seven and thirty-five one-hundredths percent (7.35%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 2.(f) G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars ($2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) ~~Twenty-five percent (25%)~~ Twenty-three percent (23%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) ~~Thirty-seven and five tenths percent (37.5%)~~ Thirty-four and five-tenths percent (37.5%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 2.(g) Subsections (a) through (d) of this section become effective January 1, 2008, and apply to sales made on or after that date. Subsections (e) and (f) of this section apply to distributions made on or after April 1, 2008 for calendar quarters ending on or after January 1, 2008.

SECTION 3.(a) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must ~~credit one-half of the proceeds to the county's general fund and~~ remit the ~~remaining one-half of the proceeds, less the county's allowance for administrative expenses,~~ proceeds to the Department of Revenue on a monthly basis. ~~A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the~~ The Department ~~of Revenue~~ must credit the proceeds remitted to it as follows:

(1) Fifty percent (50%) to the General Fund.

(2) ~~seventy-five percent (75%)~~ Thirty-seven and five-tenths percent (37.5%) to the Parks and Recreation Trust Fund established under ~~G.S. 113-44.15 and~~ G.S. 113-44.15.

(3) ~~twenty-five percent (25%)~~ Twelve and five-tenths percent (12.5%) to the Natural Heritage Trust Fund established under G.S. 113-77.7."

SECTION 3.(b) G.S. 105-228.33 and G.S. 105-228.37 are repealed.

SECTION 3.(c) G.S. 105-228.35 reads as rewritten:

"**§ 105-228.35. Administrative provisions.**

~~Except as otherwise provided in this Article, the~~ The provisions of Article 9 of this Chapter apply to this Article.

Before a tax imposed under this Article may be refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the Secretary when the correcting instrument has been recorded."

SECTION 3.(d) This section becomes effective January 1, 2008, and applies to transfers occurring on or after that date.

SECTION 4.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

(b) ~~Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the~~

~~previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One fourteenth (1/14)~~
~~After 9/30/00~~	~~Five sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 4.(b) G.S. 115C-546.2(a), (b), and (c) are repealed.

SECTION 4.(c) Subsection (a) of this section becomes effective January 1, 2008. Subsection (b) of this section becomes effective upon certification by the Department of Public Instruction that all revenue allocated to the Public School Building Capital Fund from corporate income tax revenue has been disbursed.

SECTION 5.(a) G.S. 105-113.82 reads as rewritten:

"**§ 105-113.82. Distribution of part of beer and wine taxes.**

(a) Amount, Method. – The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March 31, less the amount of the net proceeds credited to the Department of Commerce under G.S. 105-113.81A, to the ~~counties and~~ cities in which the retail sale of these beverages is ~~authorized in the entire county or city:~~authorized and to the cities in a county in which ABC stores have been established by petition. The amount distributed to each city is to be determined on the basis of its population relative to the population of all the cities that receive a distribution under this section. The amounts distributed under each subdivision shall be computed separately.

(1) Of the tax on malt beverages levied under G.S. 105-113.80(a), ~~twenty-three and three-fourths percent (23¾%);~~ fifteen percent (15%).

(2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), ~~sixty-two percent (62%); and~~ thirty-nine and nine-tenths percent (39.9%).

(3) Of the tax on fortified wine levied under G.S. 105-113.80(b), ~~twenty-two percent (22%).~~ fifteen and one-tenths percent (15.1%).

~~If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributed under subdivisions (1), (2), and (3) shall be computed separately.~~

(b) Repealed by Session Laws 2000, c. 173, s. 3, effective August 2, 2000.

(c) ~~Exception. — Notwithstanding subsection (a), in a county in which ABC stores have been established by petition, the revenue shall be distributed as though the~~

~~entire county had approved the retail sale of a beverage whose retail sale is authorized in part of the county.~~

(d) Time. – The revenue shall be distributed to cities ~~and counties~~ within 60 days after March 31 of each year. The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution.

(e) Population Estimates. – To determine the population of a city ~~or county~~ for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State Budget Officer.

(f) City Defined. – As used in this section, the term "city" means a city as defined in G.S. 153A-1(1) or an urban service district defined by the governing body of a consolidated city-county.

(g) Use of Funds. – Funds distributed to a ~~county or~~ city under this section may be used for any public purpose.

(h) Disqualification. – No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets is open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

SECTION 5.(b) This section becomes effective January 1, 2008, and applies to distributions made on or after that date.

SECTION 6.(a) G.S. 105-228.5(b1) reads as rewritten:

"(b1) Calculation of Tax Base. – In determining the amount of gross premiums from business in this State, all gross premiums received in this State, credited to policies written or procured in this State, or derived from business written in this State shall be deemed to be for contracts covering persons, property, or risks resident or located in this State unless one of the following applies:

(1) The premiums are properly reported and properly allocated as being received from business done in some other nation, territory, state, or states.

(2) The premiums are from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

Gross premiums from business done in this State in the case of life insurance contracts, including supplemental contracts providing for disability benefits, accidental death benefits, or other special ~~benefits that are not annuities,~~ benefits, means all premiums collected in the calendar year, other than for contracts of reinsurance, for policies the premiums on which are paid by or credited to persons, firms, or corporations resident in this State, or in the case of group policies, for contracts of insurance covering persons resident within this State. The only deductions allowed shall be for premiums refunded on policies rescinded for fraud or other breach of ~~contract and~~ contract; premiums that were paid in advance on life insurance contracts and

subsequently refunded to the insured, premium payer, beneficiary or ~~estate.~~ estate; and in the case of group annuity contracts, premiums returned because of a change in the composition of the group covered. Gross premiums shall be deemed to have been collected for the amounts as provided in the policy contracts for the time in force during the year, whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend, or by any other means except waiver of premiums by companies under a contract for waiver of premium in case of disability.

Gross premiums from business done in this State for all other health care plans and contracts of insurance, including contracts of insurance required to be carried by the Workers' Compensation Act, means all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether the premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for the premiums, and with no deduction for dividends whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums, deposits, fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies."

SECTION 6.(b) G.S. 105-228.5(c) reads as rewritten:

"(c) Exclusions. ~~Every insurer, in computing the premium tax, shall exclude all of the following from the gross amount of premiums, and the gross amount of excluded~~ The following premiums ~~is~~ are exempt from the tax imposed by this section:

(1) ~~All premiums~~ Premiums received ~~on or after July 1, 1973,~~ from policies or contracts issued in connection with the funding of a pension, annuity, or profit-sharing plan qualified or exempt under section 401, 403, 404, 408, ~~457~~ 457, or 501 of the ~~Code as defined in G.S. 105-228.90.~~Code.

~~(2) Premiums or considerations received from annuities, as defined in G.S. 58-7-15.~~

(3) Funds or considerations received in connection with funding agreements, as defined in G.S. 58-7-16.

(4) The following premiums, to the extent federal law prohibits their taxation under this Article:

a. Federal Employees Health Benefits Plan premiums.

b. Medicaid or Medicare premiums."

SECTION 6.(c) Subsections (a) and (b) of this subsection become effective for taxable years beginning on or after January 1, 2009, and apply to premiums or considerations received from annuities issued on or after that date.

SECTION 7.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"One-Half Cent (1/2¢) County Sales and Use Tax.

"**§ 105-535. Short title.**

This Article is the One-Half Cent (1/2¢) County Sales and Use Tax Act.

"**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"**§ 105-537. Levy.**

(a) After Vote. – If a majority of those voting in a special election held pursuant to this Article vote for the levy of the taxes in a county, the board of commissioners of a county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Without Vote. – If the question of whether to levy taxes under this Article has not been defeated in a special election held in the county within two years, the board of commissioners of a county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Before adopting a resolution under this subsection, the board of commissioners must give at least 10 days' public notice of its intent to adopt the resolution and must hold a public hearing on the issue of adopting the resolution.

(c) Effective Date. – A tax levied under this Article may not become effective before January 1, 2008.

"**§ 105-538. County election on adoption of tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct a special election on the question of whether to levy local one-half percent (1/2%) sales and use taxes in the county as provided in this Article. The election must be held on a date jointly agreed upon by the two boards and must be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. – The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article must be in the following form:

[ ] FOR [ ] AGAINST
one-half percent (1/2%) county sales and use taxes, in
addition to all current State and local sales and use taxes.

"**§ 105-539. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, distribution, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B. The provisions of G.S. 105-472 requiring counties to share the proceeds of a tax with municipalities in the county do not apply to a tax levied under this Article.

"**§ 105-540. Distribution of additional taxes.**

The Secretary must, on a monthly basis, allocate to each taxing county the net proceeds of the additional one-half percent (1/2%) sales and use taxes collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county. The Secretary must allocated the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

"**§ 105-541. Use of additional tax revenue by counties.**

(a) Use of Revenue. – At least seventy-five percent (75%) of the revenue received by a county under this Article must be used by the county only for one or more of the authorized purposes listed in this subsection. The remainder of the revenue may be used for any public purpose. The authorized purposes are:

(1) Public school capital outlay.

(2) Community college capital outlay.

(3) Water, sewer, or other infrastructure.

(4) Retirement of indebtedness incurred by the county for one or more of the purposes listed in this subsection during the period beginning three years prior to the effective date of the levy of the tax.

(b) Nonsupplant. – It is the purpose of this Article for counties to appropriate at least seventy-five percent (75%) of the funds generated under this Article to increase the level of county spending for the authorized purposes listed in subsection (a) of this section. In each fiscal year a county levies a tax under this Article, it must spend for the purposes listed in subsection (a) of this section at least the amount of money it spent for those purposes in fiscal year 2006-2007 from all sources. All sources must include funds allocated to it under G.S. 115C-546.2(a) for public school capital outlay and twenty-five percent (25%) of the sales tax revenue required to be used by the county for public school capital outlay purposes under G.S. 105-501.

(c) Petition to Use Funds for Other Purposes. – The Local Government Commission may, upon petition by a county, authorize the county to use part or all its tax revenue, otherwise required to be used for the authorized purposes listed in subsection (a) of this section, for any lawful purpose. The petition must be in the form of a resolution adopted by the Board of County Commissioners and transmitted to the Local Government Commission. The petition must demonstrate that the county can provide for the authorized purposes without restricting the use of part or all of the designated amount of the additional one-half percent (1/2%) sales and use tax revenue for that purpose.

In making its decision, the Local Government Commission must consider information contained in the petition concerning not only the petitioning county's needs for the authorized purposes, but also its other capital needs. The Commission may consider information from sources other than the petition. The Commission must issue a written decision on each petition stating the findings of the Commission concerning the public school capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) of this section that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) of this section for any lawful purpose are final. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission."

SECTION 7.(b) Notwithstanding the provisions of G.S. 105-466(c), a tax levied during the 2007 calendar year under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, may become effective on the first day of any calendar month beginning on or after January 1, 2008. Notwithstanding the provisions of G.S. 105-466(c), if a county levies a tax during the 2007 calendar year under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, the county is required to give the Secretary of Revenue only 30 days' advance notice of the tax levy. For taxes levied on or after January 1, 2008, the provisions of G.S. 105-466(c) apply.

SECTION 7.(c) A tax levied under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 46 of Chapter 105 of the General Statutes.

SECTION 7.(d) G.S. 105-521 reads as rewritten:

"**§ 105-521. Transitional local government ~~hold-harmless.~~hold-harmless for repealed reimbursements.**

(a) Definitions. – The following definitions apply in this section:

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.

(2) Local sales tax share. – A local government's percentage share of the ~~two-cent (2¢)~~ local sales taxes distributed during the most recent fiscal year for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(4) ~~Two-cent (2¢)~~ Local sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the ~~second one-half cent (1/2¢)~~ three-eighths cent (3/8¢) local sales and use tax authorized in Article 42 of this Chapter.

(5) Estimated sales tax revenue. – An amount equal to twenty-five percent (25%) of the revenue distributed under Article 39 of this Chapter and fifty percent (50%) of the revenue distributed under Article 40 of this Chapter.

(b) Distributions. – On or before August 15, 2003, and every August 15 through August 15, 2012, the Secretary must multiply each local government's local sales tax share by the amount of estimated ~~amount~~ sales tax revenue that all local governments ~~would be~~ are expected to receive during the current fiscal ~~year under G.S. 105-520 if every county levied the tax under this Article for the~~ year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

On or before May 1, 2003, and every May 1 through May 1, 2012, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the amount of estimated ~~amount~~ sales tax revenue that all local governments would be expected to receive during the upcoming fiscal ~~year under G.S. 105-520 if every county levied the tax under this Article for the fiscal~~ year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 through January 31, 2013, the amount distributed under this section for the current fiscal year."

SECTION 7.(e) G.S. 159-6(e) reads as rewritten:

"(e) In addition to any other fees authorized by this section, the Commission may charge and collect fees for services rendered and expenses incurred in reviewing and processing petitions of counties or cities concerning use of local sales and use tax revenue in accordance with ~~G.S. 105-487(c).~~ G.S. 105-487(c) and G.S. 105-541(c)."

SECTION 7.(f) G.S. 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, 40, 42, 43, ~~and 44~~ and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, 105-486, ~~and 105-501~~ 105-501, and 105-540 do not apply to tax proceeds distributed under this section."

SECTION 7.(g) This section is effective when it becomes law.

SECTION 8.(a) Article 39 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-472.1. City hold-harmless for repealed local sales taxes.

(a) Amount. – A municipality's reimbursement amount is the sum of the following:

(1) The amount the municipality received in fiscal year 2006-2007 under Article 44 of this Chapter before its repeal.

(2) The amount the municipality received in fiscal year 2006-2007 from twenty-five percent (25%) of the tax levied under Article 42 of this Chapter before it was amended to reduce the tax rate.

(b) Reimbursement. – A county must reimburse a municipality located in it for its reimbursement amount. The Secretary must withhold from a county the amount to be distributed under G.S. 105-472 to a county for a reporting period the reimbursement amount for the municipalities in that county for the same reporting period in fiscal year 2006-2007. The Secretary must re-distribute the withheld amount to the municipalities."

SECTION 8.(b) Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding a new subdivision to read:

"Sec. 6.1. City Hold-Harmless for Repealed Local Sales Taxes. (a) Amount. A municipality's reimbursement amount is the sum of the following (1) The amount the municipality received in fiscal year 2006-2007 under Article 44 of Chapter 105 of the General Statutes before its repeal; and (2) The amount the municipality received in fiscal year 2006-2007 from twenty-five percent (25%) of the tax levied under Article 42 of Chapter 105 of the General Statutes before it was amended to reduce the tax rate.

(b) Reimbursement. Mecklenburg County must reimburse a municipality located in it for its reimbursement amount. The Secretary must withhold from the amount to be distributed under this division to Mecklenburg County for a reporting period the reimbursement amount for the municipalities located in it for the same reporting period in fiscal year 2006-2007. The Secretary must re-distribute the withheld amount to the municipalities."

SECTION 9. (a) County Reimbursement. – If the amount of local sales tax revenue available to a county under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, for a fiscal year is less than the county's hold harmless threshold for that fiscal year, the Secretary of Revenue must send to the county the difference between the amount of revenue available to the county under Article 46 of Chapter 105 of the General Statutes for the fiscal year and the county's hold harmless threshold. The Secretary of Revenue must send this amount to the county by August 15 following the end of the fiscal year.

(b) Local Sales Tax Available. – If a county imposes a tax under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, effective January 1, 2008, the amount of sales tax available to a county under that Article for fiscal year 2007-2008 is the amount distributed under that Article plus the amount distributed under repealed Article 44 of Chapter 105 of the General Statutes after January 1, 2008. If a county does not impose a tax under Article 46 of Chapter 105 of the General Statutes effective January 1, 2008, the amount of sales tax available to a county under that Article for fiscal year 2007-2008 is the amount it would have received under that

Article if it had imposed the tax effective January 1, 2008, plus the amount distributed to it under repealed Article 44 after January 1, 2008.

For fiscal years on or after fiscal year 2008-2009, the amount of sales tax available to a county that imposes a tax under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, is the amount distributed to it under that Article during the fiscal year. For all other counties, the amount of sales tax available to the county under Article 46 of Chapter 105 is the amount the county would have received under that Article if it had imposed the tax.

The Secretary must determine the amount of sales tax available to a county under Article 46 of Chapter 105 of the General Statutes, as enacted by this act. If a county does not impose a tax under that Article, the Secretary must make the determination based on the amount of taxes distributed to the county under Article 39 of this Chapter or Chapter 1096 of the 1969 Session Laws, not including any amount distributed for taxes on food that is subject to local sales taxes but not State sales taxes.

(c) County Hold Harmless Threshold. – A county's hold harmless threshold for a fiscal year is the county's Medicaid service costs assumed by the State under G.S. 108A-54 for the fiscal year plus one hundred thousand dollars ($100,000). If the sum of the following for a fiscal year is less than the county's hold harmless threshold for that fiscal year, then the State will reimburse the county as provided in this section:

(1) An amount equal to twenty-five percent (25%) of the revenue distributed to it under Article 39 of Chapter 105 of the General Statutes plus fifty percent (50%) of the revenue distributed to it under Article 40 of Chapter 105 of the General Statutes.

(2) An amount equal to twenty-five percent (25%) of the revenue distributed to it under Article 42 of Chapter 105 of the General Statutes.

(3) An amount equal to the sum of the following for the counties in which the retail sale of these beverages is authorized before January 1, 2008:

a. Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23¾%).

b. Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%).

c. Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

(4) An amount equal to fifty percent (50%) of the excise tax levied on conveyances under Article 8E of Chapter 105 of the General Statutes that are paid to the register of deeds of the county.

(5) An amount equal to five sixty-ninths (5/69) of the net collections received under G.S. 105-130.3 that would be allocable to the county under G.S. 115C-546.1.

The Secretary of the Department of Health and Human Resources must certify to the Secretary of Revenue the amount of Medicaid service costs assumed by the State for each county under G.S. 108A-54 for each fiscal year.

(d) Sunset. – This section expires July 1, 2012.

SECTION 10.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.31. Earned income tax credit.**

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to twelve percent (12%) of the amount of credit the individual qualified for under section 32 of the Code.

(b) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013."

SECTION 10.(b) G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.

(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.

(3) G.S. 105-151.18. Credit for the disabled.

(4) G.S. 105-151.24. Credit for children.

(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.

(6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.

(7) G.S. 105-151.28. Credit for long-term care insurance.

(8) G.S. 105-151.30. Credit for recycling oyster shells.

(9) G.S. 105-151.31. Earned income tax credit."

SECTION 10.(c) This section is effective for taxable years beginning on or after January 1, 2007.

SECTION 11. This act does not affect the rights or liabilities of the State, a county, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 12. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 1484:
State Assume Medicaid Responsibilities

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 25, 2007
Introduced by:	Sen. Rand	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S1484-CSRBx-36		Committee Counsel

SUMMARY: ***This proposed committee substitute, S1484-CSRBx-36, does not materially alter the policy changes contained in the PCS discussed last Wednesday. Based upon issues raised at the meeting last Wednesday, this proposed committee substitute does the following:***

- ***It claries the non-supplant language on page 11.***
- ***It provides that local governments may petition the Local Government Commission to use the local sales tax revenues for other purposes.***
- ***It provides that cities will be held harmless for the loss of 1/8 of their 1/2-cent local sales tax revenues. (Section 8)***
- ***It maintains the transitional local government hold harmless for repealed reimbursements. (Section 79(d))***
- ***It clarifies the county hold harmless calculation. (Section 9)***
- ***It makes other technical changes:***
  - ***It reduces the second one-half cent local sales tax rather than the first on-half cent. (no substantive difference)***
  - ***Conforms the percentages in G.S. 105-164.44F and G.S. 105-164.44I.***
  - ***Clarifies the effective date for the gross premiums tax on annuities issued on or after January 1, 2009.***
  - ***Adds a provision modifying G.S. 105-466 until January 1, 2008. Under that statute, a local sales tax may only be changed twice a year: January 1 or July 1. Also, a county must give the Department of Revenue 90 notice of the change. The provision modifies it for counties that levy the new county sales tax on or before January 1, 2008.***

The proposed committee substitute for Senate Bill 1484 makes the following policy changes:

- It phases out the county's share of the nonfederal share of Medicaid costs, beginning January 1, 2008. The State will completely assume the county's share of the costs of the medical services provided under the Medicaid Program by July 1, 2009. The cost of assuming the county share of the Program expenses is estimated to be $617 million in fiscal year 2009-10.
- It makes corresponding changes to State and local revenue streams, effective January 1, 2008.
  - Repeals the third ½% local sales tax, repeals .125% of the first ½% local sales tax, and increases the State sales tax rate by a corresponding 0.625%.
  - It provides that all of the excise tax on conveyances will be remitted to the State.
  - It repeals the corporate income tax earmarking to the Public School Building Capital Fund.
  - It repeals the distribution of the excise tax on wine and beer to the counties.

- It authorizes counties to impose additional ½% sales and use tax. The sales tax revenue would not be shared with the municipalities. At least 75% of the revenue from the tax must be used for public school capital needs, community college plant fund purposes, water and sewer, and other infrastructure needs.
- It requires each county to hold harmless the municipalities located in it from the repeal of the ½% local sales and use tax. The Secretary of Revenue will redistribute from the county's share of the 1% local sales and use tax proceeds an amount equal to the amount the municipalities in that county received in fiscal year 2006-07 under Article 44 before its repeal.
- It holds the counties harmless in fiscal year 2007-08 and fiscal year 2008-09 from the changes made by this act.
- It expands the gross premiums tax base to include the taxation of annuities, effective for taxable years beginning on or after January 1, 2009.
- It establishes a nonrefundable earned income tax credit, effective for taxable years beginning on or after January 1, 2007, and expiring for taxable years beginning on or after January 1, 2013.

S1484e1-SMRB-CSRBx-36

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1484

Short Title:	Sales Tax Medicaid Swap.	(Public)
Sponsors:	Senator Rand.	
Referred to:	Finance.	

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO SHIFT THE ENTIRE NONFEDERAL SHARE OF MEDICAID TO THE STATE AND TO MAKE CORRESPONDING CHANGES TO STATE AND LOCAL REVENUE STREAMS.

The General Assembly of North Carolina enacts:

PART I. MEDICAID CHANGES

SECTION 1.1. Effective July 1, 2007, the nonfederal share of Medical Assistance Program costs, excluding administrative costs, shall be borne by the State.

SECTION 1.2. This part is effective when it becomes law.

PART II. SALES AND USE TAX CHANGES

SECTION 2.1. The lead-in language of G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent ~~(4%).~~(4%) plus any amount converted to a State tax under Articles 39 and 40 of this Chapter.

...."

SECTION 2.2. Article 39 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-475. Conversion to State tax; hold harmless.**

(a) Conversion. – Effective July 1, 2007, a portion of a tax levied under this Article is converted to a State sales and use tax. The portion of the tax that is converted to a State tax is equal to fifty percent (50%) of the tax imposed. On or after that date, a county has the authority to enact or repeal the local portion of the tax only.

(b) City Hold Harmless. – A county shall ensure that the municipalities within the county receive the same distribution that they received from a tax levied under this Article for the 2006-2007 fiscal year."

SECTION 2.3. Chapter 1096 of the 1967 Session Laws is amended by adding a new section to read:

"Section 10.4. Effective July 1, 2007, a portion of a tax levied under this act is converted to a State sales and use tax. The portion of the tax that is converted to a State tax is equal to fifty percent (50%) of the tax imposed. On or after that date, Mecklenburg County has the authority to enact or repeal the local portion of the tax only. Mecklenburg County shall ensure that the municipalities within the County receive the same distribution that they received from a tax levied under this act for the 2006-2007 fiscal year."

SECTION 2.4. G.S. 105-481 is repealed.

SECTION 2.5. G.S. 105-486 is repealed.

SECTION 2.6. G.S. 105-487 is repealed.

SECTION 2.7. Article 40 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-487.1. Conversion to State tax; hold harmless.**

(a) Conversion. – Effective July 1, 2007, a tax levied under this Article is converted to a State sales and use tax. On or after that date, a county has no authority to enact or repeal the tax.

(b) City Hold Harmless. – A county shall ensure that the municipalities within the county receive the same distribution that they received from a tax levied under this Article for the 2006-2007 fiscal year."

SECTION 2.8. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"**§ 105-535. Short title.**

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"**§ 105-537. Levy.**

The board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax under this Article. The board of county commissioners must specify the rate of tax in the resolution levying the tax. The rate of a tax levied under this Article may not exceed one percent (1%) and must be an increment of one-quarter percent (1/4%). A county may levy multiple taxes under this Article so long as the total rate of all taxes levied under this Article does not exceed one percent (1%).

"**§ 105-538. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, distribution, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. Notwithstanding the provisions of

G.S. 105-466, a tax may be imposed under this Article as early as July 1, 2007. The provisions of Article 39 regarding advisory referenda do not apply to a tax levied under this Article. The provisions of G.S. 105-472 requiring counties to share the proceeds of a tax with municipalities in the county do not apply to a tax levied under this Article."

SECTION 2.9. A tax levied under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 46 of Chapter 105 of the General Statutes.

SECTION 2.10. G.S. 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, ~~40,~~ 42, 43, ~~and 44~~44, 45, and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, ~~105-486, and 105-501~~105-501, 105-510, 105-520, 105-531, and 105-538 do not apply to tax proceeds distributed under this section."

SECTION 2.11. Sections 2.1, 2.4, 2.5, and 2.6 of this part become effective July 1, 2007, and apply to sales made on or after that date. Section 2.10 of this part is effective for taxable years beginning on or after January 1, 2008. The remainder of this part is effective when it becomes law.

PART III. EFFECTIVE DATE

SECTION 3.1. Except as otherwise provided, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 1484-CSRBx-36 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Rand
Sen.)

moves to amend the bill on page 11, line 20

( ) WHICH CHANGES THE TITLE

by inserting the word "net" preceding the word "funds";

and on page 11, line 9, by inserting the word "net" preceding the word "revenue";

and on page 11, line 11, by inserting the word "net" preceding the word "revenue".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1484

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1484-AMC-21 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Senator Nesbitt

moves to amend the bill on page 13, line 42 by deleting that line and substituting the following language to read:

"**SECTION 7.(g)** The use restrictions of G.S. 105-541 do not apply to Buncombe County.

SECTION 7.(h) This section is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1484

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1484-AMC-19 [v.2]

Date _____,2007

Comm. Sub. [YES]
Amends Title [YES]
First Edition

Senator Nesbitt

moves to amend the bill on page 1, line 6, by deleting the word "NONREFUNDABLE" and replacing it with the word "REFUNDABLE"; and

moves to amend the bill by deleting from page 16, line 1 through page 16, line 30, and substituting the following to read:

"**SECTION 10.(a)** Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

'**§ 105-151.31. Earned income tax credit.**

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to five percent (5%) of the amount of credit the individual qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

(b) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. Section 3507 of the Code, Advance Payment of Earned Income Credit, does not apply to the credit allowed by this section. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013.'

SECTION 10.(b) G.S. 105-160.3(b) reads as rewritten:

'(b) The following credits are not allowed to an estate or trust:

(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1484

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1484-AMC-19 [v.2]

(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.
(3) G.S. 105-151.18. Credit for the disabled.
(4) G.S. 105-151.24. Credit for children.
(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
(6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.
(7) G.S. 105-151.28. Credit for long-term care insurance.
(8) G.S. 105-151.30. Credit for recycling oyster shells.
(9) G.S. 105-151.31. Earned income tax credit.'

SECTION 10.(c) This section is effective for taxable years beginning on or after January 1, 2008.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1484

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1484-ALB-95 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
PCS Kinnaird

~~Senator Berger of Franklin~~

moves to amend the bill on page 14, line 21 by adding the following at the end "In the case of any municipality incorporated by the General Assembly in 2007, the amount shall be recalculated as if that new municipality had been incorporated for the entire 2006-2007 fiscal year."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

County Summary

SB 1484

County	2007-08	2008-09	2009-10
Alamance	100,000	1,909,735	4,589,265
Alexander	100,000	100,000	637,513
Alleghany	100,000	236,699	549,603
Anson	344,989	1,727,237	2,953,007
Ashe	100,000	629,983	1,300,536
Avery	100,000	207,528	614,179
Beaufort	309,052	2,206,521	3,907,620
Bertie	187,051	1,247,687	2,191,903
Bladen	201,356	1,462,333	2,684,367
Brunswick	100,000	100,000	707,272
Buncombe	561,545	5,953,538	11,178,797
Burke	100,000	1,593,841	3,631,515
Cabarrus	100,000	750,104	3,143,463
Caldwell	100,000	1,409,591	3,241,224
Camden	100,000	100,000	100,000
Carteret	100,000	115,597	1,259,845
Caswell	100,000	331,667	941,839
Catawba	100,000	2,322,655	5,062,883
Chatham	100,000	100,000	100,000
Cherokee	147,997	913,046	1,678,295
Chowan	100,000	554,584	1,066,623
Clay	100,000	100,000	263,047
Cleveland	330,175	3,138,784	5,988,934
Columbus	813,137	3,617,625	5,900,520
Craven	100,000	1,166,561	3,123,819
Cumberland	100,000	3,907,139	9,850,690
Currituck	100,000	100,000	139,729
Dare	100,000	567,549	1,068,735
Davidson	100,000	1,618,300	4,629,404
Davie	100,000	100,000	372,202
Duplin	100,000	1,202,893	2,582,599
Durham	290,738	4,996,860	10,297,854
Edgecombe	501,724	2,825,251	4,809,305
Forysth	1,202,115	8,250,921	14,886,995
Franklin	100,000	390,150	1,555,046
Gaston	583,449	5,675,810	10,919,916
Gates	100,000	100,000	357,123
Graham	100,000	381,362	680,486
Granville	100,000	100,000	1,084,049
Greene	100,000	318,492	843,274
Guilford	658,734	8,205,730	16,000,342
Halifax	594,957	3,414,476	5,825,951
Harnett	100,000	612,183	2,571,001
Haywood	120,379	1,369,710	2,737,001
Henderson	100,000	891,456	2,717,319
Hertford	289,349	1,519,457	2,533,676
Hoke	100,000	180,978	1,083,879
Hyde	100,000	204,419	389,731
Iredell	100,000	1,111,160	3,475,840

Jackson	100,000	100,000	536,275
Johnston	100,000	1,016,994	3,835,881
Jones	100,000	217,401	499,499
Lee	113,101	1,235,263	2,341,241
Lenoir	433,923	2,692,232	4,619,691
Lincoln	100,000	188,920	1,443,217
Macon	101,932	752,298	1,459,391
Madison	100,000	363,971	914,822
Martin	297,635	1,473,626	2,496,123
McDowell	100,000	580,191	1,586,038
Mecklenburg	100,000	8,260,065	21,058,526
Mitchell	100,000	537,754	993,583
Montgomery	100,000	717,712	1,490,199
Moore	100,000	387,928	1,790,214
Nash	100,000	1,891,818	3,983,670
New Hanover	481,163	4,025,943	7,671,145
Northhampton	100,000	663,748	1,433,498
Onslow	100,000	100,000	1,281,201
Orange	100,000	100,000	448,930
Pamlico	100,000	132,204	475,070
Pasquotank	170,042	1,319,191	2,392,757
Pender	100,000	100,000	819,295
Perquimans	100,000	100,000	312,503
Person	100,000	595,532	1,483,132
Pitt	653,381	4,918,726	8,918,734
Polk	100,000	100,000	233,959
Randolph	100,000	1,127,904	3,679,599
Richmond	172,824	1,852,243	3,490,665
Robeson	1,509,851	7,841,201	13,398,441
Rockingham	100,000	1,621,801	3,817,306
Rowan	100,000	2,108,380	4,856,040
Rutherford	108,632	1,654,676	3,364,624
Sampson	254,149	2,136,128	4,004,926
Scotland	270,676	1,820,170	3,185,125
Stanly	100,000	1,081,491	2,334,482
Stokes	100,000	100,000	714,643
Surry	100,000	1,707,254	3,472,627
Swain	100,000	205,460	546,193
Transylvania	100,000	360,394	1,000,247
Tyrrell	100,000	100,000	108,458
Union	100,000	100,000	100,000
Vance	100,000	1,412,060	2,958,100
Wake	100,000	2,641,146	12,127,007
Warren	100,000	548,365	1,215,615
Washington	107,929	770,349	1,378,870
Watauga	100,000	218,551	769,489
Wayne	258,008	3,100,713	5,993,253
Wilkes	100,000	1,489,914	3,231,221
Wilson	357,293	2,685,487	4,843,361
Yadkin	100,000	396,371	1,162,796
Yancey	100,000	387,924	880,691
Total	19,327,286	150,079,110	325,380,589

Medicaid Swap Proposal - FY 2009-10

County	Locals Give up All of Article 44 Sales Tax effective 71/1/09	Counties Give up Corporate ADM effective7/1/09	Counties Give up Beer & Wine effective 7/1/09	State Takes County Portion of Deed Stamp effective 7/1/09	State Picks up 1/8 CentArticle 40 Sales tax effective 7/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 7/1/09	NET Local Changes W/O new sales tax	Locals Levy New 1/2 Cent Per Capita Sales Tax effective 7/1/09 (no food)	NET Local Changes WITH new sales tax	Counties Hold Municipal Governments Harmless 06-07 Level	Total Impact (County Gain Net Local Hold Harmless)	Counties Under $100,000 Threshhold	State Hold Harmless + $100,000 Minimum	County Net After State Hold Harmless
Alamance	(5,214,569)	(1,594,473)	(268,804)	(775,325)	(1,368,746)	8,948,440	(273,477)	8,230,795	7,957,318	(3,368,053)	4,589,265	-	-	4,589,265
Cities	(3,116,692)				(819,107)		(3,935,799)		(3,935,799)					
Total	(8,331,261)	(1,594,473)	(268,804)	(775,325)	(2,187,853)	8,948,440	(4,209,276)	8,230,795	4,021,519					
Alexander	(1,441,738)	(412,192)	-	(107,608)	(523,506)	2,211,602	(273,442)	1,001,344	727,902	(90,389)	637,513	-	-	637,513
Cities	(77,476)				(28,145)		(105,621)		(105,621)					
Total	(1,519,213)	(412,192)	-	(107,608)	(551,651)	2,211,602	(379,062)	1,001,344	622,281					
Alleghany	(468,035)	(107,722)	(45,224)	(103,612)	(152,103)	1,077,777	201,082	437,483	638,565	(88,962)	549,603	-	-	549,603
Cities	(78,459)				(25,496)		(103,955)		(103,955)					
Total	(546,494)	(107,722)	(45,224)	(103,612)	(177,599)	1,077,777	97,127	437,483	534,610					
Anson	(779,301)	(307,585)	-	(63,864)	(286,738)	4,091,287	2,653,799	671,067	3,324,866	(371,859)	2,953,007	-	-	2,953,007
Cities	(317,601)				(116,919)		(434,520)		(434,520)					
Total	(1,096,902)	(307,585)	-	(63,864)	(403,658)	4,091,287	2,219,279	671,067	2,890,346					
Ashe	(1,186,907)	(234,231)	-	(268,577)	(346,703)	2,299,760	263,342	1,177,692	1,441,034	(140,497)	1,300,536	-	-	1,300,536
Cities	(127,065)				(37,114)		(164,178)		(164,178)					
Total	(1,313,972)	(234,231)	-	(268,577)	(383,816)	2,299,760	99,164	1,177,692	1,276,856					
Avery	(1,017,098)	(174,026)	-	(317,803)	(274,624)	1,405,073	(378,478)	1,164,956	786,478	(172,299)	614,179	-	-	614,179
Cities	(158,544)				(42,798)		(201,342)		(201,342)					
Total	(1,175,642)	(174,026)	-	(317,803)	(317,423)	1,405,073	(579,821)	1,164,956	585,135					
Beaufort	(2,073,165)	(536,468)	(161,002)	(265,398)	(586,508)	5,680,575	2,058,035	2,542,761	4,600,796	(693,176)	3,907,620	-	-	3,907,620
Cities	(631,392)				(178,623)		(810,014)		(810,014)					
Total	(2,704,557)	(536,468)	(161,002)	(265,398)	(765,130)	5,680,575	1,248,021	2,542,761	3,790,781					
Bertie	(637,341)	(233,340)	(74,643)	(50,794)	(241,432)	3,177,893	1,940,344	439,781	2,380,125	(188,222)	2,191,903	-	-	2,191,903
Cities	(159,515)				(60,422)		(219,938)		(219,938)					
Total	(796,857)	(233,340)	(74,643)	(50,794)	(301,854)	3,177,893	1,720,406	439,781	2,160,187					
Bladen	(1,271,238)	(403,314)	-	(74,726)	(462,328)	4,162,950	1,951,345	982,510	2,933,855	(249,488)	2,684,367	-	-	2,684,367
Cities	(213,783)				(77,745)		(291,529)		(291,529)					
Total	(1,485,021)	(403,314)	-	(74,726)	(540,074)	4,162,950	1,659,816	982,510	2,642,326					
Brunswick	(4,623,601)	(838,170)	(260,142)	(3,347,909)	(1,115,016)	6,156,158	(4,028,680)	6,667,832	2,639,151	(1,931,879)	707,272	-	-	707,272
Cities	(1,818,868)				(438,691)		(2,257,559)		(2,257,559)					
Total	(6,442,469)	(838,170)	(260,142)	(3,347,909)	(1,553,707)	6,156,158	(6,286,239)	6,667,832	381,592					
Buncombe	(11,967,814)	(2,164,510)	(628,947)	(2,359,202)	(2,665,147)	17,200,239	(2,585,380)	18,074,577	15,489,197	(4,310,399)	11,178,797	-	-	11,178,797
Cities	(4,119,651)				(917,457)		(5,037,107)		(5,037,107)					
Total	(16,087,465)	(2,164,510)	(628,947)	(2,359,202)	(3,582,603)	17,200,239	(7,622,488)	18,074,577	10,452,089					
Burke	(3,209,111)	(1,052,454)	-	(251,406)	(1,059,994)	7,015,372	1,442,407	3,407,856	4,850,264	(1,218,748)	3,631,515	-	-	3,631,515
Cities	(1,070,536)				(353,605)		(1,424,141)		(1,424,141)					
Total	(4,279,647)	(1,052,454)	-	(251,406)	(1,413,600)	7,015,372	18,266	3,407,856	3,426,122					
Cabarrus	(6,752,652)	(2,040,771)	-	(1,635,873)	(1,571,084)	8,026,453	(3,973,927)	11,285,292	7,311,364	(4,167,901)	3,143,463	-	-	3,143,463
Cities	(3,935,441)				(935,102)		(4,870,544)		(4,870,544)					
Total	(10,688,094)	(2,040,771)	-	(1,635,873)	(2,506,186)	8,026,453	(8,844,471)	11,285,292	2,440,820					
Caldwell	(2,610,349)	(938,771)	-	(290,185)	(844,742)	6,238,467	1,554,421	3,162,271	4,716,692	(1,475,468)	3,241,224	-	-	3,241,224
Cities	(1,302,502)				(421,630)		(1,724,131)		(1,724,131)					
Total	(3,912,850)	(938,771)	-	(290,185)	(1,266,372)	6,238,467	(169,710)	3,162,271	2,992,561					
Camden	(413,601)	(126,178)	(42,861)	(65,846)	(120,931)	420,733	(348,685)	339,338	(9,347)	-	(9,347)	(9,347)	109,347	100,000
-					-		-		-					
Total	(413,601)	(126,178)	(42,861)	(65,846)	(120,931)	420,733	(348,685)	339,338	(9,347)					
Carteret	(3,428,308)	(622,936)	(180,466)	(1,493,077)	(774,991)	3,827,211	(2,672,568)	5,468,751	2,796,183	(1,536,338)	1,259,845	-	-	1,259,845
Cities	(1,464,321)				(331,031)		(1,795,352)		(1,795,352)					

Total	(4,892,629)	(622,936)	(180,466)	(1,493,077)	(1,106,022)	3,827,211	(4,467,920)	5,468,751	1,000,831					
Caswell	(812,251)	(239,260)	(107,888)	(45,222)	(342,293)	2,163,767	616,853	360,782	977,635	(35,796)	941,839	-	-	941,839
Cities	(29,428)				(12,399)		(41,827)		(41,827)					
Total	(841,679)	(239,260)	(107,888)	(45,222)	(354,693)	2,163,767	575,026	360,782	935,808					
Catawba	(6,598,965)	(1,762,050)	(397,903)	(807,360)	(1,569,238)	9,131,599	(2,003,917)	10,361,811	8,357,895	(3,295,012)	5,062,883	-	-	5,062,883
Cities	(3,108,580)				(741,917)		(3,850,497)		(3,850,497)					
Total	(9,707,545)	(1,762,050)	(397,903)	(807,360)	(2,311,155)	9,131,599	(5,854,413)	10,361,811	4,507,398					
Chatham	(2,323,038)	(573,402)	(224,473)	(637,086)	(738,073)	2,888,183	(1,607,890)	2,129,941	522,051	(499,096)	22,955	22,955	77,045	100,000
Cities	(442,586)				(140,625)		(583,211)		(583,211)					
Total	(2,765,625)	(573,402)	(224,473)	(637,086)	(878,698)	2,888,183	(2,191,101)	2,129,941	(61,160)					
Cherokee	(1,476,044)	(270,741)	-	(403,341)	(348,552)	2,576,344	77,666	1,810,429	1,888,095	(209,800)	1,678,295	-	-	1,678,295
Cities	(198,334)				(46,835)		(245,169)		(245,169)					
Total	(1,674,378)	(270,741)	-	(403,341)	(395,386)	2,576,344	(167,503)	1,810,429	1,642,926					
Chowan	(666,677)	(176,584)	(47,510)	(92,555)	(210,158)	1,743,520	550,036	652,352	1,202,388	(135,765)	1,066,623	-	-	1,066,623
Cities	(120,633)				(38,013)		(158,646)		(158,646)					
Total	(787,309)	(176,584)	(47,510)	(92,555)	(248,172)	1,743,520	391,389	652,352	1,043,742					
Clay	(498,054)	(94,277)	-	(224,797)	(142,414)	776,493	(183,049)	454,761	271,712	(8,665)	263,047	-	-	263,047
Cities	(7,875)				(2,251)		(10,126)		(10,126)					
Total	(505,929)	(94,277)	-	(224,797)	(144,665)	776,493	(193,175)	454,761	261,586					
Cleveland	(4,068,236)	(1,235,859)	-	(276,573)	(1,289,174)	9,741,149	2,871,308	4,085,312	6,956,619	(967,685)	5,988,934	-	-	5,988,934
Cities	(859,144)				(271,630)		(1,130,775)		(1,130,775)					
Total	(4,927,380)	(1,235,859)	-	(276,573)	(1,560,804)	9,741,149	1,740,533	4,085,312	5,825,845					
Columbus	(1,809,190)	(695,759)	-	(105,859)	(549,270)	7,601,836	4,441,758	2,001,709	6,443,467	(542,947)	5,900,520	-	-	5,900,520
Cities	(486,697)				(147,759)		(634,457)		(634,457)					
Total	(2,295,887)	(695,759)	-	(105,859)	(697,029)	7,601,836	3,807,301	2,001,709	5,809,010					
Craven	(3,936,406)	(1,053,396)	(186,801)	(722,544)	(1,080,033)	6,672,229	(306,953)	5,141,864	4,834,912	(1,711,093)	3,123,819	-	-	3,123,819
Cities	(1,568,943)				(430,573)		(1,999,516)		(1,999,516)					
Total	(5,505,350)	(1,053,396)	(186,801)	(722,544)	(1,510,606)	6,672,229	(2,306,469)	5,141,864	2,835,395					
Cumberland	(12,095,696)	(3,748,173)	(795,235)	(1,409,537)	(3,207,378)	20,132,221	(1,123,798)	17,442,268	16,318,469	(6,467,780)	9,850,690	-	-	9,850,690
Cities	(5,974,057)				(1,583,975)		(7,558,032)		(7,558,032)					
Total	(18,069,753)	(3,748,173)	(795,235)	(1,409,537)	(4,791,353)	20,132,221	(8,681,830)	17,442,268	8,760,438					
Currituck	(1,669,095)	(287,429)	(110,427)	(468,906)	(319,690)	1,003,107	(1,852,440)	1,992,169	139,729	-	139,729	-	-	139,729
	-				-		-		-					
Total	(1,669,095)	(287,429)	(110,427)	(468,906)	(319,690)	1,003,107	(1,852,440)	1,992,169	139,729					
Dare	(3,770,089)	(354,484)	(85,566)	(1,029,758)	(589,665)	1,464,029	(4,365,533)	6,756,890	2,391,356	(1,322,621)	1,068,735	-	-	1,068,735
Cities	(1,336,613)				(209,057)		(1,545,669)		(1,545,669)					
Total	(5,106,701)	(354,484)	(85,566)	(1,029,758)	(798,721)	1,464,029	(5,911,202)	6,756,890	845,687					
Davidson	(5,524,000)	(1,841,730)	-	(579,931)	(1,769,448)	10,494,996	779,887	5,889,340	6,669,227	(2,039,823)	4,629,404	-	-	4,629,404
Cities	(1,805,313)				(578,289)		(2,383,602)		(2,383,602)					
Total	(7,329,313)	(1,841,730)	-	(579,931)	(2,347,737)	10,494,996	(1,603,715)	5,889,340	4,285,625					
Davie	(1,493,852)	(458,441)	-	(242,296)	(469,285)	1,927,348	(736,526)	1,410,740	674,214	(302,013)	372,202	-	-	372,202
Cities	(268,554)				(84,359)		(352,913)		(352,913)					
Total	(1,762,406)	(458,441)	-	(242,296)	(553,644)	1,927,348	(1,089,439)	1,410,740	321,301					
Duplin	(1,915,863)	(641,421)	-	(158,989)	(655,402)	4,759,733	1,388,058	1,762,767	3,150,825	(568,226)	2,582,599	-	-	2,582,599
Cities	(494,757)				(169,228)		(663,985)		(663,985)					
Total	(2,410,620)	(641,421)	-	(158,989)	(824,630)	4,759,733	724,074	1,762,767	2,486,840					
Durham	(10,023,867)	(2,351,180)	(159,603)	(2,451,550)	(2,292,479)	16,879,239	(399,440)	19,723,389	19,323,949	(9,026,095)	10,297,854	-	-	10,297,854
Cities	(8,584,045)				(1,963,760)		(10,547,805)		(10,547,805)					
Total	(18,607,913)	(2,351,180)	(159,603)	(2,451,550)	(4,256,239)	16,879,239	(10,947,246)	19,723,389	8,776,144					
Edgecombe	(1,651,383)	(548,168)	(110,134)	(128,081)	(544,560)	6,633,780	3,651,453	1,676,469	5,327,923	(518,618)	4,809,305	-	-	4,809,305
Cities	(455,716)				(150,303)		(606,019)		(606,019)					
Total	(2,107,099)	(548,168)	(110,134)	(128,081)	(694,863)	6,633,780	3,045,434	1,676,469	4,721,904					
Forysth	(14,414,141)	(3,657,068)	(322,068)	(1,977,966)	(3,212,956)	21,633,746	(1,950,454)	24,462,625	22,512,172	(7,625,177)	14,886,995	-	-	14,886,995
Cities	(7,286,230)				(1,624,506)		(8,910,736)		(8,910,736)					
Total	(21,700,371)	(3,657,068)	(322,068)	(1,977,966)	(4,837,462)	21,633,746	(10,861,189)	24,462,625	13,601,436					
Franklin	(2,190,059)	(592,574)	(228,427)	(318,754)	(739,483)	4,156,810	87,513	1,683,006	1,770,519	(215,473)	1,555,046	-	-	1,555,046
Cities	(188,215)				(63,570)		(251,785)		(251,785)					
Total	(2,378,275)	(592,574)	(228,427)	(318,754)	(803,052)	4,156,810	(164,272)	1,683,006	1,518,734					

Gaston	(7,876,126)	(2,351,578)	-	(886,706)	(2,332,481)	17,736,666	4,289,776	9,524,448	13,814,224	(2,894,308)	10,919,916	-	-	10,919,916
Cities	(2,609,296)				(772,841)		(3,382,137)		(3,382,137)					
Total	(10,485,422)	(2,351,578)	-	(886,706)	(3,105,322)	17,736,666	907,639	9,524,448	10,432,087					
Gates	(388,682)	(144,524)	(54,027)	(30,654)	(159,870)	934,953	157,196	212,041	369,237	(12,114)	357,123	-	-	357,123
Cities	(10,030)				(4,125)		(14,154)		(14,154)					
Total	(398,711)	(144,524)	(54,027)	(30,654)	(163,995)	934,953	143,041	212,041	355,082					
Graham	(369,304)	(88,056)	-	(60,375)	(117,497)	1,015,998	380,767	324,996	705,763	(25,277)	680,486	-	-	680,486
Cities	(22,406)				(7,131)		(29,537)		(29,537)					
Total	(391,710)	(88,056)	-	(60,375)	(124,628)	1,015,998	351,229	324,996	676,226					
Granville	(2,052,808)	(628,188)	(207,709)	(251,059)	(701,179)	3,645,604	(195,340)	1,805,244	1,609,903	(525,854)	1,084,049	-	-	1,084,049
Cities	(458,031)				(156,441)		(614,472)		(614,472)					
Total	(2,510,839)	(628,188)	(207,709)	(251,059)	(857,620)	3,645,604	(809,812)	1,805,244	995,431					
Greene	(704,963)	(231,677)	(89,448)	(28,523)	(282,739)	1,858,205	520,854	371,321	892,175	(48,901)	843,274	-	-	843,274
Cities	(40,784)				(16,357)		(57,141)		(57,141)					
Total	(745,747)	(231,677)	(89,448)	(28,523)	(299,096)	1,858,205	463,714	371,321	835,035					
Guilford	(17,953,310)	(4,981,506)	(431,506)	(3,241,760)	(3,904,624)	25,169,565	(5,343,141)	33,579,665	28,236,524	(12,236,183)	16,000,342	-	-	16,000,342
Cities	(11,736,719)				(2,562,448)		(14,299,167)		(14,299,167)					
Total	(29,690,029)	(4,981,506)	(431,506)	(3,241,760)	(6,467,072)	25,169,565	(19,642,307)	33,579,665	13,937,357					
Halifax	(2,247,302)	(649,168)	(163,213)	(145,940)	(694,071)	8,041,359	4,141,664	2,433,590	6,575,255	(749,304)	5,825,951	-	-	5,825,951
Cities	(668,999)				(206,594)		(875,592)		(875,592)					
Total	(2,916,301)	(649,168)	(163,213)	(145,940)	(900,665)	8,041,359	3,266,072	2,433,590	5,699,663					
Harnett	(3,895,412)	(1,242,742)	-	(447,703)	(1,325,625)	7,006,853	95,371	3,225,032	3,320,403	(749,402)	2,571,001	-	-	2,571,001
Cities	(653,354)				(222,339)		(875,693)		(875,693)					
Total	(4,548,766)	(1,242,742)	-	(447,703)	(1,547,964)	7,006,853	(780,321)	3,225,032	2,444,710					
Haywood	(2,681,382)	(568,095)	-	(535,732)	(703,922)	4,599,578	110,447	3,457,431	3,567,879	(830,878)	2,737,001	-	-	2,737,001
Cities	(769,052)				(201,885)		(970,937)		(970,937)					
Total	(3,450,434)	(568,095)	-	(535,732)	(905,807)	4,599,578	(860,490)	3,457,431	2,596,941					
Henderson	(4,449,469)	(923,088)	-	(1,004,758)	(1,212,569)	6,261,513	(1,328,371)	5,471,618	4,143,247	(1,425,928)	2,717,319	-	-	2,717,319
Cities	(1,309,508)				(356,778)		(1,666,286)		(1,666,286)					
Total	(5,758,976)	(923,088)	-	(1,004,758)	(1,569,347)	6,261,513	(2,994,656)	5,471,618	2,476,962					
Hertford	(1,024,039)	(254,317)	(78,343)	(46,847)	(307,618)	3,373,852	1,662,688	1,131,345	2,794,033	(260,357)	2,533,676	-	-	2,533,676
Cities	(233,953)				(70,286)		(304,239)		(304,239)					
Total	(1,257,992)	(254,317)	(78,343)	(46,847)	(377,904)	3,373,852	1,358,449	1,131,345	2,489,794					
Hoke	(1,351,033)	(489,800)	(176,443)	(197,600)	(533,688)	3,254,744	506,180	731,938	1,238,117	(154,239)	1,083,879	-	-	1,083,879
Cities	(129,208)				(51,019)		(180,227)		(180,227)					
Total	(1,480,241)	(489,800)	(176,443)	(197,600)	(584,707)	3,254,744	325,953	731,938	1,057,891					
Hyde	(312,715)	(45,676)	(28,480)	(55,296)	(87,456)	633,025	103,402	286,330	389,731	-	389,731	-	-	389,731
	-				-		-		-					
Total	(312,715)	(45,676)	(28,480)	(55,296)	(87,456)	633,025	103,402	286,330	389,731					
Iredell	(7,013,279)	(1,821,102)	(434,995)	(1,634,655)	(1,553,001)	8,057,638	(4,399,395)	10,515,621	6,116,226	(2,640,386)	3,475,840	-	-	3,475,840
Cities	(2,526,081)				(559,461)		(3,085,542)		(3,085,542)					
Total	(9,539,361)	(1,821,102)	(434,995)	(1,634,655)	(2,112,462)	8,057,638	(7,484,937)	10,515,621	3,030,684					
Jackson	(2,109,723)	(275,202)	-	(862,396)	(551,133)	2,254,287	(1,544,168)	2,218,319	674,151	(137,876)	536,275	-	-	536,275
Cities	(127,750)				(33,368)		(161,118)		(161,118)					
Total	(2,237,473)	(275,202)	-	(862,396)	(584,501)	2,254,287	(1,705,286)	2,218,319	513,033					
Johnston	(6,806,179)	(1,940,352)	(506,447)	(1,072,109)	(1,882,234)	9,994,944	(2,212,376)	7,344,333	5,131,958	(1,296,076)	3,835,881	-	-	3,835,881
Cities	(1,186,470)				(328,073)		(1,514,543)		(1,514,543)					
Total	(7,992,648)	(1,940,352)	(506,447)	(1,072,109)	(2,210,307)	9,994,944	(3,726,918)	7,344,333	3,617,415					
Jones	(350,380)	(97,103)	(44,164)	(21,884)	(136,848)	985,364	334,985	189,762	524,747	(25,248)	499,499	-	-	499,499
Cities	(21,216)				(8,287)		(29,503)		(29,503)					
Total	(371,597)	(97,103)	(44,164)	(21,884)	(145,135)	985,364	305,482	189,762	495,244					
Lee	(2,045,615)	(668,600)	(60,150)	(228,501)	(506,675)	3,680,920	171,378	3,251,939	3,423,318	(1,082,076)	2,341,241	-	-	2,341,241
Cities	(1,013,449)				(251,041)		(1,264,490)		(1,264,490)					
Total	(3,059,065)	(668,600)	(60,150)	(228,501)	(757,716)	3,680,920	(1,093,112)	3,251,939	2,158,827					
Lenoir	(2,252,169)	(741,732)	(160,441)	(92,604)	(620,448)	6,449,977	2,582,582	2,800,221	5,382,803	(763,112)	4,619,691	-	-	4,619,691
Cities	(699,140)				(192,603)		(891,742)		(891,742)					
Total	(2,951,309)	(741,732)	(160,441)	(92,604)	(813,051)	6,449,977	1,690,840	2,800,221	4,491,061					
Lincoln	(3,091,053)	(890,558)	(290,954)	(550,856)	(900,432)	4,498,602	(1,225,251)	3,192,041	1,966,790	(523,573)	1,443,217	-	-	1,443,217

Cities	(473,803)				(138,018)		(611,821)		(611,821)					
Total	(3,564,856)	(890,558)	(290,954)	(550,856)	(1,038,451)	4,498,602	(1,837,073)	3,192,041	1,354,968					
Macon	(1,974,834)	(304,543)	-	(541,146)	(428,352)	2,376,133	(872,743)	2,636,014	1,763,271	(303,880)	1,459,391	-	-	1,459,391
Cities	(291,454)				(63,659)		(355,113)		(355,113)					
Total	(2,266,289)	(304,543)	-	(541,146)	(492,011)	2,376,133	(1,227,857)	2,636,014	1,408,158					
Madison	(699,484)	(188,969)	-	(197,902)	(261,078)	1,912,735	565,302	487,710	1,053,012	(138,190)	914,822	-	-	914,822
Cities	(117,592)				(43,883)		(161,475)		(161,475)					
Total	(817,076)	(188,969)	-	(197,902)	(304,961)	1,912,735	403,827	487,710	891,537					
Martin	(1,052,024)	(314,626)	-	(39,701)	(329,399)	3,428,265	1,692,514	1,063,907	2,756,421	(260,298)	2,496,123	-	-	2,496,123
Cities	(231,638)				(72,530)		(304,168)		(304,168)					
Total	(1,283,663)	(314,626)	-	(39,701)	(401,929)	3,428,265	1,388,346	1,063,907	2,452,253					
McDowell	(1,936,634)	(468,508)	(77,278)	(193,682)	(635,721)	3,519,354	207,530	1,747,484	1,955,015	(368,976)	1,586,038	-	-	1,586,038
Cities	(324,599)				(106,561)		(431,159)		(431,159)					
Total	(2,261,233)	(468,508)	(77,278)	(193,682)	(742,282)	3,519,354	(223,629)	1,747,484	1,523,855					
Mecklenburg	(44,024,920)	(8,908,838)	(195,049)	(10,677,423)	(7,307,270)	41,940,899	(29,172,602)	70,785,632	41,613,031	(20,554,504)	21,058,526	-	-	21,058,526
Cities	(20,601,305)				(3,419,385)		(24,020,690)		(24,020,690)					
Total	(64,626,225)	(8,908,838)	(195,049)	(10,677,423)	(10,726,654)	41,940,899	(53,193,292)	70,785,632	17,592,341					
Mitchell	(747,768)	(165,062)	-	(115,699)	(212,171)	1,548,746	308,047	790,480	1,098,527	(104,944)	993,583	-	-	993,583
Cities	(95,527)				(27,105)		(122,632)		(122,632)					
Total	(843,296)	(165,062)	-	(115,699)	(239,276)	1,548,746	185,415	790,480	975,895					
Montgomery	(916,945)	(324,126)	-	(169,994)	(313,589)	2,640,213	915,559	918,151	1,833,710	(343,511)	1,490,199	-	-	1,490,199
Cities	(299,121)				(102,278)		(401,399)		(401,399)					
Total	(1,216,066)	(324,126)	-	(169,994)	(415,867)	2,640,213	514,159	918,151	1,432,310					
Moore	(3,664,582)	(885,385)	(220,314)	(773,543)	(954,517)	4,765,788	(1,732,553)	5,298,631	3,566,078	(1,775,865)	1,790,214	-	-	1,790,214
Cities	(1,646,362)				(428,860)		(2,075,221)		(2,075,221)					
Total	(5,310,943)	(885,385)	(220,314)	(773,543)	(1,383,377)	4,765,788	(3,807,774)	5,298,631	1,490,857					
Nash	(3,350,167)	(1,365,754)	(188,629)	(574,241)	(835,201)	6,931,200	617,209	6,072,240	6,689,449	(2,705,779)	3,983,670	-	-	3,983,670
Cities	(2,497,153)				(664,729)		(3,161,882)		(3,161,882)					
Total	(5,847,320)	(1,365,754)	(188,629)	(574,241)	(1,499,930)	6,931,200	(2,544,673)	6,072,240	3,527,568					
New Hanover	(11,281,273)	(1,721,642)	(351,796)	(3,118,684)	(2,143,106)	11,764,592	(6,851,909)	18,680,195	11,828,286	(4,157,141)	7,671,145	-	-	7,671,145
Cities	(4,082,574)				(775,530)		(4,858,104)		(4,858,104)					
Total	(15,363,847)	(1,721,642)	(351,796)	(3,118,684)	(2,918,636)	11,764,592	(11,710,014)	18,680,195	6,970,182					
Northhampton	(664,562)	(248,435)	(76,803)	(124,407)	(263,383)	2,642,690	1,265,099	401,908	1,667,007	(233,510)	1,433,498	-	-	1,433,498
Cities	(195,407)				(77,447)		(272,854)		(272,854)					
Total	(859,970)	(248,435)	(76,803)	(124,407)	(340,830)	2,642,690	992,245	401,908	1,394,153					
Onslow	(6,298,109)	(1,626,550)	(411,340)	(1,072,564)	(1,749,249)	7,376,144	(3,781,667)	8,428,866	4,647,198	(3,365,998)	1,281,201	-	-	1,281,201
Cities	(3,078,422)				(854,945)		(3,933,366)		(3,933,366)					
Total	(9,376,530)	(1,626,550)	(411,340)	(1,072,564)	(2,604,194)	7,376,144	(7,715,034)	8,428,866	713,832					
Orange	(4,520,114)	(1,283,189)	(236,851)	(956,956)	(1,360,742)	5,444,798	(2,913,053)	6,494,584	3,581,531	(3,132,601)	448,930	-	-	448,930
Cities	(2,818,355)				(842,234)		(3,660,589)		(3,660,589)					
Total	(7,338,469)	(1,283,189)	(236,851)	(956,956)	(2,202,976)	5,444,798	(6,573,642)	6,494,584	(79,058)					
Pamlico	(546,501)	(141,199)	(41,721)	(191,062)	(190,808)	1,211,896	100,606	417,210	517,816	(42,747)	475,070	-	-	475,070
Cities	(37,024)				(12,927)		(49,950)		(49,950)					
Total	(583,525)	(141,199)	(41,721)	(191,062)	(203,734)	1,211,896	50,656	417,210	467,866					
Pasquotank	(1,786,630)	(433,360)	(97,050)	(289,545)	(441,741)	3,574,161	525,835	2,501,242	3,027,077	(634,320)	2,392,757	-	-	2,392,757
Cities	(594,210)				(147,042)		(741,252)		(741,252)					
Total	(2,380,840)	(433,360)	(97,050)	(289,545)	(588,783)	3,574,161	(215,416)	2,501,242	2,285,825					
Pender	(1,942,497)	(524,901)	(196,528)	(690,300)	(614,555)	3,330,817	(637,964)	1,770,436	1,132,471	(313,176)	819,295	-	-	819,295
Cities	(278,349)				(87,608)		(365,957)		(365,957)					
Total	(2,220,846)	(524,901)	(196,528)	(690,300)	(702,163)	3,330,817	(1,003,922)	1,770,436	766,514					
Perquimans	(432,685)	(126,129)	(45,990)	(118,243)	(161,121)	986,907	102,738	323,904	426,643	(114,139)	312,503	-	-	312,503
Cities	(97,186)				(36,187)		(133,372)		(133,372)					
Total	(529,871)	(126,129)	(45,990)	(118,243)	(197,308)	986,907	(30,634)	323,904	293,270					
Person	(1,606,895)	(443,904)	(142,107)	(202,215)	(496,002)	3,092,831	201,708	1,597,114	1,798,822	(315,690)	1,483,132	-	-	1,483,132
Cities	(281,890)				(87,006)		(368,896)		(368,896)					
Total	(1,888,785)	(443,904)	(142,107)	(202,215)	(583,008)	3,092,831	(167,188)	1,597,114	1,429,926					
Pitt	(5,873,682)	(1,575,627)	(263,115)	(840,230)	(1,458,756)	13,057,222	3,045,813	9,822,075	12,867,888	(3,949,154)	8,918,734	-	-	8,918,734
Cities	(3,696,660)				(918,232)		(4,614,892)		(4,614,892)					

Total	(9,570,341)	(1,575,627)	(263,115)	(840,230)	(2,376,988)	13,057,222	(1,569,079)	9,822,075	8,252,997					
Polk	(718,986)	(177,565)	-	(260,294)	(253,377)	1,205,217	(205,005)	588,089	383,084	(149,126)	233,959	-	-	233,959
Cities	(128,861)				(45,395)		(174,256)		(174,256)					
Total	(847,846)	(177,565)	-	(260,294)	(298,772)	1,205,217	(379,260)	588,089	208,828					
Randolph	(4,833,802)	(1,659,559)	-	(436,874)	(1,553,154)	8,915,235	431,846	5,232,071	5,663,917	(1,984,318)	3,679,599	-	-	3,679,599
Cities	(1,755,143)				(563,598)		(2,318,741)		(2,318,741)					
Total	(6,588,945)	(1,659,559)	-	(436,874)	(2,116,752)	8,915,235	(1,886,895)	5,232,071	3,345,176					
Richmond	(1,756,195)	(598,463)	(107,445)	(109,780)	(575,489)	5,529,631	2,382,260	1,880,580	4,262,840	(772,175)	3,490,665	-	-	3,490,665
Cities	(679,623)				(222,686)		(902,309)		(902,309)					
Total	(2,435,818)	(598,463)	(107,445)	(109,780)	(798,174)	5,529,631	1,479,951	1,880,580	3,360,531					
Robeson	(4,822,516)	(1,747,787)	-	(183,554)	(1,586,123)	18,624,810	10,284,830	4,798,855	15,083,685	(1,685,244)	13,398,441	-	-	13,398,441
Cities	(1,482,040)				(487,216)		(1,969,256)		(1,969,256)					
Total	(6,304,557)	(1,747,787)	-	(183,554)	(2,073,339)	18,624,810	8,315,574	4,798,855	13,114,429					
Rockingham	(3,146,538)	(1,058,933)	(266,116)	(266,002)	(1,031,702)	7,512,044	1,742,753	3,585,842	5,328,595	(1,511,290)	3,817,306	-	-	3,817,306
Cities	(1,329,910)				(436,076)		(1,765,986)		(1,765,986)					
Total	(4,476,447)	(1,058,933)	(266,116)	(266,002)	(1,467,779)	7,512,044	(23,234)	3,585,842	3,562,609					
Rowan	(4,611,840)	(1,503,712)	(388,065)	(471,006)	(1,359,444)	9,426,089	1,092,022	5,565,304	6,657,326	(1,801,286)	4,856,040	-	-	4,856,040
Cities	(1,625,591)				(479,299)		(2,104,890)		(2,104,890)					
Total	(6,237,431)	(1,503,712)	(388,065)	(471,006)	(1,838,743)	9,426,089	(1,012,868)	5,565,304	4,552,436					
Rutherford	(2,669,958)	(748,370)	-	(443,018)	(813,558)	5,861,813	1,186,910	2,778,339	3,965,249	(600,625)	3,364,624	-	-	3,364,624
Cities	(537,941)				(163,916)		(701,856)		(701,856)					
Total	(3,207,898)	(748,370)	-	(443,018)	(977,474)	5,861,813	485,054	2,778,339	3,263,393					
Sampson	(2,446,746)	(804,198)	-	(105,746)	(788,347)	6,391,422	2,246,385	2,314,374	4,560,759	(555,833)	4,004,926	-	-	4,004,926
Cities	(491,228)				(158,281)		(649,509)		(649,509)					
Total	(2,937,974)	(804,198)	-	(105,746)	(946,628)	6,391,422	1,596,876	2,314,374	3,911,250					
Scotland	(1,622,412)	(505,657)	(96,222)	(84,098)	(487,921)	4,624,229	1,827,918	1,631,011	3,458,929	(273,803)	3,185,125	-	-	3,185,125
Cities	(245,991)				(73,961)		(319,952)		(319,952)					
Total	(1,868,403)	(505,657)	(96,222)	(84,098)	(561,882)	4,624,229	1,507,966	1,631,011	3,138,977					
Stanly	(2,134,758)	(709,623)	-	(194,033)	(624,743)	4,241,197	578,041	2,881,470	3,459,511	(1,125,028)	2,334,482	-	-	2,334,482
Cities	(1,017,094)				(297,558)		(1,314,652)		(1,314,652)					
Total	(3,151,852)	(709,623)	-	(194,033)	(922,301)	4,241,197	(736,611)	2,881,470	2,144,859					
Stokes	(1,746,324)	(530,689)	(194,342)	(130,212)	(668,565)	3,089,095	(181,038)	1,111,328	930,290	(215,647)	714,643	-	-	714,643
Cities	(185,248)				(66,738)		(251,987)		(251,987)					
Total	(1,931,572)	(530,689)	(194,342)	(130,212)	(735,303)	3,089,095	(433,024)	1,111,328	678,304					
Surry	(3,532,278)	(869,604)	(284,970)	(205,625)	(985,701)	6,038,337	160,159	4,137,570	4,297,729	(825,103)	3,472,627	-	-	3,472,627
Cities	(753,745)				(210,435)		(964,180)		(964,180)					
Total	(4,286,024)	(869,604)	(284,970)	(205,625)	(1,196,136)	6,038,337	(804,021)	4,137,570	3,333,549					
Swain	(599,238)	(140,596)	-	(160,837)	(195,215)	1,190,694	94,808	524,236	619,044	(72,851)	546,193	-	-	546,193
Cities	(64,211)				(20,917)		(85,129)		(85,129)					
Total	(663,450)	(140,596)	-	(160,837)	(216,132)	1,190,694	9,680	524,236	533,915					
Transylvania	(1,622,015)	(289,590)	-	(388,378)	(441,967)	2,213,103	(528,847)	1,817,501	1,288,654	(288,407)	1,000,247	-	-	1,000,247
Cities	(264,853)				(72,168)		(337,022)		(337,022)					
Total	(1,886,868)	(289,590)	-	(388,378)	(514,136)	2,213,103	(865,868)	1,817,501	951,633					
Tyrrell	(168,857)	(45,165)	(16,825)	(197,104)	(61,926)	498,107	8,231	111,101	119,332	(10,873)	108,458	-	-	108,458
Cities	(9,296)				(3,410)		(12,705)		(12,705)					
Total	(178,153)	(45,165)	(16,825)	(197,104)	(65,336)	498,107	(4,475)	111,101	106,626					
Union	(7,033,225)	(2,230,329)	-	(2,294,121)	(1,944,468)	6,841,140	(6,661,002)	7,868,230	1,207,228	(1,762,642)	(555,414)	(555,414)	655,414	100,000
Cities	(1,613,720)				(446,033)		(2,059,752)		(2,059,752)					
Total	(8,646,944)	(2,230,329)	-	(2,294,121)	(2,390,500)	6,841,140	(8,720,754)	7,868,230	(852,525)					
Vance	(1,941,821)	(607,673)	(136,676)	(727,582)	(573,150)	5,269,555	1,282,653	2,221,699	3,504,352	(546,251)	2,958,100	-	-	2,958,100
Cities	(492,866)				(145,455)		(638,321)		(638,321)					
Total	(2,434,687)	(607,673)	(136,676)	(727,582)	(718,605)	5,269,555	644,332	2,221,699	2,866,031					
Wake	(29,581,530)	(8,805,246)	(863,871)	(9,587,069)	(6,165,151)	30,566,498	(24,436,370)	59,908,561	35,472,190	(23,345,183)	12,127,007	-	-	12,127,007
Cities	(22,575,037)				(4,706,232)		(27,281,269)		(27,281,269)					
Total	(52,156,567)	(8,805,246)	(863,871)	(9,587,069)	(10,871,383)	30,566,498	(51,717,639)	59,908,561	8,190,922					
Warren	(706,966)	(224,364)	(91,255)	(126,564)	(279,126)	2,314,984	886,709	412,858	1,299,567	(83,952)	1,215,615	-	-	1,215,615
Cities	(70,330)				(27,767)		(98,097)		(98,097)					
Total	(777,296)	(224,364)	(91,255)	(126,564)	(306,893)	2,314,984	788,612	412,858	1,201,469					

Washington	(527,454)	(154,102)	(43,381)	(88,546)	(188,567)	2,057,338	1,055,289	407,533	1,462,822	(83,952)	1,378,870	-	-	1,378,870
Cities	(70,330)				(27,767)		(98,097)		(98,097)					
Total	(597,784)	(154,102)	(43,381)	(88,546)	(216,334)	2,057,338	957,191	407,533	1,364,725					
Watauga	(2,467,445)	(329,196)	-	(699,186)	(522,117)	1,789,621	(2,228,323)	3,950,982	1,722,659	(953,170)	769,489	-	-	769,489
Cities	(919,035)				(194,841)		(1,113,876)		(1,113,876)					
Total	(3,386,480)	(329,196)	-	(699,186)	(716,958)	1,789,621	(3,342,199)	3,950,982	608,783					
Wayne	(4,544,772)	(1,391,103)	(87,674)	(339,930)	(1,308,412)	9,804,388	2,132,496	5,507,089	7,639,586	(1,646,333)	5,993,253	-	-	5,993,253
Cities	(1,493,752)				(430,075)		(1,923,827)		(1,923,827)					
Total	(6,038,524)	(1,391,103)	(87,674)	(339,930)	(1,738,487)	9,804,388	208,670	5,507,089	5,715,759					
Wilkes	(3,153,510)	(737,138)	(295,849)	(234,938)	(963,196)	6,031,869	647,238	2,995,019	3,642,257	(411,036)	3,231,221	-	-	3,231,221
Cities	(367,935)				(112,379)		(480,313)		(480,313)					
Total	(3,521,444)	(737,138)	(295,849)	(234,938)	(1,075,574)	6,031,869	166,925	2,995,019	3,161,944					
Wilson	(3,145,963)	(952,709)	(118,292)	(270,048)	(841,756)	7,207,014	1,878,245	4,320,730	6,198,976	(1,355,614)	4,843,361	-	-	4,843,361
Cities	(1,249,676)				(334,448)		(1,584,124)		(1,584,124)					
Total	(4,395,638)	(952,709)	(118,292)	(270,048)	(1,176,204)	7,207,014	294,122	4,320,730	4,614,852					
Yadkin	(1,487,130)	(442,160)	-	(68,640)	(520,746)	2,728,268	209,593	1,159,404	1,368,997	(206,202)	1,162,796	-	-	1,162,796
Cities	(178,465)				(62,485)		(240,950)		(240,950)					
Total	(1,665,594)	(442,160)	-	(68,640)	(583,231)	2,728,268	(31,357)	1,159,404	1,128,047					
Yancey	(813,744)	(183,524)	-	(191,008)	(263,391)	1,709,147	257,480	706,391	963,871	(83,180)	880,691	-	-	880,691
Cities	(73,432)				(23,767)		(97,199)		(97,199)					
Total	(887,176)	(183,524)	-	(191,008)	(287,158)	1,709,147	160,281	706,391	866,672					
	(535,600,000)	**(99,900,000)**	**(12,700,000)**	**(74,100,000)**	**(133,900,000)**	**617,000,000**	**(239,200,000)**	**535,600,000**	**296,378,711**	**(167,040,000)**	**324,538,784**	(541,806)	841,806	325,380,589

Senate Medicaid Swap Proposal ($Million)

June 22, 2007

	Effective Date	50% 07-08	75% 08-09	100% 09-10	10-11	11-12
State General Fund						
State takes over 100% of Local Medicaid Service Costs (phase-in)	1/01/08	-129.2	-424.5	-617.0	-672.5	-733.0
State picks up 1/2 cent sales tax (Article 44)	1/01/08	244.6	511.0	535.6	563.4	592.6
State picks up 1/8 cent Article 42 sales tax (no food)	1/01/08	61.2	127.8	133.9	140.9	148.2
State takes county portion of deed stamp tax	1/01/08	29.4	72.1	74.1	76.1	77.9
Corporate earmarking for school facilities eliminated	1/01/08	43.0	90.0	99.9	105.7	112.1
Repeal beer/wine distribution to counties	1/01/08	12.0	12.3	12.7	13.0	13.4
12% EITC (non-refundable)	1/01/07	-24.1	-24.8	-25.1	-25.2	-25.7
Tax annuities at insurance premiums tax rate (exempt qualified)	1/01/09		49.4	52.4	55.5	58.8
State holds harmless counties ($100,000 minumum gain)		-30.0	-8.5	-0.8		
Net State Impact		**206.9**	**404.8**	**265.7**	**256.9**	**244.3**
Counties						
State takes over 100% of Local Medicaid Service Costs	1/01/08	129.2	424.5	617.0	672.5	733.0
Counties' lose 1/2 cent sales tax (Article 44)	1/01/08	-172.7	-360.8	-378.1	-397.8	-418.4
Counties' lose 1/8 cent Article 42 sales tax	1/01/08	-43.2	-90.2	-94.5	-99.4	-104.6
State takes county portion of deed stamp tax	1/01/08	-29.4	-72.1	-74.1	-76.1	-77.9
Corporate earmarking for school facilities eliminated	1/01/08	-43.0	-90.0	-99.9	-105.7	-112.1
Repeal beer/wine distribution to counties	1/01/08	-12.0	-12.3	-12.7	-13.0	-13.4
Counties authorized to levy 1/2 cent sales tax (point of sale, 100% county, no food)	1/01/08	244.6	511.0	535.6	563.4	592.6
Subtotal: Counties		73.5	310.1	493.2	543.9	599.3
Hold harmless cities at FY06-07 level		-83.5	-167.0	-167.0	-167.0	-167.0
State holds harmless counties		30.0	8.5	0.8		
Net Counties' Impact		**20.0**	**151.6**	**327.0**	**376.9**	**432.3**

Medicaid and the Two North Carolinas
By Scott Mooneyham
June 25, 2007

RALEIGH -- If nothing else, the debate raging in the state legislature over Medicaid is proof that there are, in fact, two North Carolinas.

Ever so slowly, the legislative fight over proposals designed to relieve counties of their Medicaid costs is pitting those two North Carolinas against each other.

The reason is simple. Many of the solutions being discussed will benefit one state over the other.

When people talk about "the two North Carolinas," they reference the urban verses the rural, the high-tech boom of the cities verses the manufacturing decline of the small towns.

The one North Carolina is bustling and bursting, with business and new subdivisions and two-income families with rising incomes.

The other North Carolina is poor and plodding, its textile mills empty, homes that won't sell, taxes bases that don't grow.

But even in booming North Carolina, local officials cope with growth-induced problems. Despite growing tax bases, communities grapple with building enough schools to keep pace with the new, young

faces that show up each day.

In struggling, rural North Carolina, local government's big headache is Medicaid, the health care program for the poor. The program, with its 10- to 15- percent cost increases each year, is outstripping the ability of some counties to pay.

At 5 percent of the total Medicaid bill, county governments' costs wouldn't seem that overwhelming. But that 5-percent share represents $560 million for all 100 North Carolina counties. In a handful of counties, the costs exceeds their public school bill.

So increasingly, state legislators have staked themselves out on coming up with a long-term solution to eliminate counties' Medicaid burden. The wisdom of that move -- given legislators' inability or unwillingness to get a handle on overall Medicaid costs -- could be debated.

Nonetheless, lawmakers are examining all manner of proposals designed to accomplish the task. But with such a big chunk of money required, the proposals inevitably involve some form of revenue swap with local government.

And here's where the conflict comes: A couple of primary revenue streams of local government are earmarked specifically for school construction.

Short of the state grabbing local property tax revenue (which won't happen), a revenue swap will almost certainly affect the availability of school construction dollars. And in wealthy counties with low Medicaid populations, the program's costs represent just a fraction of county

government budget.

So for those counties, these Medicaid relief proposal are losers. Not surprisingly, school officials and others in the wealthy, urban counties are starting to push back against them.

Throw in the fact that lawmakers have mixed these plans with various tax hike proposals and made them part of a larger state budget debate, and you've got a messy policy debate.

Once it's sorted out, legislators may well return to the idea of one-time Medicaid help for counties, like the $100 million originally proposed in the House budget.

Such is life in two North Carolinas.

Senate Numbers Deceiving
By Scott Mooneyham
June 21, 2007

RALEIGH -- Looking at the numbers, Democrats' hold on the North Carolina General Assembly would appear to be stronger than at any point since the early 1990s.

In the House, Democrats enjoy a 68-52 majority. In the Senate, the Democratic majority stands at 31-19.

Appearances, though, can be deceiving. And nowhere is that more true than in the Senate.

The next statewide general election may be 16 months away, but speculation has already begun that Democrats could lose

their iron grip on the chamber.

Despite the House's recent history of Democratic and Republican swings, the smart money in 2008 is on such a shift taking place in the other chamber.

A number of factors suggest that change is coming to the Senate, if not in 2008 then certainly in 2010.

The most significant is an aging leadership.

Two of the three most powerful people in the Senate, Majority Leader Tony Rand of Cumberland County and David Hoyle of Gaston County, are approaching 70. Sens. John Kerr of Wayne County and R.C. Soles of Columbus County are in the their 70s.

All four men chair powerful committees.

Except for Rand, talk around the Legislative Building is that any of the other three could decide to call it quits after this term.

Losing any of the three longtime incumbents would hurt Democrats because their seats could easily shift Republican. Kerr and Soles sit in swing districts. Hoyle has only kept his Republican-leaning district because he is easily the most pro-business Democrat in the Senate.

Another Senate seat that fits the profile is that held by Sen. Walter Dalton. A moderate Democrat now in his sixth term, the Rutherford County lawyer plans to run for lieutenant governor in 2008.

Longtime GOP House member Debbie Clary has announced that she will seek Dalton's seat in 2008. Clary will likely be the favorite no matter who else runs. In fact, the race

may look a lot like a repeat of Sen. Jean Preston's 2006 win in Craven, Carteret and Pamlico counties.

Running for an open seat that Democrats had held, Preston -- a moderate Republican who had spent seven terms in the House -- won despite being outspent by a two-to-one margin.

If Republicans do make a run at Democratic control, it will likely be led by moderate, GOP women who fit the Preston and Clary mold.

Speculation has been circulating that Rep. Carolyn Justice, a Pender County Republican, could go after Sole's seat regardless of whether he runs. And former GOP Rep. Wilma Sherrill is being mentioned in connection with the Senate seat now held by Buncombe County Democrat Martin Nesbitt.

Democrats will also struggle to keep four seats that they've only recently gained -- those held by Sens. John Snow, Joe Sam Queen and Steve Goss in the far West, and that held by Sen. Tony Foriest in Alamance and Caswell counties.

Do the math, and it becomes clear that Democrats' hold on the Senate is far more tenuous than the beginning numbers suggest.

SENATE FINANCE COMMITTEE
Wednesday, June 27, 2007
1:00 pm in Room 544

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, June 27, 2007, in room 544 of the Legislative Office Building. Thirty-three members of the committee were present. Senator Dan Clodfelter presided. Baxter Draughn of Gastonia, Charlie Bergman of Gastonia, Abbey Grensch of Belmont, Lindsey Cloninger of Belmont, and Heather Cavanaugh of Bessemer City served as pages.

H.B. 226 – Additional Scotland County Occupancy Tax.

Senator Purcell was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 792 – Northampton County Occupancy Tax.

Senator Jones was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1144 – Columbia Annexation.

Senator Jenkins was recognized to explain the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 18 – Additional Scotland County Occupancy Tax.

Senator Queen moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Queen was recognized to discuss the bill. Senator Garrou moved for a favorable report and the motion carried. A copy of the bill, the summary, the proposed committee substitute and the fiscal note is attached.

H.B. 401 – County Water/Sewer District Financing.

Rep. Langdon was recognized to explain the bill. Senator Smith moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1132 – Public Health Authority Changes.

Rep. Barnhart was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 257 – Streamlined Sales Tax Changes.

Senator Soles was recognized and moved to adopt the proposed committee substitute for discussion. The motion carried. Andy Sabol, Sales and Use Tax Division Director, Dept. of Revenue, was recognized for comments and to answer questions. Senator Soles moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill, the summary and the fiscal note is attached.

S.B. 1340 – Sales of Blocks of CRFLs.

Senator Jenkins was recognized and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Brock moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the bill and the summary is attached.

S.B. 3 – Promote Renewable Energy/Energy Efficiency.

Senator Albertson was recognized to explain the bill. George Givens, Research Division staff attorney, was recognized to further explain the bill and answer questions. Rodney Bizzell, Fiscal Research Division fiscal analyst, was recognized to answer fiscal questions. Bob Gruber, and Sam Watson, NC Utilities Commission, were recognized to answer questions. Shana Becker, NC PIRG staff attorney, was recognized to speak in opposition of the base load financing section of the bill. Elizabeth Ouzts, Environment NC director, was recognized to speak in favor of the renewable energy sections of the bill, but in opposition of the base load financing section. Chris Corcini, Environmental Defense, was recognized to speak in opposition of the hog waste standards and base load financing. Ivan Urlaub, NC Sustainable Energy Association, spoke of concerns with parts of the bill, but was favorable overall. George Everett, Duke Energy, spoke in favor of the bill, especially the renewables, efficiency and base load sections. Preston Howard, Manufacturers and Chemical industry Council of NC, spoke in favor of the bill. Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 1036 – Blue Ridge Parkway Motorcycle Plate.

Senator Queen was recognized and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Queen then offered an amendment and moved for its adoption. The motion carried. Major Jamie Hatcher, NC State Highway Patrol, was recognized to answer any questions. Senator Rand moved to adopt the PCS as amended and the motion carried. A copy of the proposed committee substitute, the bill, the summary, the amendment and the fiscal note is attached.

H.B. 463 – Conservation Tax Credit.

This bill was pulled from the agenda.

S.B. 540 – Revenue Laws Technical Changes.

Due to time constraints the meeting adjourned before the bill could be heard.

S.B. 1362 – Amend Dry Cleaning Solvent Cleanup Act.

Due to time constraints the meeting adjourned before the bill could be heard.

The meeting adjourned at 2:18 pm.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Co-Chair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected: Removes H1207 - Greater Asheville Airport Authority Act and adds S3 - Promote Renewable Energy/Energy Efficiency.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 27, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 1362	Amend Dry-Cleaning Solvent Cleanup Act.	Senator Clodfelter
HB 226	Additional Scotland County Occupancy Tax.	Representative Yongue Representative Pierce
HB 257	Streamlined Sales Tax Changes.	Representative Hill
HB 401	County Water/Sewer District Financing.	Representative Langdon, Jr.
HB 463	Conservation Tax Credit Modifications.	Representative Luebke
HB 792	Northampton County Occupancy Tax.	Representative Wray
HB 1132	Public Health Authority Changes.	Representative Mobley Representative Barnhart
HB 1144	Columbia Annexation.	Representative Owens, Jr.
SB 18	Additional Scotland County Occupancy Tax.	Senator Purcell
SB 540	Revenue Laws & Motor Fuels Tax Tech. Changes.	Senator Hartsell
SB 1036	Blue Ridge Parkway Special Motorcycle Plate.	Senator Queen
SB 1340	Sale of Blocks of Ten-Day CRFLs.	Senator Jenkins
SB 3	Promote Renewable Energy/Energy Efficiency.	Senator Albertson

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Senate Finance Committee
Wednesday, June 27, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Introduction of Pages

Bills

~~HB 226~~	Additional Scotland County Occupancy Tax.	Rep. Yongue Rep. Pierce
~~HB 257~~	Streamlined Sales Tax Changes.	Rep. Hill
~~HB 401~~	County Water/Sewer District Financing.	Rep. Langdon
HB 463	Conservation Tax Credit Modifications.	Rep. Luebke
~~HB 792~~	Northampton County Occupancy Tax.	Rep. Wray
HB ~~1132~~	Public Health Authority Changes.	Rep. Mobley
~~HB 1144~~	Columbia Annexation.	Rep. Owens
SB 3	Promote Renewable Energy/Energy Efficiency.	Sen. Albertson
~~SB 18~~	Additional Scotland County Occupancy Tax.	Sen. Purcell
SB 540	Revenue Laws & Motor Fuels Tax Tech. Changes.	Sen. Hartsell
~~SB 1036~~	Blue Ridge Parkway Special Motorcycle Plate.	Sen. Queen
~~SB 1340~~	Sale of Blocks of Ten-Day CRFLs.	Sen. Jenkins
~~SB 1362~~	Amend Dry-Cleaning Solvent Cleanup Act.	Sen. Clodfelter

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Nancy Thompson	Weyerhaeuser
Will Culpepper	Nucor
John Milligan	Environmental Defense
Christine Wyman	Conservation Council NC
Amanda Brown	Conservation Council - NC
Linda Pearsall	DENR
Portia Manley	NCDOT/DMV
Kay [illegible]	NCDOT / DMV
[illegible]	NC WRC
Susanne Stiles	NCRLA
Bryant Kenney	Duke Energy
George Everett	Duke Energy

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Cally Handy	DENR
Tim Kent	NC Assn of Realtors
[signature]	N/A
Robert Fox	Sierra Club
Andrew Givens	Cardinal Energy
Jim Blackburn	NC Association of County Commissioners
Doreen Trader	NCACC
[signature]	NC DENR - Waste Management
John Powers	NC DENR - Waste Management
Daren Bakst	John Locke Foundation
David Barnes	Poyner + Spruill

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mike Abraczinskas	DAQ-DENR
Garrett Martin	NC Sustainable Energy Assoc.
Kevin Leonard	WCSR
Tommy Suter	Wyeth
John Goodman	NC Chamber
John Bode	Bode Call & Stroupe
R. Paul Wilms	NCMBA
Alastair Macaulay	NCHSA
Lisa Martin	"
Andy Munn	RESJC
Steve Reed	Duke Energy

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
FRANK W. FOLGER	HELMS MULLISS WICKER
Dana Simpson	Smith Anderson
Molly Diggins	NC Sierra Club
Christa Wagner	"
David Crawford	AIA
Andrew Meehan	NC Elec. Co-ops
Lennuel Hinton	NCUC
DON HOOVER	"
Janice W. Davidson	NC DOR
Mitch Leonard	SEANC
Chuck Congleton	NCCE

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Karen Brown	DOC
Mildred Spearman	DOC
JAMIE HATCHER	NCSHP
MARVIN WATERS	CCPS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Doug Powell	NCDOR
Donna Alderman	NCDOR
Brock Nicholson	NCDAQ / DENR
Sam Watson	NCUC
Maggy Inman	Advanced Energy / NC GreenPower
Steve Kalland	NC Solar Center / NCSU

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kris Coraggini	Environmental Defense
Mark Bacon	BEA
Sarah Price	BEA
	ACWA
	NC Marine Fisheries
Rogers	NLNEM
Linda Millsaps	NC DOR
Janice McDougald	NC DOR
Karl Knapp	DOR
Andy Sabol	NCDOR
Anna Mitchell	NC DOR
Lennie Collins	DOR

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, June 27, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

S.B.(CS #1) **3** Promote Renewable Energy/Baseload Generation
Sequential Referral: None
Recommended Referral: None

H.B. **226** Additional Scotland County Occupancy Tax.
Sequential Referral: None
Recommended Referral: None

H.B. **401** County Water/Sewer District Financing.
Sequential Referral: None
Recommended Referral: None

H.B. **792** Northampton County Occupancy Tax.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1132** Public Health Authority Changes.
Sequential Referral: None
Recommended Referral: None

H.B. **1144** Columbia Annexation.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **257** Streamlined Sales Tax Changes.
Draft Number: 80460
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 7

Committee Clerk Comments:

NCPIRG
Public Interest Advocate

112 S. Blount Ste. 102 (919) 833-2070
Raleigh, NC 27601 www.ncpirg.org

Nonpartisan, nonprofit research and advocacy group dedicated to consumer rights, public health, and good government.

— Protect S3 —
Revive Fairness, Renewable Energy-Focus
Strike costly, unrelated additions.

NO PAYMENT FOR OFF-LINE COAL AND NUCLEAR. For over twenty years, investor-owned utilities have lobbied for the right to charge customers for incomplete coal and nuclear projects, and the legislature has refused: no payment for incomplete coal and nuclear projects is the law[i]. Investor-owned utilities get paid when consumers get a benefit from the construction. In the current version of S3, investor-owned utilities lobbied for provisions to change the law, and to permit recovery for incomplete coal and nuclear projects (a.k.a. *baseload financing* and *prudency review*). In S3:

- Residents can be obligated to pay for off-line coal and nuclear facilities that may never be useful.
- Residents receive no guaranteed benefit for their payment, except higher rates and the possibility of expensive (and dirty) energy.
- Residents can be charged for *potential* nuclear project development costs – a sum related to a potential project, not an actual one.
- Residents' rates will increase dramatically as soon utilities file a rate case to finance their coal and nuclear construction. Initial cost estimates for coal and nuclear construction reach $10 billion.[ii]
- The costs of coal and nuclear construction can increase without limit in S3. S3 lacks any cap or other consumer protection measure for baseload financing.

The additions to S3 change its character, and put residents in a lose-lose situation. The additions promote the development of non-renewable energy, and subject residents to higher rates without guaranteed benefits.

[i] No payment for incomplete coal and nuclear projects is the law. An exception occurs if the investor-owned utility demonstrates that prepayment is in the public interest and required for the company's financial stability.

[ii] Wade Rawlins, "Utility plans exclude conservation," *News & Observer,* Raleigh, May 21, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 226

Short Title:	Additional Scotland County Occupancy Tax.	(Local)
Sponsors:	Representatives Yongue and Pierce (Primary Sponsors).	
Referred to:	Local Government I, if favorable, Finance.	

February 19, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SCOTLAND COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 1997-410 is amended by adding a new subsection to read:

"(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Scotland County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Scotland County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

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

HOUSE BILL 226:
Additional Scotland County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Reps. Yongue, Pierce	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 226 authorizes Scotland County to levy an additional 3% room occupancy tax. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.

CURRENT LAW: In 1997, the General Assembly authorized Scotland County to levy a 3% room occupancy tax. Currently, the proceeds are remitted to the Scotland Tourism Development Authority, which is required to spend at least two-thirds of the proceeds on travel and tourism promotion and the remainder on tourism-related expenditures. The administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below.

BILL ANALYSIS: House Bill 226 authorizes Scotland County to levy an additional 3% room occupancy tax. The additional tax would be levied, administered, and distributed in the same manner as the first 3% that is currently in place.[1] Therefore, this bill conforms to all of the uniform guidelines.

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

EFFECTIVE DATE: This act would become effective when it becomes law.

[1] Scotland County's current authority to levy 3% found in Section 11 of S.L. 1997-410 is set out on page 2 of this summary.

Sections 11 and 12 of S.L. 1997-410

Section 11. Scotland County occupancy tax. (a) Authorization and scope. The Scotland County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

(c) Distribution and use of tax revenue. Scotland County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Scotland Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Scotland County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 12. Scotland Tourism Development Authority. (a) Appointment and membership. When the Scotland County Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the members' qualifications and terms of office, and for the filling of vacancies on the Authority. The Authority shall be composed of seven members, five of whom must be currently active in the promotion of travel and tourism in the county and two of whom must be owners or operators of hotels, motels, or other taxable accommodations in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Scotland County shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under Section 11 of this act for the purposes provided in Section 11 of this act. The Authority shall promote travel and tourism and make tourism-related expenditures.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

H0226e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

HOUSE BILL 792

Short Title:	Northampton County Occupancy Tax.	(Local)
Sponsors:	Representative Wray.	
Referred to:	Finance.	

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE NORTHAMPTON COUNTY TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Northampton County may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Northampton County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or

convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Northampton County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Northampton County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Northampton County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Northampton County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Northampton County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Northampton County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. Administrative provisions. – G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

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

HOUSE BILL 792:
Northampton County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Rep. Wray	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: ***House Bill 792 authorizes Northampton County to levy a 6% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.***

CURRENT LAW: Currently, Northampton County does not have authority to levy a room occupancy tax.

BILL ANALYSIS: House Bill 792 authorizes Northampton County to levy a room occupancy tax of up to 6%. The proceeds must be remitted to a county Tourism Development Authority (TDA), which must use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

EFFECTIVE DATE: House Bill 792 would become effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

H0792e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1144

Short Title:	Columbia Annexation.	(Local)
Sponsors:	Representative Owens.	
Referred to:	Local Government I, if favorable, Finance.	

March 28, 2007

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF COLUMBIA.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Columbia:

Beginning at an iron pin located in the eastern right-of-way line of N.C. Secondary Road No. 1209, said point of beginning being located in the south line of lands owned now or formerly by Martha Overton and the north line of lands now or formerly belonging to Comillos J. Liverman, Jr., and wife (Tyrrell county tax parcel C1-1), and described in the deed recorded in Book 154 page 298, Tyrrell County Registry; proceeding thence from the point of beginning North 39 degrees 30 minutes East along the Overton-Liverman lines 140 feet to another iron pin; proceeding thence and continuing along the north line of Carl Willis and wife North 39 degrees 30 minutes East 112 feet to another iron pin; proceeding thence South 30 degrees 45 minutes East 213 feet, more or less, along the southwest line of lands now or formerly belonging to Kenneth Cooper (Tyrrell County tax parcel T74-14) which is also the northeast line of lands now or formerly belonging to Carl L. Willis and wife (Tyrrell County tax parcel C1-2) and described in the deed recorded in Book 140 page 88, Tyrrell County Registry, to another iron pin; proceeding thence South 30 degrees 45 minutes East 200 feet along the northeast line of lands now or formerly belonging to Loretta B. Combs (Tyrrell County tax parcel C1-3) and described in Deed Book 133 page 23, Tyrrell Registry, to an iron pin in the north corner of the lands now or formerly belonging to Mike Everett Cahoon and wife (Tyrrell County tax parcel C1-4) and described in Deed Book 131 page 564, Tyrrell Registry; proceeding thence along the Cahoon northeast line South 30 degrees 45 minutes East 200 feet to an iron pin lying at the north line of the lands now or formerly belonging to Ronald Brickhouse and wife; proceeding thence South 26 degrees 30 minutes East 125 feet along the east line of lands now or formerly belonging to Ronald Brickhouse and wife (Tyrrell County tax parcel C2-1) and described in Deed

Book 123 page 507, Tyrrell County Registry, 125 feet to another iron pin lying in the north corner of the lands now or formerly belonging to Kenneth Jeske and wife (Tyrrell County tax parcel C2-7) and described in Deed Book 144 page 413, Tyrrell County Registry; proceeding thence along the Jeske east line South 26 degrees 30 minutes East 150 feet more or less to an iron pin in the eastern corner of the Jeske property which also marks the western right-of-way line of S.R. 1227 and also the northern terminus of the right-of-way of S.R. 1227; proceeding thence in a southeasterly direction along the line of the S. R. 1227 right-of-way terminus to the southeast margin of the right-of-way of S.R. 1227; proceeding thence in a southwesterly direction along the southeast margin of S.R. 1227 to an iron pin in the north corner of the lands of Kenneth Jeske and wife (Tyrrell County tax parcel T74-15) and described in Deed Book 165 page 779, Tyrrell County Registry; proceeding thence along the northeast line of Jeske South 65 degrees East 193 feet to an iron pin; proceeding thence South 36 degrees West 230 feet to an iron pin in the north corner of the lands now or formerly belonging to Kenneth W. Cooper, Jr. (Tyrrell County tax parcel T74-20) and described in Deed Book 120 page 436, Tyrrell County Registry; proceeding thence along the dividing line between Cooper and the Christ Disciple Church lands 450 feet, more or less, to an iron pin lying on the east margin of the right-of-way of N.C. 1209; proceeding thence in a northwesterly direction and following the east margin of the right-of-way of N.C. 1209 to the point or place of beginning.

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

HOUSE BILL 1144:
Columbia Annexation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Rep. Owens	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: House Bill 1144 is a local bill that would annex certain described property to the corporate limits of the Town of Columbia.

CURRENT LAW: North Carolina law sets forth four (4) basic ways in which a town or city may annex an area.

1. **Voluntary Annexation**. The owners of all real property in the area desiring to be annexed sign a petition requesting annexation. Part 1 of Article 4 of Chapter 160A.
2. **Legislative Act**. The General Assembly has the authority to extend the boundaries of any town or city. This method is most helpful to a town or city trying to annex an area that they could not otherwise.
3. **Satellite Annexation**. This method allows a town or city to annex certain non-contiguous areas meeting the statutory standards into the town or city limits. Part 4 of Article 4 of Chapter 160A.
4. **Non-voluntary Annexation**. The town or city brings into the corporate limits an area that has not voluntarily agreed to be annexed. Parts 2 and 3 of Article 4 of Chapter 160A.

BILL ANALYSIS: House Bill 1144 would annex by legislative act certain described property into the existing corporate limits of the Town of Columbia.

EFFECTIVE DATE: House Bill 1144 would become effective when it becomes law.

BACKGROUND: This legislation will allow the annexation of property known locally as Brickhouse Circle. It is situated 1/10 of a mile north of the current town boundary. It is the only natural subdivision in and around Columbia. The Town currently provides it with water. It is within the Town's extraterritorial jurisdiction (ETJ).

A few years ago, when the Town began providing water services, there was some discussion of annexation but neither the Town Board nor the residents were ready to proceed. In recent years, through voluntary annexation, the town has roughly doubled in size, and is now getting to the point that it needs to look at cleaning up the ragged edges that have been created by voluntary annexation. There are islands in the town that are not within the town limits. This is the first annexation to begin bringing areas into the town that have been skipped over by voluntary annexations. There are about 13 residences in the subdivision. There are 2 homes that are not in the subdivision that are situated in the 1/10 mile space beyond the existing town boundary.

The official minutes of the Columbia Board of Aldermen reflect their support of this annexation and their decision to request this legislation. There is opposition from some residents in the area because of town taxes.

Because of services being provided in and around the town limits the Town feels that conditions for annexation are ideal. The Town has initiated a contract with the Sheriff's office to provide additional law enforcement services for the benefit of its residents.

H1144e1-SMRE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 18
PROPOSED COMMITTEE SUBSTITUTE S18-CSSVx-33 [v.3]

6/15/2007 2:28:13 PM

Short Title: Modify McDowell County Occupancy Tax. (Local)

Sponsors:

Referred to:

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MCDOWELL COUNTY TO LEVY AN ADDITIONAL 2% ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 892 of the 1985 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. – (a) Authorization and Scope. – The McDowell County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by ~~educational organizations, religious organizations, or summer camps.~~ nonprofit charitable, educational, or religious organizations when furnished in furtherance of the nonprofit purpose.

(a1) Additional Occupancy Tax. -- In addition to the tax authorized by subsection (a) of this section, the McDowell County Board of Commissioners may levy an additional room occupancy tax of two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. McDowell County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead~~

~~of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

(c) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. ~~The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and Use of Tax Revenue. – McDowell County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the McDowell Tourism Development Authority. ~~The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.~~ The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in McDowell County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct

market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures. Tourism-related capital expenditures may include expenditures to purchase, renovate, maintain, or operate heritage tourism sites, such as the McDowell House, the Carson House, Fort Davidson, or Heritage Trails.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than January 1, 1987, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the McDowell County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 2. Tourism Development Authority. (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control ~~Act and shall be composed of the following nine members:~~Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-half of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-third of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Authority must be comprised of the following seven voting members and two nonvoting, ex officio members:

(1) The Executive Director of the McDowell Chamber of Commerce, who shall serve as an ex officio, nonvoting ~~member;~~ member.

(2) A county commissioner appointed by the McDowell County Board of Commissioners, who shall serve as an ex officio, nonvoting ~~member;~~ member.

(3) Four owners or operators of hotels, motels, or other taxable accommodations, of whom shall be appointed by the McDowell County Board of Commissioners, and two of whom shall be appointed by the McDowell Chamber of Commerce. Two of these appointees shall own or operate hotels, motels, or other accommodations with

more than 50 rental units, and two shall own or operate hotels, motels, or other accommodations with 50 or fewer rental ~~units;~~ units.

(4) Three individuals ~~involved in tourist businesses who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other taxable accommodations,~~ who are currently active in the promotion of travel and tourism in the county, appointed as follows: two by the McDowell Chamber of Commerce and one by the McDowell County Board of Commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term which they are appointed to fill. ~~Except as provided in subsection (b) for initial members, members~~ Members shall serve three-year terms. ~~Members may serve no more than two consecutive terms.~~ The members shall elect a chairman from the membership of the Authority, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The Finance Officer for McDowell County shall be the ex officio finance officer of the Authority.

~~(b) Terms of Initial Members. The following initial members shall serve terms for other than three years:~~

~~(1) The appointed county commissioner and the member appointed by the board of commissioners under subdivision (a)(4) of this section, who shall serve one-year terms; and~~

~~(2) One of the members appointed under subdivision (a)(3) of this section by the Chamber, one of the members appointed under subdivision (a)(4) by the Chamber, and one of the members appointed under subdivision (a)(3) by the board of commissioners, as designated by the appointing body, who shall serve two-year terms.~~

(c) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in McDowell ~~County.~~County, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county. In performing its duties, the Authority may contract with any person, firm, or agency to advise and assist it and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed upon a recommendation made by the Authority shall be hired and supervised by the Authority, which shall pay the salaries and expenses of this staff.

(d) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

~~Sec. 3. Review of Levy. Three years from the effective date of a tax levied under this act, the McDowell County Board of Commissioners shall conduct a thorough review of the tax and the function of the Tourism and Development Authority~~

~~established under this act to determine the effectiveness of the levy and of the Authority.~~

Sec. 4. This act is effective upon ratification."

SECTION 2. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

SECTION 3. This act is effective when it becomes law. The McDowell County Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

SENATE BILL 18:
Modify McDowell County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Sen. Purcell	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S18-CSSVx-33		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 18 deletes the original contents (Additional Scotland County Occupancy Tax)[1] and replaces them with provisions authorizing McDowell County to levy an additional 2% room occupancy tax.***

CURRENT LAW: In 1985, the General Assembly authorized McDowell County to levy a 3% room occupancy tax. The county must remit the funds to a county Tourism Development Authority, which must use the funds to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion.

BILL ANALYSIS: The PCS for Senate Bill 18 would authorize McDowell County to levy an additional 2% room occupancy tax. The funds would be remitted to the TDA, and the TDA must use at least two-thirds of the total net proceeds to promote travel and tourism and must use the remainder for tourism-related expenditures. Of the funds dedicated for tourism-related expenditures, the bill specifically authorizes, but does not require, the county to use those funds for the purchase, renovation, maintenance, or operation of heritage tourism sites, such as the McDowell House, the Carson House, Fort Davidson, or Heritage Trails. The bill also conforms the county's current administrative provisions to the uniform provisions concerning the levy, administration, collection, and repeal of the tax found in G.S. 153A-155.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993. Those principles are set out in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.

[1] House Bill 226 is the House companion for SB 18 is being considered by the Senate Finance Committee today.

Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

S0018e1-SMSV-CSSVx-33

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 18

Short Title:	Additional Scotland County Occupancy Tax.	(Local)
Sponsors:	Senator Purcell.	
Referred to:	Finance.	

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SCOTLAND COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 1997-410 is amended by adding a new subsection to read:

"(a1) Authorization of Additional Tax. In addition to the tax authorized by subsection (a) of this section, the Scotland County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Scotland County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 27, 2007

TO: Senator Purcell

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to SB 18

FISCAL IMPACT

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2007-08	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
REVENUES:					
McDowell Co.	**$103,587**	**$105,658**	**$107,877**	**$110,143**	**$112,566**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: McDowell County

EFFECTIVE DATE: Becomes effective when law.

BILL SUMMARY:
The Proposed Committee Substitute for Senate Bill 18 deletes the original contents (Additional Scotland County Occupancy Tax) and replaces them with provisions authorizing McDowell County to levy an additional 2% room occupancy tax.

ASSUMPTIONS AND METHODOLOGY:
The current 3% occupancy tax for McDowell County generated $152,000 in FY 2005-06. The impact of the bill is estimated by projecting the current tax revenue based on the general consumer price index and adjusting for the 2% rate.

SOURCES OF DATA: NC Department of State Treasurer; Moody's Economy.com

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 401

Short Title:	County Water/Sewer District Financing.	(Public)
Sponsors:	Representatives Langdon; Daughtry and Faison.	
Referred to:	Finance.	

February 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTY WATER AND SEWER DISTRICTS TO ENGAGE IN INSTALLMENT PURCHASE FINANCING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-20(h) reads as rewritten:

"(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

(1) A county.

(2) A city.

(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

(3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.

(3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

(3c) A county water and sewer district created under Article 6 of Chapter 162A of the General Statutes.

(4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.

(5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a

board or commission with respect to water and wastewater systems or improvements only.

(5b) A local airport authority that was created pursuant to a local act of the General Assembly.

(6) A local school administrative unit whose board of education is authorized to levy a school tax.

(6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

(8) A consolidated city-county, as defined by G.S. 160B-2(1).

(9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.

(10) A regional natural gas district, as defined by Article 28 of this Chapter.

(11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.

(12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

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

HOUSE BILL 401:
County Water/Sewer District Financing

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Rep. Langdon	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 401 would authorize a county water and sewer district to finance the project by using installment purchase financing.

CURRENT LAW: The board of county commissioners of any county may create a county water and sewer district after notice and a public hearing. Following the public hearing, the board may, by resolution, create a county water and sewer district if the following findings are made:

1. There is a demonstrable need for providing water services, sewer services, or both in the district.
2. The residents of all territory to be included in the district will benefit from the district's creation.
3. It is economically feasible to provide the proposed service or services in the district without unreasonable or burdensome annual tax levies.

The district is governed by the board of commissioners of the county in which the district is created.

The district has the power to sue and be sued; enter into a contract; acquire, hold, and dispose of property; and establish, revise, and collect rates, fees or other charges and penalties for the services furnished by the district.

Projects in the district may be financed using the following methods:

- General obligation bonds – requires approval of the Local Government Commission and approval of voters in the district because the full faith and credit of the county is being pledged.
- Revenue bonds – requires approval of the Local Government Commission.
- Bond anticipation notes – notes issued after a bond order has taken effect and with the approval of the Commission. These notes are issued in anticipation of the receipt of the proceeds of the sale of the bonds, and are generally payable not later than seven years after the bond order takes effect. General obligation bond anticipation notes are secured by the faith and credit of the issuing unit. Revenue bond anticipation notes issued in anticipation of the sale of revenue bonds are generally secured by the proceeds of the revenue bonds and the revenues securing the revenue bonds.
- Property taxes levied within the district.
- Special assessments against benefited property.
- Governmental grants, such as grants from the Clean Water Revolving Loan and Grant Fund.

BILL ANALYSIS: House Bill 401 adds "county water and sewer districts" to the list of local governments that are authorized to use installment purchase financing. Installment purchase financing is a type of debt in which a government enters into an installment contract secured by a security interest in the building constructed or renovated. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the government's debt that is owed to the holder of the certificate. In practice, the holder

receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

Installment purchase financing would reduce the financing cost for projects of small capital requirements such as purchase of equipment and system extensions. There are approximately 35 county water and sewer districts. A list of water and sewer districts, water districts, and sewer districts is attached to this summary.

Water and sewer authorities[1], metropolitan sewerage districts[2], and sanitary districts[3] currently have the authority to use installment purchase financing.

EFFECTIVE DATE: When it becomes law.

Martha Walston, counsel to House Finance, substantially contributed to this summary.

H0401e1-SMSV

[1] A water and sewer authority is created by cities and counties and may issue revenue bond. The Authority does not have general taxing power and may not issue general obligation bonds.

[2] A metropolitan sewerage district is created by one or more political subdivisions, including unincorporated areas, and may cover more than one county or parts of more than one county. If there are unincorporated areas in the district, then a majority of residents in the area must petition for the district. The Environmental Commission and county commissioners must then determine the need for the district. The district may issue general obligation bonds, revenue bonds, fix and collect fees, and impose property taxes.

[3] A sanitary district is incorporated with the consent of a majority of the owners of real property in the proposed district and after a public hearing held by the county and the Commission for Health Services. The sanitary district may levy taxes, make special assessments, and issue bonds and notes. These districts may provide water and sewer services, solid waste collection, fire protection, ambulance and rescue services, and are created for the purpose of preserving and promoting the public health and welfare within the district.

STATE OF NORTH CAROLINA

ANALYSIS OF DEBT OF NORTH CAROLINA COUNTIES, MUNICIPALITIES AND DISTRICTS AT JUNE 30, 2006

Overlapping/Underlying Unit	Population	Assessed Valuation	Tax Rate	GO Bonds Authorized & Unissued	Total GO Debt	Total GO Debt Per Capita
Alexander	35,898	2,067,725,807	0.5100			-
Bethlehem Water Dist.	5,362	605,448,696	N/A		1,819,782	339.38
Hwy. 16 S. Water Dist.	3,355	266,822,910	N/A		5,000	1.49
Sugarloaf Water Dist.	1,648	119,889,270	N/A			-
Beaufort	46,010	3,617,794,488	0.6000	16,000,000	17,600,000	382.53
Richland Township Dist. VII W & S	3,512	727,585,901	N/A		5,573,500	1,586.99
Co. Water Dist. I - Washington Township	14,457	197,129,071	N/A		5,289,300	365.86
Co Water Dist. II - Long Acre West	3,825	299,419,261	N/A		4,092,500	1,069.93
Co Water Dist. III - Long Acre East	5,017	174,816,011	N/A		4,964,000	989.44
Co. Water Dist. IV - Bath Township	4,800	378,202,792	N/A		7,869,000	1,639.38
Co. Water Dist. V - Pantego Township	7,032	180,849,086	N/A		3,706,500	527.09
Co. Water Dist. VI - Chocowinity/Richland	8,003	497,270,106	N/A		10,700,000	1,337.00
Bertie	19,640	984,661,595	0.7800			-
Bertie County Water Dist. I	2,408	126,253,849	N/A		2,983,500	1,239.00
Bertie County Water Dist. II	1,920	214,852,289	N/A		4,125,500	2,148.70
Bertie County Water Dist. III	3,229	155,143,773	N/A		2,744,000	849.80
Bertie County Water Dist. IV	2,621	220,346,216	N/A		3,849,100	1,468.56
Bladen	32,866	1,790,134,694	0.8600		22,070,000	671.51
Bladen County Water Dist.	33,204	1,811,689,342	N/A		10,713,500	322.66
Camden	9,008	519,162,262	0.9000			-
South Camden W & S Dist.	3,500	299,519,892	N/A		1,440,500	411.57
Columbus	54,524	3,100,421,878	0.7300		3,855,000	70.70
Columbus Co. W & S Dist. I	10,000	292,003,641	N/A		1,119,000	111.90
Columbus Co. W & S Dist. III	12,500	131,747,272	0.1500		5,321,000	425.68
Columbus Co. W & S Dist. II	13,000	228,239,333	0.1100		6,286,500	483.58
Columbus Co. W & S Dist. IV	4,500	223,000,000	N/A	5,142,000		-
Craven	92,670	6,014,338,763	0.6100		41,740,000	450.42
Neuse River W & S Dist.	7,631	736,964,258	N/A		311,400	40.81
No. 6 Township W & S Dist.	2,143	225,389,358	N/A		241,600	112.74
NW Craven W & S Dist	14,631	923,436,475	N/A		519,500	35.51
Pembroke W & S Dist.	1,371	16,774,495	N/A		210,000	153.17
Cumberland	305,173	14,969,524,779	0.8800		106,165,000	347.88
Norcress Water & Sewer District	943	25,186,026	N/A		1,250,000	1,325.56
Duplin	51,920	2,781,926,141	0.7700		3,390,000	65.29
County Water Dist. E	7,050	341,465,743	N/A		4,009,000	568.65
County Water Dist. F	5,800	283,919,928	N/A		4,844,800	835.31
County Water Dist. G	3,900	254,049,681	N/A		3,211,000	823.33
County Water Dist. B	6,700	236,915,957	N/A		2,208,500	329.63
County Water Dist. D	8,000	512,277,697	N/A		4,262,500	532.81
Edgecombe	53,034	2,454,670,441	0.9300	3,430,000	9,370,000	176.68
Edgecombe Co. W & S Dist. I	4,930	329,525,359	N/A		2,787,000	565.31
Edgecombe Co. W & S Dist. II	5,218	256,002,162	N/A		3,913,000	749.90
Edgecombe Co. W&S District No 3	3,081	154,135,339	N/A		294,000	95.42
Harnett	101,608	4,968,286,912	0.7350			-
Buies Creek-Coats W & S Dist.	11,822	574,550,850	N/A		610,000	51.60
East Central W & S Dist	11,915	1,185,054,270	N/A		3,362,500	282.21
Southwest W & S Dist.	21,846	795,824,300	N/A		3,540,000	162.04
West Central W & S Dist.	9,763	223,221,500	N/A		2,175,000	222.78
South Central W & S Dist.	14,895	498,179,260	N/A		3,140,400	210.84
Southeast W & S Dist.	9,092	922,877,724	N/A		1,267,000	139.35
Northwest W & S Dist.	7,171	353,357,490	N/A		1,965,000	274.02
Riverside W & S Dist.	3,132	87,427,410	N/A		1,150,500	367.34
Henderson	97,792	9,153,291,184	0.5150		6,680,000	68.31
Cane Creek W & S Dist.	24,229	1,735,554,240	N/A		1,178,000	48.62
Hertford	23,864	1,142,770,037	0.9100		1,350,000	56.57
Hertford Co. Southern Rural WD	8,426	391,358,988	N/A		6,194,500	735.16

STATE OF NORTH CAROLINA

ANALYSIS OF DEBT OF NORTH CAROLINA COUNTIES, MUNICIPALITIES AND DISTRICTS AT JUNE 30, 2006

Overlapping/Underlying Unit	Population	Assessed Valuation	Tax Rate	GO Bonds Authorized & Unissued	Total GO Debt	Total GO Debt Per Capita
Hertford Co. Northern Rural WD	4,785	120,917,749	N/A		2,522,000	527.06
Johnston	146,312	9,664,167,657	0.7800	57,500,000	204,890,000	1,400.36
Archer's Lodge Water District	7,542	521,709,990	N/A		3,607,500	478.32
Brogden Water District	5,881	267,363,470	N/A		3,275,000	556.88
Buffalo Water District	6,201	322,650,340	N/A		2,924,000	471.54
Clayton Water District	6,794	488,187,018	N/A		3,359,500	494.48
Cleveland Wtr Dist Of Johnston Co.	13,467	1,098,766,240	N/A		3,506,500	260.38
Elevation Water District	6,308	321,513,380	N/A		4,175,000	661.86
Hopewell/Pisgah Water Dist.	5,237	305,272,280	N/A		1,600,000	305.52
Ingrams Township Water District	5,187	188,291,090	N/A		2,807,000	541.16
McGee's Crossroads Water District	12,166	766,317,290	N/A		5,673,500	466.34
Meadow Water District-Johnston	7,143	262,268,960	N/A		3,252,000	
Little Creek Water District	7,312	447,022,300	N/A		3,699,000	505.88
Princeton/Kenly Water District	4,208	171,037,420	N/A		2,602,000	618.35
Wilson's Mills W&S Dist.	2,832	191,359,920	N/A		1,033,000	364.76
Lee	53,789	3,934,819,646	0.7900		16,210,000	301.36
Lee County W & S Dist. #1	27,237	2,110,100,930	N/A		1,050,000	38.55
Lincoln	69,529	5,749,487,163	0.6100	2,000,000	95,165,000	1,368.71
East Lincoln County W & S Dist.	10,450	1,480,522,608	0.1100		6,165,000	589.95
Martin	24,580	1,502,108,966	0.7850			
Martin County Water & Sewer District I	6,548	248,130,364	N/A		4,137,500	631.87
Martin County Water & Sewer District II	8,681	728,461,808	N/A		5,830,000	671.58
Montgomery	27,359	2,099,419,662	0.5800		2,540,000	92.84
Montgomery County Water District I	2,755	631,565,493	N/A		2,802,000	1,017.06
Montgomery County Water District II	2,233	477,372,766	N/A		3,684,500	1,650.02
Moore	80,867	7,999,544,151	0.4450		29,400,000	363.56
East Moore Water District	17,776	1,532,384,675	0.0455		1,757,500	98.87
New Hanover	180,358	18,690,085,952	0.6800	128,000,000	200,150,000	1,109.74
New Hanover Co. W & S Dist.	85,988	9,002,841,829	N/A		10,225,000	118.91
Northampton	21,568	1,222,319,688	0.8800	8,000,000	21,981,900	1,019.19
Northampton/Garysburg Sewer District	1,500	33,971,945	N/A		463,000	308.67
Northampton/Lincoln Park Sewer District	285	4,529,299	N/A		327,000	1,147.37
Pender	46,538	3,906,215,041	0.6500	20,875,000	55,255,000	1,187.31
Maple Hill Water Dist.	1,125	50,004,582	N/A		276,500	245.78
Rocky Point/Topsail Water & Sewer District	22,850	2,119,851,780	N/A	20,269,000	21,752,000	951.95
Sampson	63,566	3,205,160,867	0.7700			
Sampson Co. W & S Dist I	6,154	252,510,104	N/A		974,000	158.27
Sampson Co. W & S Dist II	27,918	1,030,363,313	N/A		12,279,000	439.82
Scotland	36,838	1,840,631,003	1.1000		13,470,000	365.66
Scotland County Water District I	9,084	251,044,583	N/A		1,959,000	215.65
Scotland County Water District II	4,996	203,974,110	N/A		5,136,000	1,028.02
Stanly	58,912	3,890,633,463	0.6450		22,240,000	377.51
Greater Badin W & S Dist.	1,108	76,621,671	0.0000		190,000	171.48
Warren	20,215	1,335,102,347	0.8400		5,614,500	277.74
Warren County W & S District I	7,287	271,681,254	N/A		1,511,000	207.36
Warren County W & S District II	4,538	212,143,375	N/A	9,204,000	2,626,000	578.67
Warren Co Water & Sewer District III	6,279	749,295,177	N/A		3,581,000	570.31
Wilson	76,826	5,007,084,092	0.7600	3,600,000	22,385,000	291.37
Southeast Water District of Wilson Co.	8,770	449,868,060	N/A		3,521,500	401.54
Wilson County Southwest Water District	9,828	349,267,110	N/A		6,397,000	650.90
				$ 274,020,000	$ 1,177,449,282	

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1132*

Committee Substitute Favorable 5/21/07

Short Title: Public Health Authority Changes. (Public)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE PAYMENT OF A PER DIEM TO PUBLIC HEALTH AUTHORITY BOARDS AND TO AUTHORIZE PUBLIC HEALTH AUTHORITY BOARDS TO ENTER INTO INSTALLMENT CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-45.1(k) reads as rewritten:

"(k) ~~Board members shall receive no compensation for their services, but they shall be entitled to reimbursement for subsistence and travel expenses incurred in the discharge of their duties.~~ Board members may receive per diem in an amount established by the county commissioner members of the Public Health Authority Board. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county commissioner members of the Public Health Authority Board."

SECTION 2. G.S. 130A-45.3(a) is amended by adding a new subdivision to read:

"(a) A public health authority shall have all the powers necessary or convenient to carry out the purposes of this Part, including the following powers to:

...

(18) To purchase or finance real or personal property in the manner provided for cities and counties under G.S. 160A-20."

SECTION 3. G.S. 160A-20(h) is amended by adding a new subdivision to read:

"(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

...

(13) A public health authority created under Part 1B of Article 2 of Chapter 130A of the General Statutes."

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

HOUSE BILL 1132:
Public Health Authority Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 26, 2007
Introduced by:	Reps. Barnhart, Mobley	**Summary by:**	Cindy Avrette
Version:	Second Edition		Committee Counsel

SUMMARY: House Bill 1132, 2nd edition, is identical to Senate Bill 768, 2nd edition, introduced by Sen. Hartsell. Senate Finance gave Senate Bill 768 a favorable report on May 17, 2007, and the bill received unanimous support on 2nd and 3rd readings.[1] The bill would the following:

- ***It would allow the members on a public hospital authority board to receive a stipend.***
- ***It would allow a public health authority to finance real and personal property by installment contracts and other means of indebtedness authorized by G.S. 160A-20.***

The bill is effective when it becomes law.

CURRENT LAW: A county must provide public health services. It can do so through a variety of ways, one of which is the creation of a public health authority. The Public Health Authorities Act, enacted in 1997, allows one or more counties to create an autonomous public body that has the power and duty to provide the public health services for the county or counties that are required by law. A public health authority may be created upon joint resolution of one or more county board of commissioners and their respective local boards of health. A public health authority board is the policy-making, rule-making, and adjudicatory body for a public health authority. A board may have no fewer than seven members and no more than 11 members.[2] Board members may receive reimbursement for expenses, but they may not receive compensation for their services. A public authority board may construct, operate, and maintain public health facilities, it may own or lease property, and it may acquire real and personal property. However, it does not have the power to borrow money to finance the acquisition of property.

There are two counties that provide their public health services through a public health authority: Cabarrus and Hertford Counties. Cabarrus County formed its public health authority hospital authority act. Under that authority, it may borrow money to finance the purchase of property. Hertford County formed its public health authority under the Public Health Authorities Act. The Hertford County Public Health Authority has been in existence for almost three years.

BILL ANALYSIS: House Bill 1132 would authorize the payment of a stipend to public health authority boards; it would authorize boards to borrow money to finance real and personal property purchases; and it would allow boards to establish lines of credit to cover cash flow for public health expenditures.

House Bill 1132, 2nd edition, would do the following:

- It would authorize the payment of a stipend to public health authority boards. Members of a county board of health and a district board of health may receive per diem as well as

[1] House Bill 1132 was received in the Senate on May 24th; Senate Bill 768 was received in the House on May 24th. Senate Bill 768 is in the House Committee on Health.

[2] Boards that intend to pursue federally qualified health center status may have no fewer than nine and no more than 25 members. The Hertford Public Authority Board has nine members and it meets monthly.

reimbursement for expenses. A county board of health may receive per diem in an amount established by its board of county commissioners. A district board of health, which is created by two or more counties, may receive per diem in an amount established by the county commissioner members of the board. This bill would provide that a public health authority board could receive per diem in an amount established by the county commissioner members of the board. The Hertford Public Health Authority, which is comprised by a single county, has one county commissioner member.

- It would allow public health authority boards to finance the purchase of property and improvements to property in the same manner as counties and cities under G.S. 160-20. In addition to counties and cities, this statute also applies to several other public entities, including airport authorities, local school administrative units, area mental health, developmental disabilities, and substance abuse authorities, and regional public transportation authorities. A public health authority provides certain services for fees. It may also receive appropriations from the county or counties that formed it; State and federal funds; insurance reimbursements; fees from contracts with other health departments; and grant monies.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: G.S. 160-20 authorizes installment purchase financing. Installment purchase financing is a type of local government debt in which the local unit enters into an installment contract secured by a security interest in the building constructed or renovated. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the local unit's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

The Local Government Commission must approve installment purchase contracts and certificates of participation. The taxing power of a unit of local government may not be pledged to secure any moneys due under a contract entered into under this section. Before entering into a financing contract under this statute, the public health authority would have to hold a public hearing on the contract.

H1132e2-SMRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 257*

Committee Substitute Favorable 4/23/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H257-CSRB-39 [v.1]

6/26/2007 5:11:54 PM

Short Title: Streamlined Sales Tax Changes. (Public)

Sponsors:

Referred to:

February 20, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SALES TAX DEFINITIONS TO COMPLY WITH THE STREAMLINED SALES TAX AGREEMENT AND TO MAKE OTHER SALES TAX CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

(1) Ancillary service. – A service associated with or incidental to the provision of a telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections.

(1b) Bundled transaction. – A retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. Products are not sold for one nonitemized price if an invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following:

a. A product and any packaging item that accompanies the product and is exempt under G.S. 105-164.13(23).

b. A sale of two or more products whose combined price varies, or is negotiable, depending on the products the purchaser selects.

c. A sale of a product accompanied by a transfer of another product with no additional consideration.
d. A product and the delivery or installation of the product.
e. A product and any service necessary to complete the sale.

~~(1a)~~(1d) Business. – Includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, profit, benefit or advantage, either direct or indirect. The term "business" shall not be construed in this Article to include occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business.

~~(1b)~~(1f) Cable service. – The one-way transmission to subscribers of video programming or other programming service and any subscriber interaction required to select or use the service.

...

(12) Gross sales. – The sum total of the sales price of all retail sales of tangible personal property ~~as defined herein, whether for cash or credit without allowance for cash discount and without any deduction on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or any other expenses whatsoever and without any deductions of any kind or character except as provided in this Article.~~ and services.

...

(37) Sales price. – The total amount or consideration for which tangible personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

a. The term includes all of the following:
1. The retailer's cost of the property sold.
2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
3. Charges by the retailer for any services necessary to complete the sale.
4. Delivery charges.
5. Installation charges.
~~6. The value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise.~~
7. Credit for trade-in.

8. Discounts that are reimbursable by a third party and can be determined at the time of sale through any of the following:
   I. Presentation by the consumer of a coupon or other documentation.
   II. Identification of the consumer as a member of a group eligible for a discount.
   III. The invoice the retailer gives the consumer.

b. The term does not include any of the following:
   1. ~~Discounts, including cash, term, or coupons, that are not reimbursed~~ Discounts that are not reimbursable by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
   2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.
   3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended ~~in November 2005.~~as of June 23, 2007."

SECTION 2. G.S. 105-164.4D, as enacted by Section 5 of S.L. 2006-151, reads as rewritten:

"**§ 105-164.4D. Bundled ~~services.~~transactions.**

~~When a taxable service is bundled with a service that is not taxable, the tax applies to the gross receipts from the taxable service in the bundle as follows:~~

~~(1) If the service provider offers all the services in the bundle on an unbundled basis, tax is due on the unbundled price of the taxable service, less the discount resulting from the bundling. The discount for a service as the result of bundling is the proportionate price decrease of the service, determined on the basis of the total unbundled price of all the services in the bundle compared to the bundled price of the services.~~

~~(2) If the service provider does not offer one or more of the services in the bundle on an unbundled basis, tax is due on the taxable service based on a reasonable allocation of revenue to that service. If the service provider maintains an account for revenue from a taxable service, the service provider's allocation of revenue to that service for the purpose of determining the tax due on the service must reflect its accounting allocation of revenue to that service.~~

(a) Tax Application. – Tax applies to the sales price of a bundled transaction unless one of the following applies:

(1) Fifty percent (50%) test. – All of the products in the bundle are tangible personal property, the bundle includes one or more of the exempt products listed in this subdivision, and the price of the taxable products in the bundle does not exceed fifty percent (50%) of the price of the bundle:

a. Food exempt under G.S. 105-164.13B.

b. A drug exempt under G.S. 105-164.13(13).

c. Medical devices, equipment, or supplies exempt under G.S. 105-164.13(12).

(2) Allocation. – The bundle includes a service, and the retailer determines an allocated price for each product in the bundle based on a reasonable allocation of revenue that is supported by the retailer's business records kept in the ordinary course of business. In this circumstance, tax applies to the allocated price of each taxable product in the bundle.

(3) Ten percent (10%) test. – The price of the taxable products in the bundle does not exceed ten percent (10%) of the price of the bundle and no other subdivision in this subsection applies.

(b) Determining Threshold. – A retailer of a bundled transaction subject to this section may use either the retailer's cost price or the retailer's sales price to determine if the transaction meets the fifty percent (50%) test or the ten percent (10%) test set out in subdivisions (a)(1) and (a)(3) of this section. A retailer may not use a combination of cost price and sales price to make this determination. If a bundled transaction subject to subdivision (a)(3) of this section includes a service contract, the retailer must use the full term of the contract in determining whether the transaction meets the threshold set in the subdivision."

SECTION 3. G.S. 105-164.12B reads as rewritten:

"**§ 105-164.12B. Tangible personal property ~~bundled~~ sold below cost with conditional service contract.**

(a) ~~Bundled Transaction~~ Conditional Service Contract Defined. – A ~~bundled transaction is a transaction~~ conditional service contract is a contract in which all of the following conditions are met:

(1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase services on an ongoing basis for a minimum period of at least six months.

(2) The agreement requires the consumer to pay a cancellation fee to the ~~service provider~~ seller if the consumer cancels the contract for services within the minimum period.

(3) For the item transferred, the ~~seller:~~

~~a. Does not charge the consumer; or~~

~~b.~~ ~~Charges~~ seller charges the consumer a price that, after any ~~discount or rebate~~ price reduction the seller gives the consumer, is below the purchase price the seller paid for the item. The seller's purchase price is presumed to be no greater than the

price the seller paid, as shown on the seller's purchase invoice, for the same item within 12 months before the seller entered into the conditional service contract.

(b) ~~Bundled Transaction Is a Sale; Sales Price.~~ Tax. – If a seller transfers an item of tangible personal property as part of a ~~bundled transaction,~~ conditional service contract, a sale has ~~occurred, and the~~ occurred. The sales price of the item is presumed to be the retail price at which the item would sell ~~if no agreement for services were entered into. Part of this price may be paid by the consumer at the time of the transfer; the remainder of the price is considered paid as part of the price to be paid for the services contracted for.~~ in the absence of the conditional service contract. Sales tax is due ~~on any part of the price paid by the consumer~~ at the time of the ~~transfer.~~transfer on the following:

(1) Any part of the presumed sales price the consumer pays at that time, if the service in the contract is taxable at the combined general rate.

(2) The presumed sales price, if the service in the contract is not taxable at the combined general rate.

~~(c) No Additional Sales Tax if Services Taxed. If the services for which the consumer was required to contract are subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then no additional sales tax is due on the transfer. However, if the consumer cancels the contract for services before the expiration of the minimum period, sales tax applies to the cancellation fee paid by the consumer.~~

~~(d) Additional Sales Tax if Services Not Taxed. If the services for which the consumer was required to contract are not subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then sales tax is due at the time of the transfer on the remainder of the sales price not paid at that time.~~

~~(e) Services Taxes Defined. For the purpose of this section, the term "services taxes" means any combination of State franchise tax on gross receipts, State sales tax, or local sales tax levied on the sale of or gross receipts from the services.~~

~~(f) Determination of Purchase Price. For the purpose of this section, the purchase price a seller paid for an item is presumed to be no greater than the price the seller paid for the same model within 12 months before the bundled transaction, as shown on the seller's invoices.~~"

SECTION 4. G.S. 105-164.13(9) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

Agricultural Group.

...

(9) ~~Sales of boats,~~ Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies sold to ~~persons~~ any of the following:

a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use ~~by them principally~~ in commercial fishing ~~operations within the meaning of G.S. 113-168, except when the property is for use by persons principally to take fish for recreation or personal use or consumption.~~ operations.

b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.

c. The operator of a for-hire boat, as defined in G.S. 113-174, for principal use in the commercial use of the boat. ~~As used in this subdivision, "fish" is defined as in G.S. 113-129(7).~~"

SECTION 5. G.S. 105-164.42L reads as rewritten:

"**§ 105-164.42L. Databases on taxing jurisdictions.**

The Secretary may develop databases that provide information on the boundaries of taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A ~~seller that~~ person who relies on the information provided in these databases is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in those databases."

SECTION 6. G.S. 105-467(a) reads as rewritten:

"**§ 105-467. Scope of sales tax.**

(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.

(1) The sales price of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b).

(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).

(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).

(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d).

(7) The gross receipts derived from providing satellite digital audio radio service subject to the general rate of tax under G.S. 105-164.4(a)(6a)."

SECTION 7. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by inserting a new subdivision between subdivisions (5) and (6) to read as follows:

"(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this section, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D."

SECTION 8. G.S. 105-519 reads as rewritten:

"§ 105-519. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to ~~G.S. 105-164.13B.~~G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a)."

SECTION 9. This act becomes effective October 1, 2007.

HOUSE BILL 257:
Streamlined Sales Tax Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 26, 2007
Introduced by:	Rep. Hill	**Summary by:**	Cindy Avrette
Version:	PCS to Second Edition H257-CSRB		Committee Counsel

SUMMARY: House Bill 257[1] makes the following changes in the sales tax laws, effective October 1, 2007. The bill is a recommendation of the Revenue Laws Study Committee. The proposed committee substitute updates the reference to the Streamlined Sales Tax Agreement to include the latest amendments to that Agreement (June 23, 2007) and it makes a conforming change in Section 8.

- ***It defines "bundled transactions" and modifies the definition of "sales price" to keep North Carolina in compliance with the national Streamlined Sales Tax Agreement.***
- ***Recognizes for-hire boats as commercial fishing operations eligible for the sales tax exemption for items sold for use in commercial fishing.***
- ***Makes conforming and technical changes.***

BACKGROUND: The Streamlined Sales Tax Project (SSTP) was initiated in March 2000 when representatives from 27 states, local governments, and private industry met to discuss proposals to develop uniformity and simplification principles that would result in the more efficient administration of sales and use tax, especially for remote sellers. In November 2002, 35 states met and adopted the original Streamlined Sales and Use Tax Agreement (Agreement). On July 1, 2005, 13 states were determined to be in compliance with the Agreement effective October 1, 2005, and were admitted to the Governing Board as full members. To be a full member, a state must have amended its state's laws to conform to the uniformity and simplification provisions in the Agreement. As of January 1, 2007, there are 15 full members[2] and six associate members[3]. Associate members are those states whose legislation to achieve compliance takes effect in future years. Associate members have until January 1, 2008, to come into full compliance. Each member state is represented on the Governing Board. The Governing Board meets quarterly to address proposed amendments to the Agreement.

North Carolina has participated in the SSTP since its inception. Since 2001, the General Assembly has taken the necessary action to amend the sales and use tax laws to bring North Carolina into compliance with the Agreement. Prior to the October 1, 2005, effective date of the Agreement, a number of sellers came forward voluntarily to remit tax as a result of the efforts of the states to adopt the principles of the Agreement. The projected collections for fiscal 2006-2007 from all Streamlined related sellers is expected to be $13,700,000.

BILL ANALYSIS: North Carolina needs to make two definitional changes by January 1, 2008, to comply with the latest amendments to the Agreement. One change is to add a definition of "bundled transaction" and specify how these transactions are to be taxed. The other change is to modify the

[1] As introduced, the bill is identical to Senate Bill 239, as introduced by Senator Kerr. Senate Bill 239 is in the Senate Finance Committee.

[2] Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont, and West Virginia.

[3] Arkansas, Nevada, Ohio, Tennessee, Utah, and Wyoming.

definition of "sales price" to clarify how third-party discounts, such as a manufacturer's coupon, affect the sales price of an item.

Bundled Transactions. – States vary widely on their taxation of bundled transactions. At the request of the business community, the SSTP formed a work group in August 2001 to address the lack of uniformity among states in the taxation of bundled transactions and to develop uniform definitions and principles of taxation for bundled transactions. The Agreement defines a "bundled transaction" and provides when a bundled transaction is subject to taxation. To comply with the Agreement, states' laws must conform to the Agreement's provisions on bundled transactions by January 1, 2008.

A "bundled transaction" is the sale of an exempt product and a taxable product for one price. Examples include a gift basket that contains fruit and candy and a service package consisting of internet service and phone service. Fruit is exempt from State sales tax while candy is taxable. Internet service is exempt from sales tax while phone service is taxable. However, a bundled transaction does not include a sale of two or more products whose combined price varies, or is negotiable, depending on the products a purchaser selects.

Under current law, the sales price of a bundle of tangible products is taxable. Thus, if any item in the bundle is taxable, the entire bundle is taxable. With respect to services, current law allows for the application of tax to part of the sales price, based on the allocation of revenue to the taxable services in the bundle.

Under the proposed committee substitute, a bundle of tangible products is taxable on the sales price of the bundle unless it meets either the 50% test or the 10% test.

- The 50% test applies to bundles of tangible products that include food or medical items that are exempt from State tax. Under the 50% test, if at least 50% of the price of the products in the bundle is attributable to food and medical items that are exempt from State tax, then the bundle is not subject to State sales tax. The bundle would also be exempt from local sales tax unless more than 10% of the bundle's price is attributable to food. In this circumstance, the bundle containing food is taxable under the local sales tax at the rate of 2%, which is the rate that applies to food that is not part of a bundle.
- The 10% test applies to all other bundles of tangible products. Under the 10% test, if no more than 10% of the price of the products in the bundle is attributable to taxable items, then the bundle is not subject to State or local sales tax.

Under the proposed committee substitute, a bundle of products that includes services is subject to the 10% test but it can be subject to tax based on the allocated price of the taxable services in the bundle. To be taxed based on part of the sales price, the retailer's accounting records must allocate revenue to the services in the bundle and provide a basis for determining the proportion of the bundle's price that is attributable to each service in the bundle. If the records do not provide for this, the sales price of the bundle is taxable, assuming the taxable services exceed the *de minimus* 10% threshold.

Sections 1, 2, 3, and 6 of the bill make the bundled transaction changes. New G.S. 105-164.3(1b), in Section 1 of the bill, sets out the new definition of a bundled transaction and makes a conforming change to the definition of sales price in G.S. 105-164.3(37) by deleting the provisions in paragraph 6 of that definition that address bundled transactions. The revisions to G.S. 105-164.4D, in Section 2 of the bill, specify how bundled transactions are to be taxed. Section 6 of the bill amends the local sales tax statutes to impose tax on bundles that contain food and are exempt from State tax but subject to local sales tax.

Section 3 makes conforming changes to the existing law on below-cost sales of items transferred as part of a contract for services to avoid conflicting uses of the same term. Current law, in G.S. 105-164.12B, describes the below-cost sale and contract as a bundled transaction. The transaction described in G.S. 105-164.12B is not a bundled transaction under the new definition of that term. The bill therefore revises G.S. 105-164.12B to describe the transaction in that section as a conditional service contract and eliminates provisions that are no longer needed due to the taxation of telecommunications services at the combined general State and local rate.

Sales Price. – The second definitional change needed to conform to the Streamlined Sales Tax Agreement is a change in the definition of "sales price." Section 1 of the bill amends the definition in G.S. 105-164.3(37) to add new paragraph 8 that specifies when a manufacturer's discount or other discount is considered part of the sales price. Current law excludes some discounts from the definition of sales price but does not address the subject as fully as the proposed change. A price discount is part of the sales price if the retailer receives reimbursement from a third-party in the amount of the discount. For example, if a customer has a $1.00 manufacturer's coupon for paper towels that cost $4.00, sales tax is due on the sales price of $4.00 rather than $3.00 because the full amount ($4.00) is paid for the paper towels when the amount paid by the customer and the manufacturer are combined. The bill does not change the current law on this subject.

Other Changes. – The bill makes the following clarifying changes:

1. It updates the reference to the Streamlined Sales Tax Agreement to include the latest amendments to that Agreement. (G.S. 105-164.3(45a) in Section 1)
2. It revises the sales tax exemption for items sold for use in commercial fishing to insert references to holders of a commercial fishing license, a commercial shellfish license, and the operator of a for-hire boat. The reference to the operator of a for-hire boat is an addition to the statute, but reflects the administrative practice of including this group in the commercial fishing group. (Section 4)
3. It clarifies that anyone who relies on the taxing jurisdiction database developed by the Department to determine the rate of sales tax applicable in a jurisdiction is not liable for any tax underpayments attributable to reliance on that database. This is the result under current law because the database is a written statement of the Department under G.S. 105-264. (Section 5)

H0257e2-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 257 (Second Edition)

SHORT TITLE: Streamlined Sales Tax Changes.

SPONSOR(S): Representative Hill

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	See Assumptions & Methodology				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: October 1, 2007

BILL SUMMARY: In order to comply with the latest amendments to the Streamlined Sales Tax Agreement, North Carolina must make two definitional changes by January 1, 2008. One change is to add a definition of "bundled transaction" and specify how these transactions are to be taxed. The other change is to modify the definition of "sales price" to clarify how third-party discounts, such as a manufacturer's coupon, affect the sales price of an item. House Bill 257 incorporates those changes and makes several other changes in the sales tax laws, as recommended by the Department of Revenue. The bill:

- Defines "bundled transactions" and modifies the definition of "sales price" to keep North Carolina in compliance with the national Streamlined Sales Tax Agreement (SSTA).
- Changes the definition of "sales price" to conform with SSTA.
- Recognizes for-hire boats as commercial fishing operations eligible for the sales tax exemption for items sold for use in commercial fishing.
- Makes conforming and technical changes.

ASSUMPTIONS AND METHODOLOGY: House Bill 257 contains several provisions that may result in a fiscal impact.

Bundled Transactions (Sections 1, 2, 3, and 6)

A "bundled transaction" is the sale of an exempt product and a taxable product for one price.

A bundle of tangible products is taxable on the sales price of the bundle unless it meets either the 50% test or the 10% test.

Section 2, Bundled Transactions: 50% Test and 10% Test				
	State sales tax		Local sales tax	
Type of Test	*Percent of "bundle" price attributable to exempt food or medical goods*	*Exempt from State sales tax?*	*Percent of "bundle" price attributable to food items*	*Exempt from local sales tax?*
50% Test	50% or more	Yes	More than 10%	No. Bundled item is taxable at 2% local rate.
			Less than 10%	Yes
	50% or less	No	N/A	No
10% Test	*Percent of "bundle" price attributable to taxable items*	*Exempt from State sales tax?*	*Bundles that include services would be subject to the 10% rule and can be subject to tax based on the allocated price of the taxable services in the bundle.*[1]	
	10% or less	Yes		
	10% or more	No		

Under current law, the sales price of a bundle of tangible products is taxable. Thus, if any item in the bundle is taxable, the entire bundle is taxable. Since this change creates a threshold for exemption, this change may result in a small, negative fiscal impact. Discussions with the Department of Revenue suggest that any impact from this change will be insignificant.

Sales Price (Section 1)

The definition of "sales price" adopted by the SSTA Governing Board is very similar to that in current North Carolina tax law. A small positive fiscal impact is possible from cigarette retailers who reflect a distributor's "buy-down" discount on their invoices. If the discount is shown on the invoice, it is included in the sales price. However, if the discount is not shown separate from the sales price, it is part of the sales price. Due to this technicality, a small increase in revenues may result from the actions of retailers who reflect distributor discounts on their invoices, but it is likely that this practice will become less common over time as retailers realize its tax implications.

Other Changes (Sections 1, 4, and 5)

The remaining changes in this bill are technical and clarifying in nature, and are not expected to result in any significant fiscal impact.

SOURCES OF DATA: Department of Revenue

TECHNICAL CONSIDERATIONS: None

[1] To be taxed based on part of the sales price, the retailer's accounting records must allocate revenue to the services in the bundle and provide a basis for determining the proportion of the bundle's price that is attributable to each service in the bundle. If the records do not provide for this, the sales price of the bundle is taxable, assuming the taxable services exceed the de minimus threshold.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brenna Erford Burch

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: April 19, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

House Bill 257:
Streamlined Sales Tax Changes

- Recommendation of the Revenue Laws Study Committee
- Background – Streamlined Sales Tax Project
    - Initiated in 2000 by states, local governments, and private industry to develop uniformity and simplification of states' sales and use tax laws
    - Seeks to encourage remote vendors to collect the tax for the state, just as in-state vendors are required to collect.
    - NC is one of 15 full member states – meaning NC has made the necessary changes to its sales and use tax laws to conform to the Streamlined Sales Tax Agreement.
    - Projected collections for FY 06-007 from all Streamlined related sellers is expected to be $13.7 million
- 3 non-substantive tax law changes – NC law already administered in this way
    - Amends definition of sales price to conform to Agreement – specifies when a discount is considered part of the sales price
    - Clarifies that a taxpayer can rely on taxing jurisdiction database developed by the Department to determine the rate of sales tax applicable in a jurisdiction
    - Revises the sales tax exemption for items sold for use in commercial fishing to insert specific references as to who qualifies for the exemption
- ONLY substantive change – <u>Defines a bundled transaction and adds two thresholds to be applied in determining when a bundled is taxable,</u> as required by the Agreement
- Bundled Transaction – Two or more distinct products sold together for one price.
    - Current law: If one item in bundle is taxable, entire bundle taxable
    - Proposal in Bill:
        - If 10% or more of the bundle consists of taxable items, then the bundle is taxable
        - If bundle includes food or medical items, the bundle is taxable if more than 50% of the items in the bundle are taxable
        - Bundles of services – Same as current law – Applies to the allocated price of the taxable service based on retailer's accounting records
        - Bundle of products and services – Apply 10% test or determine tax based on allocated price of services in bundle

House Bill 257:
Taxation of Bundled Transactions

What is a bundled transaction?

Two or more distinct products sold together for one price, such as:

- A basket with cookies, candy, and a stuffed animal. If sold separately, the cookies are taxable at 2% and the candy and the stuffed animal are taxable at the regular rates.
- A package of services, such as internet access service and phone service. If sold separately, the internet access service is exempt and the phone service is taxable.
- Prescription medicine sold with a syringe. If sold separately, the medicine is exempt and the syringe is taxable.

Bundled transactions do not include sales of two or more items that a purchaser chooses to be packaged together.

Current Law

- Bundles of tangible products. – The bundle is taxable if any item in the bundle is taxable.
- Bundles of services. – The tax applies to the allocated price of the taxable service based on the retailer's accounting records.
- Bundles of tangible products and services. – The bundle is taxable if any item in the bundle is taxable.

Proposed Law (Streamlined Sales Tax Provision)

- Bundles of Tangible Products. – Apply thresholds to determine taxation.
  - 10% Test. -- If 10% or more of the bundle consists of taxable items, then the bundle is taxable.
  - 50% Test for Food and Medicine. – If bundle includes food or medical items, the bundle is taxable if more than 50% of the items in the bundle are taxable.
- Bundles of services. – Same as current law
- Bundles of tangible products and services. – Apply 10% test or determine tax based on allocated price of services in the bundle..

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1340

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/21/07

PROPOSED COMMITTEE SUBSTITUTE S1340-CSSVf-40 [v.1]

6/25/2007 11:12:28 PM

Short Title: Sale of Blocks of Ten-Day CRFLs. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE SALE OF BLOCKS OF TEN TEN-DAY COASTAL RECREATIONAL FISHING LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 14B of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-174.5. Blocks of 10 Ten-Day Coastal Recreational Fishing Licenses.**

(a) The resident owner of a vessel that is 23 feet or more in length and that is either documented with the United States Coast Guard or registered with the Wildlife Resources Commission pursuant to G.S. 75A-4 may purchase a block of 10 Ten-Day Resident CRFLs or a block of 10 Ten-Day Nonresident CRFLs issued by the Division. A vessel owner who wishes to obtain a block of 10 Ten-Day CRFLs shall provide the Division with all information required by the Division, including information identifying the vessel on which the Ten-Day CRFLs will be used. Each individual Ten-Day CRFL shall identify the vessel for which the block of 10 Ten-Day CRFLs is issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may only be used on the vessel for which it was issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may not be used on a for hire boat.

(b) The fee for a block of 10 Ten-Day Resident CRFLs is seventy-five dollars ($75.00). An individual Ten-Day Resident CRFL issued as part of a block of 10 Ten-Day Resident CRFLs is valid for a period of 10 consecutive days beginning on the date that the license information is recorded as provided by subsection (d) of this section. Only a resident of the State may engage in recreational fishing under the authority of an individual Ten-Day Resident CRFL issued as part of a block of 10 Ten-Day Resident CRFLs.

(c) The fee for a block of 10 Ten-Day Nonresident CRFLs is one hundred fifty dollars ($150.00). An individual Ten-Day Nonresident CRFL issued as part of a block of 10 Ten-Day Nonresident CRFLs is valid for a period of 10 consecutive days beginning on the date that the license information is recorded as provided by subsection (d) of this section. Only an individual who is not a resident of the State may engage in recreational fishing under the authority of an individual Ten-Day Nonresident CRFL issued as part of a block of 10 Ten-Day Nonresident CRFLs.

(d) Prior to any recreational fishing occurring under the authority of an individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs, the vessel owner who purchased the block of 10 Ten-Day CRFLs shall record the date fishing activity will begin and the name, address, telephone number, and date of birth of the individual who will be fishing under the authority of the individual Ten-Day CRFL.

(e) A vessel owner who purchases a block of 10 Ten-Day CRFLs shall comply with all data and information reporting requirements of the Division.

(f) A vessel owner who fails to comply with any of the requirements governing the issuance, use, recording, or reporting of blocks of 10 Ten-Day CRFLs will be ineligible to purchase any additional blocks of 10 Ten-Day CRFLs for a period of two years from the date of noncompliance."

SECTION 2. This act becomes effective January 1, 2008.

SENATE BILL 1340:
Sale of Blocks of Ten-Day CRFLs

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Sen. Jenkins	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition S1340-CSSVf-40		Committee Counsel

SUMMARY: ***Senate Bill 1340 would provide for the sale of blocks of 10 Ten-Day Coastal Recreational Fishing Licenses. The Proposed Committee Substitute would change the effective date from July 1, 2007 to January 1, 2008 to allow the Division of Marine Fisheries to implement the new system.***

BACKGROUND AND CURRENT LAW: In 2005, the General Assembly established a license requirement for recreational fishing in the coastal fishing waters of the State. A number of different types coastal recreational fishing licenses (CRFLs) were created, including: the Annual Resident CRFL for $15.00, the Annual Nonresident CRFL for $30.00, the Ten-Day Resident CRFL for $5.00, and the Ten-Day Nonresident CRFL for $10.00.

BILL ANALYSIS: Senate Bill 1340 would allow the resident owner of a vessel that is 23 feet or more in length that is documented with the United States Coast Guard or registered with the Wildlife Resources Commission to purchase a block of 10 Ten-Day Resident CRFLs or a block of 10 Ten-Day Nonresident CRFLs from the Division of Marine Fisheries. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may only be used on the vessel for which it was issued and may not be used on a for hire boat.

The fee for a block of 10 Ten-Day Resident CRFLs is seventy five dollars ($75.00). An individual Ten-Day Resident CRFL is valid for a period of 10 consecutive days beginning on the date that the license information is recorded on the license. Only a resident of the State may engage in recreational fishing under an individual Ten-Day Resident CRFL.

The fee for a block of 10 Ten-Day Nonresident CRFLs is one hundred fifty dollars ($150.00). An individual Ten-Day Nonresident CRFL is valid for a period of 10 consecutive days beginning on the date that the license information is recorded on the license. Only an individual who is not a resident of the State may engage in recreational fishing under an individual Ten-Day Nonresident CRFL.

Prior to any recreational fishing occurring under the authority of an individual Ten-Day CRFL, the vessel owner who purchased the block of 10 Ten-Day CRFLs shall record the date fishing activity will begin and the name, address, telephone number, and date of birth of the individual who will be fishing under the individual Ten-Day CRFL.

A vessel owner who fails to comply with any of the requirements governing the issuance, use, recording, or reporting of blocks of 10 Ten-Day CRFLs will be ineligible to purchase any additional blocks of 10 Ten-Day CRFLs for a period of two years from the date of noncompliance.

EFFECTIVE DATE: The PCS for Senate Bill 1340 would become effective January 1, 2008.

Jeff Hudson, counsel to Senate Agriculture/Environment/Natural Resources, substantially contributed to this summary.

S1340e2-SMSV-CSSVf-40

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 1340

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/21/07

Short Title: Sale of Blocks of Ten-Day CRFLs. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE SALE OF BLOCKS OF TEN TEN-DAY COASTAL RECREATIONAL FISHING LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 14B of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-174.5. Blocks of 10 Ten-Day Coastal Recreational Fishing Licenses.**

(a) The resident owner of a vessel that is 23 feet or more in length and that is either documented with the United States Coast Guard or registered with the Wildlife Resources Commission pursuant to G.S. 75A-4 may purchase a block of 10 Ten-Day Resident CRFLs or a block of 10 Ten-Day Nonresident CRFLs issued by the Division. A vessel owner who wishes to obtain a block of 10 Ten-Day CRFLs shall provide the Division with all information required by the Division, including information identifying the vessel on which the Ten-Day CRFLs will be used. Each individual Ten-Day CRFL shall identify the vessel for which the block of 10 Ten-Day CRFLs is issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may only be used on the vessel for which it was issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may not be used on a for hire boat.

(b) The fee for a block of 10 Ten-Day Resident CRFLs is seventy-five dollars ($75.00). An individual Ten-Day Resident CRFL issued as part of a block of 10 Ten-Day Resident CRFLs is valid for a period of 10 consecutive days beginning on the date that the license information is recorded as provided by subsection (d) of this section. Only a resident of the State may engage in recreational fishing under the authority of an individual Ten-Day Resident CRFL issued as part of a block of 10 Ten-Day Resident CRFLs.

(c) The fee for a block of 10 Ten-Day Nonresident CRFLs is one hundred fifty dollars ($150.00). An individual Ten-Day Nonresident CRFL issued as part of a block of 10 Ten-Day Nonresident CRFLs is valid for a period of 10 consecutive days

beginning on the date that the license information is recorded as provided by subsection (d) of this section. Only an individual who is not a resident of the State may engage in recreational fishing under the authority of an individual Ten-Day Nonresident CRFL issued as part of a block of 10 Ten-Day Nonresident CRFLs.

(d) Prior to any recreational fishing occurring under the authority of an individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs, the vessel owner who purchased the block of 10 Ten-Day CRFLs shall record the date fishing activity will begin and the name, address, telephone number, and date of birth of the individual who will be fishing under the authority of the individual Ten-Day CRFL.

(e) A vessel owner who purchases a block of 10 Ten-Day CRFLs shall comply with all data and information reporting requirements of the Division.

(f) A vessel owner who fails to comply with any of the requirements governing the issuance, use, recording, or reporting of blocks of 10 Ten-Day CRFLs will be ineligible to purchase any additional blocks of 10 Ten-Day CRFLs for a period of two years from the date of noncompliance."

SECTION 2. This act becomes effective July 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 26, 2007

TO: Senate Finance Committee

FROM: Joy Hicks
Fiscal Research Division

RE: PCS to SB 1340

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Marine Resources Fund		***See Assumptions & Methodology***			
EXPENDITURES:		***See Assumptions & Methodology***			
DENR					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission .

EFFECTIVE DATE: January 1, 2008

BILL SUMMARY: SB 1340 would provide for the sale of blocks of 10 Ten-Day Coastal Recreational Fishing Licenses. The PCS changes the effective date to January 1, 2008.

BACKGROUND AND CURRENT LAW: In 2005, the General Assembly established a license requirement for recreational fishing in the coastal fishing waters of the State. A number of different types of coastal recreational fishing licenses (CRFLs) were created, including: the Annual Resident CRFL for $15.00, the Annual Nonresident CRFL for $30.00, the Ten-Day Resident CRFL for $5.00, and the Ten-Day Nonresident CRFL for $10.00. Additionally, a For Hire Blanket license for vessels certified to carry 6 or fewer passengers is $250, and for vessels certified to carry greater than 6 passengers the license is $350. Fees from these licenses are deposited into the Marine Resources Fund.

ASSUMPTIONS AND METHODOLOGY:
Based on discussions with the Department of Environment and Natural Resources (DENR), there is not sufficient data available for an accurate assessment of the overall fiscal impact from the proposed changes in the bill. Fiscal Research thinks that sale of blocks of 10 Ten-Day CRFLs will generate increased receipts for the Marine Resources Fund., However DENR will also new administrative costs for DENR to administer the new licenses.

Revenues
The amount of revenue raised by the blocks of 10 Ten-Day CRFLs depends on several factors: the number of qualifying vessels and the number and type of licenses sold. According to the Wildlife Resources Commission, currently there are 42,701 actively registered vessels in NC equal or greater than 23 feet. Additionally, there are a large number of vessels that have a resident owner and are not registered with the WRC, but are documented with the U.S. Coast Guard. However, no data is available as to how many of these vessels participate in recreational fishing.

DENR estimates that approximately twenty percent of the registered vessels in NC, or 8,400 vessels, would participate in purchasing the blocks of 10 Ten-Day CRFLs. Assuming that each of the 8,400 vessels would purchase both a resident ($75) and non-resident ($150) block, this scenario would generate $1,890,000 in receipts.

DENR does not anticipate any decrease in sales of any existing licenses due to these proposed licenses.

Expenditures
DENR's Division of Marine Fisheries will administer the new licenses, which they will offer for sale at their regional offices. The Division plans to print the booklets on three part carbon sheet, allowing documentation for the vessel operator, individual and the State. DENR estimated the production cost to be $3.00 per booklet. Under the assumption of 8,400 vessels participating and purchasing one of both types of books, 16,800 books would need to be produced, at a total cost of $50,400 to DENR. Additionally, the Division will be responsible for collecting the data associated with the blocks of 10 Ten-Day CRFLs. Utilizing the example above, the Division may have to enter data on up to 168,000 individuals, increasing their staff workload.

SOURCES OF DATA: Department of Environment and Natural Resources, Marine Fisheries Division and Wildlife Resources Commission.

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 3

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/26/07

Short Title: Promote Renewable Energy/Baseload Generation. (Public)

Sponsors:

Referred to:

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO: (1) PROMOTE THE DEVELOPMENT OF RENEWABLE ENERGY AND ENERGY EFFICIENCY IN THE STATE THROUGH IMPLEMENTATION OF A RENEWABLE ENERGY AND ENERGY EFFICIENCY PORTFOLIO STANDARD (REPS), (2) ALLOW RECOVERY OF CERTAIN NONFUEL UTILITY COSTS THROUGH THE FUEL CHARGE ADJUSTMENT PROCEDURE, (3) PROVIDE FOR ONGOING REVIEW OF CONSTRUCTION COSTS AND FOR RECOVERY OF COSTS IN RATES IN A GENERAL RATE CASE, (4) ADJUST THE PUBLIC UTILITY AND ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEES, (5) PROVIDE FOR THE PHASEOUT OF THE TAX ON THE SALE OF ENERGY TO NORTH CAROLINA FARMERS AND MANUFACTURERS, (6) PROVIDE AN INCOME TAX CREDIT FOR BUILDERS OF ENERGY-EFFICIENT HOMES, AND (7) ALLOW A TAX CREDIT TO CONTRIBUTORS TO 501(C)(3) ORGANIZATIONS FOR RENEWABLE ENERGY PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-2(a) reads as rewritten:

"**§ 62-2. Declaration of policy.**

(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

...

(8) To cooperate with other states and with the federal government in promoting and coordinating interstate and intrastate public utility service and reliability of public utility energy supply;~~ and~~

(9) To facilitate the construction of facilities in and the extension of natural gas service to unserved areas in order to promote the public welfare throughout the State and to that end to authorize the creation of expansion funds for natural gas local distribution companies or gas districts to be administered under the supervision of the North Carolina Utilities ~~Commission.~~Commission; and

(10) To promote the development of renewable energy and energy efficiency through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) that will do all of the following:

a. Diversify the resources used to reliably meet the energy needs of consumers in the State.

b. Provide greater energy security through the use of indigenous energy resources available within the State.

c. Encourage private investment in renewable energy and energy efficiency.

d. Provide improved air quality and other benefits to energy consumers and citizens of the State."

SECTION 2.(a) Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.7. Renewable Energy and Energy Efficiency Portfolio Standard (REPS).**

(a) Definitions. – As used in this section:

(1) 'Combined heat and power system' means a system that uses waste heat to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility.

(2) 'Demand-side management' means activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electricity use from peak to nonpeak demand periods. 'Demand-side management' includes, but is not limited to, load management, electric system equipment and operating controls, direct load control, and interruptible load.

(3) 'Electric power supplier' means a public utility, an electric membership corporation, or a municipality that sells electric power to retail electric power customers in the State.

(4) 'Energy efficiency measure' means an equipment, physical, or program change implemented after 1 January 2007 that results in less energy used to perform the same function. 'Energy efficiency measure' includes, but is not limited to, energy produced from a combined heat and power system that uses nonrenewable energy resources. 'Energy efficiency measure' does not include demand-side management.

(5) 'New renewable energy facility' means a renewable energy facility that either:

a. Was placed into service on or after 1 January 2007.

b. Delivers or has delivered electric power to an electric power supplier pursuant to a contract with NC GreenPower Corporation that was entered into prior to 1 January 2007.

c. Is a hydroelectric power facility with a generation capacity of 10 megawatts or less that delivers electric power to an electric power supplier.

(6) 'Renewable energy certificate' means a tradable instrument that is equal to one megawatt hour of electricity or equivalent energy supplied by a renewable energy facility, new renewable energy facility, or reduced by implementation of an energy efficiency measure that is used to track and verify compliance with the requirements of this section as determined by the Commission. A 'renewable energy certificate' does not include the related emission reductions, including, but not limited to, reductions of sulfur dioxide, oxides of nitrogen, mercury, or carbon dioxide.

(7) 'Renewable energy facility' means a facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

a. Generates electric power by the use of a renewable energy resource.

b. Generates useful, measurable combined heat and power derived from a renewable energy resource.

c. Is a solar thermal energy facility.

(8) 'Renewable energy resource' means a solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a renewable energy resource. 'Renewable energy resource' does not include a fossil fuel or nuclear energy resource.

(b) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Public Utilities. –

(1) Each electric public utility in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

(2) An electric public utility may meet the requirements of this section by any one or more of the following:

a. Generate electric power at a new renewable energy facility.

b. Use a renewable energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel.

c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to twenty-five percent (25%) of the requirements of this section through savings due to implementation of energy efficiency measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures.

d. Purchase electric power from a new renewable energy facility. Electric power purchased from a new renewable energy facility located outside the geographic boundaries of the State shall meet the requirements of this section if the electric power is delivered to a public utility that provides electric power to retail electric customers in the State; provided, however, the electric public utility shall not sell the renewable energy certificates created pursuant to this paragraph to another electric public utility.

e. Purchase renewable energy certificates derived from in-State or out-of-state new renewable energy facilities. Certificates derived from out-of-state new renewable energy facilities shall not be used to meet more than twenty-five percent (25%) of the requirements of this section, provided that this limitation shall not apply to an electric public utility with less than 150,000 North Carolina retail jurisdictional customers as of 31 December 2006.

f. Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated renewable energy certificates.

(c) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Membership Corporations and Municipalities. –

(1) Each electric membership corporation or municipality that sells electric power to retail electric power customers in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018 and thereafter	10% of 2017 North Carolina retail sales

(2) An electric membership corporation or municipality may meet the requirements of this section by any one or more of the following:

a. Generate electric power at a new renewable energy facility.

b. Reduce energy consumption through the implementation of demand-side management or energy efficiency measures.

c. Purchase electric power from a renewable energy facility or a hydroelectric power facility, provided that no more than thirty percent (30%) of the requirements of this section may be met with hydroelectric power, including allocations made by the Southeastern Power Administration.

d. Purchase renewable energy certificates derived from in-State or out-of-state renewable energy facilities. An electric power supplier subject to the requirements of this subsection may use certificates derived from out-of-state renewable energy facilities to meet no more than twenty-five percent (25%) of the requirements of this section.

e. Acquire all or part of its electric power through a wholesale purchase power agreement with a wholesale supplier of electric power whose portfolio of supply and demand options meets the requirements of this section.

f. Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of demand-side management or energy efficiency measures that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated renewable energy certificates.

(d) Compliance With REPS Requirement Through Use of Solar Energy Resources. – For calendar year 2018 and for each calendar year thereafter, at least two-tenths of one percent (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State, or an equivalent amount of energy, shall be supplied by a combination of new solar electric facilities and new metered solar thermal energy facilities that use one or more of the following applications: solar hot water, solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, and solar industrial process heat. The terms of any contract entered into between an electric power supplier and a new solar electric facility or new metered solar thermal energy facility shall be of sufficient length to stimulate development of solar energy; provided, the Commission shall develop a procedure to determine if an electric power supplier is in compliance with the provisions of this subsection if a new solar electric facility or a new metered solar thermal energy facility fails to meet the terms of its

contract with the electric power supplier. As used in this subsection, 'new' means a facility that was first placed into service on or after 1 January 2007. The electric power suppliers shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Solar Energy Resources
2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

(e) Compliance With REPS Requirement Through Use of Swine Waste Resources. – For calendar year 2018 and for each calendar year thereafter, at least two-tenths of one percent (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State shall be supplied, or contracted for supply in each year, by swine waste. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Swine Waste Resources
2012	0.07%
2015	0.14%
2018	0.20%

(f) Compliance With REPS Requirement Through Use of Poultry Waste Resources. – For calendar year 2014 and for each calendar year thereafter, at least 900,000 megawatt hours of the total electric power sold to retail electric customers in the State shall be supplied, or contracted for supply in each year, by poultry waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Poultry Waste Resources
2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014	900,000 megawatt hours

(g) Cost Recovery and Customer Charges. –

(1) For the purposes of this subsection, the term "incremental costs" means all reasonable and prudent costs incurred by an electric power supplier to:

a. Comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section that are in excess of the electric power supplier's avoided costs other than those costs recovered pursuant to G.S. 62-133.8.

b. Fund research that encourages the development of renewable energy, energy efficiency, or improved air quality, provided those costs do not exceed one million dollars ($1,000,000) per year.

c. Comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of this

section that exceed the costs that the electric power supplier would have incurred under those subsections in the absence of the federal mandate.

(2) All reasonable and prudent costs incurred by an electric power supplier to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of this section, including, but not limited to, the avoided costs associated with a federal mandate that exceeds the avoided costs that the electric power supplier would have incurred pursuant to subsections (b), (c), (d), (e), and (f) of this section in the absence of the federal mandate, shall be recovered by the electric power supplier in an annual rider charge assessed in accordance with the schedule set out in subdivision (4) of this subsection increased by the Commission on a pro rata basis to allow for full and complete recovery of all reasonable and prudent costs incurred to comply with the federal mandate.

(3) Except as provided in subdivision (2) of this subsection, the total annual incremental cost to be incurred by an electric power supplier and recovered from the electric power supplier's retail customers shall not exceed an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of 31 December of the previous calendar year. An electric power supplier shall be conclusively deemed to be in compliance with the requirements of subsections (b), (c), (d), (e), and (f) of this section if the electric power supplier's total annual incremental costs incurred equals an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of 31 December of the previous calendar year. The total annual incremental cost recoverable by an electric power supplier from an individual customer shall not exceed the per-account charges set out in subdivision (4) of this subsection except as these charges may be adjusted in subdivision (2) of this subsection.

(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

Customer Class	2008-2011	2012-2014	2015 and thereafter
Residential per account	$10.00	$12.00	$34.00
Commercial per account	$50.00	$150.00	$150.00
Industrial per account	$500.00	$1,000.00	$1,000.00

(5) The Commission shall adopt rules to establish a procedure for the annual assessment of the per-account charges set out in this subsection to an electric public utility's customers to allow for timely recovery of all reasonable and prudent costs of compliance with the requirements of subsections (b), (c), (d), (e), and (f) of this section and to fund research as provided in subdivision (1) of this subsection. The Commission shall insure that the costs to be recovered from individual customers on a per-account basis pursuant to subdivisions (2) and (3) of this subsection are in the same proportion as the per-account annual charges for each customer class set out in subdivision (4) of this subsection.

(h) Adoption of Rules. – The Commission shall adopt rules to implement the provisions of this section. In developing rules, the Commission shall:

(1) Provide for the monitoring of compliance with and enforcement of the requirements of this section.

(2) Include a procedure to modify or delay the provisions of subsections (b), (c), (d), (e), and (f) of this section in whole or in part if the Commission determines that it is in the public interest to do so. The procedure adopted pursuant to this subdivision shall include a requirement that the electric power supplier demonstrate that it made a reasonable effort to meet the requirements set out in this section.

(3) Ensure that energy credited toward compliance with the provisions of this section not be credited toward any other purpose, including another renewable energy portfolio standard or voluntary renewable energy purchase program in this State or any other state.

(4) Establish standards for interconnection of renewable energy facilities and other nonutility owned generation with a generation capacity of 10 megawatts or less to an electric public utility's distribution system; provided, however, that the Commission shall adopt, if appropriate, federal interconnection standards.

(5) Consider whether it is in the public interest to adopt rules for electric public utilities for net metering of renewable energy facilities with a generation capacity of one megawatt or less.

(i) Report. – No later than 1 October of each year, the Commission shall submit a report on the activities taken by the Commission to implement, and by electric power suppliers to comply with, the requirements of this section to the Governor, the Environmental Review Commission, and the Joint Legislative Utility Review Committee. The report shall include any public comments received regarding direct, secondary, and cumulative environmental impacts of the implementation of the requirements of this section. In developing the report, the Commission shall consult with the Department of Environment and Natural Resources."

SECTION 2.(b) The Commission shall submit the first report required by G.S. 62-133.7(i), as enacted by subsection (a) of this section, no later than 1 October 2008.

SECTION 3. If the federal government imposes requirements similar to those set out in G.S. 62-133.7 on electric power suppliers in the State, the Utilities Commission shall determine the applicability of federal and State requirements so as to apply the more stringent requirements except to the extent that State requirements may be specifically preempted by federal law. The Commission shall adopt rules to establish a procedure as an alternative to the procedure set out in G.S. 62-133 to annually adjust the rates of electric public utilities to allow timely recovery of all reasonable costs of compliance with the federal and State requirements pursuant to G.S. 62-133.7(g), as enacted by Section 2 of this act. In adopting rules to establish the procedure, the Commission shall incorporate the provisions of this act in accordance with this section and the public interest.

SECTION 4.(a) Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.8. Cost recovery for demand-side management and energy efficiency measures.**

(a) The definitions set out in G.S. 62-133.7 apply to this section. As used in this section, 'new', used in connection with demand-side management or energy efficiency measure, means demand-side management or energy efficiency measure that is adopted and implemented on or after 1 January 2007, including subsequent changes and modifications.

(b) Each electric power supplier shall implement demand-side management and energy efficiency measures and use supply-side resources to establish the least cost mix of demand reduction and generation measures that meet the electricity needs of its customers. An electric membership corporation or municipality that qualifies as an electric power supplier may satisfy the requirements of this section through its purchases from a wholesale supplier of electric power that uses supply-side resources and demand-side management to meet all or a portion of the supply needs of its members and their retail customers, and that, by aggregating and promoting demand-side management and energy efficiency measures for its members, meets the requirements of this section.

(c) Each electric power supplier to which G.S. 62-110.1 applies shall include an assessment of demand-side management and energy efficiency in its resource plans submitted to the Commission and shall submit cost-effective demand-side management and energy efficiency options that require incentives to the Commission for approval.

(d) The Commission shall, upon petition of an electric public utility, approve an annual rider to the electric public utility's rates to recover all reasonable and prudent costs incurred for adoption and implementation of new demand-side management and new energy efficiency measures. Recoverable costs include, but are not limited to, all capital costs, including cost of capital and depreciation expenses, administrative costs, implementation costs, incentive payments to program participants, and operating costs. In determining the amount of any rider, the Commission:

(1) Shall allow electric public utilities to capitalize all or a portion of those costs to the extent that those costs are intended to produce future benefits.

(2) May approve other incentives to electric public utilities for adopting and implementing new demand-side management and energy efficiency measures in order to treat investments in demand-side management and energy efficiency measures in a manner similar to investments in supply-side resources and to make electric public utilities indifferent to the selection of demand-side management and energy efficiency or supply-side options. Allowable incentives may include:

a. Appropriate rewards based on the sharing of savings achieved by the demand-side management and energy efficiency measures.

b. Appropriate rewards based on capitalization of a percentage of avoided costs achieved by demand-side management and energy efficiency measures.

c. Any other incentives that the Commission determines to be appropriate.

(e) The Commission shall determine the appropriate assignment of costs of new demand-side management and energy efficiency measures for electric public utilities and shall assign the costs of the programs only to the class or classes of customers that directly benefit from the programs.

(f) None of the costs of new demand-side management or energy efficiency measures of an electric power supplier shall be assigned to any industrial customer that notifies the industrial customer's electric power supplier that, at the industrial customer's own expense, the industrial customer has implemented at any time in the past or, in accordance with stated, quantified goals for demand-side management and energy efficiency, will implement alternative demand-side management and energy efficiency measures and that the industrial customer elects not to participate in demand-side management or energy efficiency measures under this section. The electric power supplier that provides electric service to the industrial customer, an industrial customer that receives electric service from the electric power supplier, the Public Staff, or the Commission on its own motion, may initiate a complaint proceeding before the Commission to challenge the validity of the notification of nonparticipation. The procedures set forth in G.S. 62-73, 62-74, and 62-75 shall govern any such complaint.

(g) The Commission shall adopt rules to implement this section.

(h) The Commission shall submit to the Governor and to the Joint Legislative Utility Review Committee of the General Assembly a summary of the proceedings conducted pursuant to this section during the preceding two fiscal years on or before 1 September of odd-numbered years."

SECTION 4.(b) The Commission shall submit the first report required by G.S. 62-133.8(h), as enacted by subsection (a) of this section, no later than 1 September 2009.

SECTION 5. G.S. 62-133.2 reads as rewritten:

"§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.

(a) The Commission ~~may allow~~shall permit an electric ~~utilities~~ public utility that generates electric power by fossil fuel or nuclear fuel to charge ~~a uniform~~an increment or decrement as a rider to ~~their~~ its rates for changes in the cost of fuel ~~and the fuel component of purchased power~~and fuel-related costs used in providing ~~their~~ its North Carolina customers with electricity from the cost of fuel ~~and the fuel component of purchased power established in their previous general rate case.~~and fuel-related costs established in the electric public utility's previous general rate case on the basis of cost per kilowatt hour.

(a1) As used in this section, 'cost of fuel and fuel-related costs' include all of the following:

(1) The cost of fuel burned.

(2) The cost of fuel transportation.

(3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.

(4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility, that are subject to economic dispatch or economic curtailment.

(5) The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are subject to economic dispatch by the electric public utility.

(6) Except for those costs recovered pursuant to G.S. 62-133.7(g), the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to G.S. 62-133.7 or to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.7.

(7) The fuel cost component of other purchased power.

(8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel, and other fuel-related costs components.

(9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(a2) For those costs identified in subdivisions (4), (5), and (6) of subsection (a1) of this section, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this section shall not exceed two percent (2%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. The costs described in subdivisions (4), (5), and (6) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider as follows:

(1) For the costs described in subdivision (4) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the electric public utility's North Carolina energy usage for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

(2) For the costs described in subdivisions (5) and (6) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the electric public utility's North Carolina peak demand for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

(a3) Notwithstanding subsections (a1) and (a2) of this section, for an electric public utility that has less than 150,000 North Carolina retail jurisdictional customers as of 31 December 2006, the costs identified in subsection (a1) of this section shall be recovered through the electric public utility's base and fuel rates respectively in the manner approved by the Commission as of 1 July 2007 and as may be subsequently modified by the Commission e xcept that the costs described in subdivision (6) of subsection (a1) of this section that are incurred on or after 1 January 2008 shall be recovered as cost of fuel and fuel-related cost, and the annual increase in the amount of those costs shall not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. These costs shall be recoverable from each class of customers as a separate component of the rider. For these costs, the specific component for each class of customers shall be determined by allocating the costs among customer classes based on the electric public utility's North Carolina peak demand for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

(b) ~~For each electric utility engaged in the generation and production of electric power by fossil or nuclear fuels, the~~The Commission shall ~~hold~~ conduct a hearing within 12 months of ~~the~~ each electric public utility's last general rate case order ~~and~~ to determine whether an increment or decrement rider is required to reflect actual changes in the cost of fuel ~~and the fuel cost component of purchased power~~and fuel-related costs over or under the cost of fuel and fuel-related costs on a kilowatt-hour basis in base rates established in the electric public utility's last preceding general rate case. Additional hearings shall be held on an annual basis but only one hearing for each ~~such~~ electric public utility may be held within 12 months of the last general rate case.

(c) Each electric public utility shall submit to the Commission for the hearing verified annualized information and data in such form and detail as the Commission may require, for an historic 12-month test period, relating to:

(1) ~~Purchased cost~~Cost of fuel and fuel-related costs used in each generating facility owned in whole or in part by the utility.

(2) Fuel procurement practices and fuel inventories for each facility.
(3) Burned cost of fuel used in each generating facility.
(4) Plant capacity factor for each generating facility.
(5) Plant availability factor for each generating plant.
(6) Generation mix by types of fuel used.
(7) Sources and fuel cost component of purchased power used.
(8) Recipients of and revenues received for power sales and times of power sales.
(9) Test period ~~kilowatt hour~~kilowatt-hour sales for the utility's total system and on the total system separated for North Carolina jurisdictional sales.
(10) Procurement practices and inventories for: fuel burned and for ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
(11) The cost incurred at each generating facility of fuel burned and of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
(12) Any net gains or losses resulting from sales by the electric public utility of fuel or other fuel-related costs components.
(13) Any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(d) The Commission shall provide for notice of a public hearing with reasonable and adequate time for investigation and for all intervenors to prepare for hearing. At the hearing the Commission shall receive evidence from the utility, the ~~public staff,~~Public Staff, and any intervenor desiring to submit evidence, and from the public generally. In reaching its decision, the Commission shall consider all evidence required under subsection (c) of this section as well as any and all other competent evidence that may assist the Commission in reaching its decision including changes in the ~~price of fuel consumed and changes in the price of the fuel in the fuel component of purchased power occurring within a reasonable time (as determined by the Commission) after the test period is closed.~~cost of fuel consumed and fuel-related costs that occur within a reasonable time, as determined by the Commission, after the test period is closed. The Commission shall incorporate in its ~~fuel~~ cost of fuel and fuel-related costs determination under this subsection the experienced over-recovery or under-recovery of reasonable costs of fuel and fuel-related costs ~~expenses~~ prudently incurred during the test period, based upon the prudent standards set pursuant to subsection (d1) of this section, in fixing an increment or decrement rider. Upon request of the electric public utility, the Commission shall also incorporate in this determination the experienced over-recovery or under-recovery of costs of fuel and fuel-related costs through the date that is 30 calendar days prior to the date of the hearing, provided that the reasonableness and prudence of these costs shall be subject to review in the utility's next annual hearing pursuant to this section. The Commission shall use deferral accounting, and consecutive

test periods, in complying with this subsection, and the over-recovery or under-recovery portion of the increment or decrement shall be reflected in rates for 12 months, notwithstanding any changes in the base fuel cost in a general rate case. The burden of proof as to the correctness and reasonableness of the charge and as to whether the cost of fuel ~~charges~~ and fuel-related costs were reasonably and prudently incurred shall be on the utility. The Commission shall allow only that portion, if any, of a requested cost of fuel and fuel-related costs adjustment that is based on adjusted and reasonable cost of fuel ~~expenses~~ and fuel-related costs prudently incurred under efficient management and economic operations. In evaluating whether cost of fuel ~~expenses~~ and fuel-related costs were reasonable and prudently incurred, the Commission shall apply the rule adopted pursuant to subsection ~~(d1).~~(d1) of this section. To the extent that the Commission determines that an increment or decrement to the rates of the utility due to changes in the cost of fuel and ~~the fuel cost component of purchased power~~fuel-related costs over or under base fuel costs established in the preceding general rate case is just and reasonable, the Commission shall order that the increment or decrement become effective for all sales of electricity and remain in effect until changed in a subsequent general rate case or annual proceeding under this section.

(d1) Within one year after ratification of this act, for the purposes of setting ~~fuel rates,~~cost of fuel and fuel-related costs rates, the Commission shall adopt a rule that establishes prudent standards and procedures with which it can appropriately measure management efficiency in minimizing ~~fuel~~ cost of fuel and fuel-related costs.

(e) If the Commission has not issued an order pursuant to this section within ~~120~~ 180 days of a utility's submission of annual data under subsection (c) of this section, the utility may place the requested cost of fuel and fuel-related costs adjustment into effect. If the change in rate is finally determined to be excessive, the utility shall make refund of any excess plus interest to its customers in a manner ordered by the Commission.

(f) Nothing in this section shall relieve the Commission from its duty to consider the reasonableness of ~~fuel expenses~~the cost of fuel and fuel-related costs in a general rate case and to set rates reflecting reasonable ~~fuel expenses~~cost of fuel and fuel-related costs pursuant to G.S. 62-133. Nothing in this section shall invalidate or preempt any condition adopted by the Commission and accepted by the utility in any proceeding that would limit the recovery of costs by any electric public utility under this section.

(g) ~~On July 1, 1993 and every two years thereafter,~~On 1 July of every odd-numbered year, the Utilities Commission shall provide a report to the Joint Legislative Utility Review Committee summarizing the ~~procedures~~ proceedings conducted pursuant to ~~G.S. 62-133.2~~this section during the preceding two years."

SECTION 6. G.S. 62-110.1 reads as rewritten:

"§ 62-110.1. Certificate for construction of generating facility; analysis of long-range needs for expansion of ~~facilities.~~facilities; ongoing review of construction costs; inclusion of approved construction costs in rates.

(a) Notwithstanding the proviso in G.S. 62-110, no public utility or other person shall begin the construction of any steam, water, or other facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service, even though the facility be for furnishing the service already being rendered, without

first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction.

(b) For the purpose of subsections (a), (c), and (d) of this section, "public utility" shall include any electric membership corporation operating within this State, and the term "public utility service" shall include the service rendered by any such electric membership corporation.

(c) The Commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina, including its estimate of the probable future growth of the use of electricity, the probable needed generating reserves, the extent, size, mix and general location of generating plants and arrangements for pooling power to the extent not regulated by the Federal ~~Power~~ Energy Regulatory Commission and other arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the people of North Carolina, and shall consider such analysis in acting upon any petition by any utility for construction. In developing such analysis, the Commission shall confer and consult with the public utilities in North Carolina, the utilities commissions or comparable agencies of neighboring states, the Federal ~~Power~~ Energy Regulatory Commission, the Southern Growth Policies Board, and other agencies having relevant information and may participate as it deems useful in any joint boards investigating generating plant sites or the probable need for future generating facilities. In addition to such reports as public utilities may be required by statute or rule of the Commission to file with the Commission, any such utility in North Carolina may submit to the Commission its proposals as to the future needs for electricity to serve the people of the State or the area served by such utility, and insofar as practicable, each such utility and the Attorney General may attend or be represented at any formal conference conducted by the Commission in developing a plan for the future requirements of electricity for North Carolina or this region. In the course of making the analysis and developing the plan, the Commission shall conduct one or more public hearings. Each year, the Commission shall submit to the Governor and to the appropriate committees of the General Assembly a report of its analysis and plan, the progress to date in carrying out such plan, and the program of the Commission for the ensuing year in connection with such plan.

(d) In acting upon any petition for the construction of any facility for the generation of electricity, the Commission shall take into account the applicant's arrangements with other electric utilities for interchange of power, pooling of plant, purchase of power and other methods for providing reliable, ~~efficient~~ efficient, and economical electric service.

(e) As a condition for receiving such certificate the applicant shall file an estimate of construction costs in such detail as the Commission may require. The Commission shall hold a public hearing on each such application and no certificate shall be granted unless the Commission has approved the estimated construction costs and made a finding that such construction will be consistent with the Commission's plan for expansion of electric generating capacity. Once a certificate has been granted by the Commission, no public utility shall cancel construction of a generating unit or facility

without requesting and receiving approval from the Commission based upon a finding that the construction is no longer in the public interest.

(e1) Upon the request of the public utility or upon its own motion, the Commission may review the certificate to determine whether changes in the probable future growth of the use of electricity indicate that the public convenience and necessity requires modification or revocation of the certificate. If the Commission finds that completion of the generating facility is no longer in the public interest, the Commission may modify or revoke the certificate.

(f) ~~The Commission shall maintain an ongoing review of such construction as it proceeds and the applicant shall submit each year during construction a progress report and any revisions in the cost estimates for the construction.~~ The public utility shall submit a progress report and any revision in the cost estimate for the construction approved under subsection (e) of this section during each year of construction. Upon the request of the public utility or upon its own motion, the Commission may conduct an ongoing review of construction of the facility as the construction proceeds. If the Commission approves any revised construction cost estimate and finds that incurrence of the cost of that portion of the construction of the facility under review was reasonable and prudent, the certificate shall remain in effect. If the Commission disapproves any part of the revised cost estimate or finds that the incurrence of the cost of that portion of the construction of the facility then under review was unreasonable or imprudent, the Commission may modify or revoke the certificate.

(f1) The public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the actual costs it has incurred in constructing a generating facility in reliance on a certificate issued under this section as provided in this subsection, unless new evidence is discovered (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost was just and reasonable and prudently incurred was erroneous. If the Commission determines that evidence has been submitted that meets the requirements of this subsection, the public utility shall have the burden of proof to demonstrate that the material item of cost was in fact just and reasonable and prudently incurred.

(1) When a facility has been completed, and the construction of the facility has been subject to ongoing review under subsection (f) of this section, the reasonable and prudent costs of construction approved by the Commission during the ongoing review shall be included in the public utility's rate base without further review by the Commission.

(2) If a facility has not been completed, and the construction of the facility has been subject to ongoing review under subsection (f) of this section, the reasonable and prudent costs of construction approved by the Commission during the ongoing review shall be included in the public utility's rate base without further review by the Commission.

(3) If a facility is under construction or has been completed and the construction of the facility has not been subject to ongoing review under subsection (f) of this section, the costs of construction shall be

included in the public utility's rate base if the Commission finds that the incurrence of these costs is reasonable and prudent.

(f2) If the construction of a facility is cancelled, including cancellation as a result of modification or revocation of the certificate under subsection (e1) of this section, and the construction of the facility has been subject to ongoing review under subsection (f), absent newly discovered evidence (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost was just and reasonable and prudently incurred was erroneous, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction approved by the Commission during the ongoing review that were actually incurred prior to cancellation, amortized over a reasonable time as determined by the Commission. If the Commission determines that evidence has been submitted that meets the requirements of this subsection, the public utility shall have the burden of proof to demonstrate that the material item of cost was just and reasonable and prudently incurred.

(f3) If the construction of a facility is cancelled, including cancellation as a result of the modification or revocation of the certificate under subsection (e1) of this section, and the construction of the facility has not been subject to ongoing review under subsection (f) of this section, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction that were actually incurred prior to the cancellation and are found by the Commission to be reasonable and prudent, amortized over a reasonable time as determined by the Commission.

(g) The certification requirements of this section shall not apply to a nonutility-owned generating facility fueled by renewable energy resources under two megawatts in capacity or to persons who construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; provided, however, that such persons shall, nevertheless, be required to report to the Utilities Commission the proposed construction of such a facility before beginning construction thereof."

SECTION 7. Article 6 of Chapter 62 of the General Statutes is amended by adding two new sections to read:

"**§ 62-110.6. Rate recovery for construction costs of out-of-state electric generating facilities.**

(a) The Commission shall, upon petition of a public utility, determine the need for and, if need is established, approve an estimate of the construction costs and construction schedule for an electric generating facility in another state that is intended to serve retail customers in this State.

(b) The petition may be filed at any time after an application for a certificate or license for the construction of the facility has been filed in the state in which the facility will be sited. The petition shall contain a showing of need for the facility, an estimate of the construction costs, and the proposed construction schedule for the facility.

(c) The Commission shall conduct a public hearing to consider and determine the need for the facility and the reasonableness of the construction cost estimate and

proposed construction schedule. If the Commission finds that the construction will be needed to assure the provision of adequate public utility service within North Carolina, the Commission shall approve a construction cost estimate and a construction schedule for the facility. In making its determinations under this section, the Commission may consider whether the state in which the facility will be sited has issued a certificate or license for construction of the facility and approved a construction cost estimate and construction schedule for the facility. The Commission shall issue its order not later than 180 days after the public utility files its petition.

(d) G.S. 62-110.1(f) shall apply to the construction cost estimate determined by the Commission to be appropriate, and the actual costs the public utility incurs in constructing the facility shall be recoverable through rates in a general rate case pursuant to G.S. 62-133 as provided in G.S. 62-110.1(f1).

(e) If the construction of a facility is cancelled, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction that were actually incurred prior to the cancellation and are found by the Commission to be reasonable and prudent, as provided in subsections (f2) and (f3) of G.S. 62-110.1.

"§ 62-110.7. Project development cost review for a nuclear facility.

(a) For purposes of this section, "project development costs" mean all capital costs associated with a potential nuclear electric generating facility incurred before (i) issuance of a certificate under G.S. 62-110.1 for a facility located in North Carolina or (ii) issuance of a certificate by the host state for an out-of-state facility to serve North Carolina retail customers, including, without limitation, the costs of evaluation, design, engineering, environmental analysis and permitting, early site permitting, combined operating license permitting, initial site preparation costs, and allowance for funds used during construction associated with such costs.

(b) At any time prior to the filing of an application for a certificate to construct a potential nuclear electric generating facility, either under G.S. 62-110.1 or in another state for a facility to serve North Carolina retail customers, a public utility may request that the Commission review the public utility's decision to incur project development costs. The public utility shall include with its request such information and documentation as is necessary to support approval of the decision to incur proposed project development costs. The Commission may hold a hearing regarding the request. The Commission shall issue an order within 180 days after the public utility files its request. The Commission shall approve the public utility's decision to incur project development costs if the public utility demonstrates by a preponderance of evidence that the decision to incur project development costs is reasonable and prudent; provided, however, the Commission shall not rule on the reasonableness or prudence of specific project development activities or recoverability of specific items of cost.

(c) All reasonable and prudent project development costs, as determined by the Commission, incurred for the potential nuclear electric generating facility shall be included in the public utility's rate base and shall be fully recoverable through rates in a general rate case proceeding pursuant to G.S. 62-133.

(d) If the public utility is allowed to cancel the project, the Commission shall permit the public utility to recover all reasonable and prudently incurred project development costs in a general rate case proceeding pursuant to G.S. 62-133 amortized over a period equal to the period during which the costs were incurred, or five years, whichever is greater."

SECTION 8. G.S. 62-133(b) reads as rewritten:

"(b) In fixing such rates, the Commission shall:

(1) Ascertain the reasonable original cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within the State, less that portion of the cost ~~which~~ that has been consumed by previous use recovered by depreciation ~~expense plus the reasonable original cost of investment in plant under construction (construction work in progress). In ascertaining the cost of the public utility's property, construction work in progress as of the effective date of this subsection shall be excluded until such plant comes into service but reasonable and prudent expenditures for construction work in progress after the effective date of this subsection may be included, to the extent the Commission considers such inclusion in the public interest and necessary to the financial stability of the utility in question, subject to the provisions of subparagraph (b)(4a) of this section.~~expense. In addition, construction work in progress may be included in the cost of the public utility's property under any of the following circumstances:

a. To the extent the Commission considers inclusion in the public interest and necessary to the financial stability of the utility in question, reasonable and prudent expenditures for construction work in progress may be included, subject to the provisions of subdivision (4a) of subsection (b) of this section.

b. For baseload electric generating facilities, reasonable and prudent expenditures shall be included pursuant to subdivisions (2) or (3) of G.S. 62-110.1(f1) whichever applies, subject to the provisions of subdivision (4a) of subsection (b) of this section.

(1a) Apply the rate of return established under subdivision (4) of this subsection to rights-of-way acquired through agreements with the Department of Transportation pursuant to G.S. 136-19.5(a) if acquisition is consistent with a definite plan to provide service within five years of the date of the agreement and if such right-of-way acquisition will result in benefits to the ratepayers. If a right-of-way is not used within a reasonable time after the expiration of the five-year period, it may be removed from the rate base by the Commission when rates for the public utility are next established under this section.

(2) Estimate such public utility's revenue under the present and proposed rates.

(3) Ascertain such public utility's reasonable operating expenses, including actual investment currently consumed through reasonable actual depreciation.

(4) Fix such rate of return on the cost of the property ascertained pursuant to subdivision (1) as will enable the public utility by sound management to produce a fair return for its shareholders, considering changing economic conditions and other factors, as they then exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms ~~which~~ that are reasonable and ~~which~~ that are fair to its customers and to its existing investors.

(4a) Require each public utility to discontinue capitalization of the composite carrying cost of capital funds used to finance construction (allowance for funds) on the construction work in progress included in its rate based upon the effective date of the first and each subsequent general rate order issued with respect to it after the effective date of this subsection; allowance for funds may be capitalized with respect to expenditures for construction work in progress not included in the utility's property upon which the rates were fixed. In determining net operating income for return, the Commission shall not include any capitalized allowance for funds used during construction on the construction work in progress included in the utility's rate base.

(5) Fix such rates to be charged by the public utility as will earn in addition to reasonable operating expenses ascertained pursuant to subdivision (3) of this subsection the rate of return fixed pursuant to subdivisions (4) and (4a) on the cost of the public utility's property ascertained pursuant to subdivisions (1) and (1a) of this subsection."

SECTION 9.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after 1 July 2007.

SECTION 9.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is two hundred thousand dollars ($200,000).

SECTION 10.(a) Section 24.19 of S.L. 2006-66 is repealed.

SECTION 10.(b) G.S. 105-164.4(a)(1f) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-quarter percent (4.25%).

...

(1f) The rate of two and eighty-three-hundredths percent (2.83%) applies to the sales price of electricity ~~described in this subdivision and~~ that is measured by a separate meter or another separate ~~device:~~device and

sold to a commercial laundry or to a pressing and dry-cleaning establishment for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.

~~a. Sales of electricity to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.~~

~~b. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants other than sales of electricity to be used for residential heating purposes. The quantity of electricity purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.~~

~~c. Sales of electricity to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.~~"

SECTION 10.(c) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-quarter percent (4.25%).

...

(1i) The rate of one and eighty-nine hundredths percent (1.89%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:

a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.

b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes."

SECTION 10.(d) G.S. 105-164.4(a)(1i), as enacted by subsection (c) of this section, reads as rewritten:

"(1i) The rate of ~~one and eighty-nine hundredths percent (1.89%)~~ ninety-four hundredths percent (0.94%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:

a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.

b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes."

SECTION 10.(e) G.S. 105-164.4(a)(1i), as enacted by this section, is repealed.

SECTION 10.(f) G.S. 105-164.13(1) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

Agricultural Group.

(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, and seeds.

b. Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.

c. A horse or mule.

d. ~~Fuel other than electricity.~~Fuel."

SECTION 10.(g) G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

...

(56) Fuel, including electricity, sold to a manufacturer for use in connection with the operation of a manufacturing facility."

SECTION 10.(h) Subsections (a) and (h) of this section become effective when this act becomes law. Subsections (b) and (c) of this section become effective 1 July 2007 and apply to sales occurring on or after that date. Subsection (d) of this section becomes effective 1 July 2008 and applies to sales occurring on or after that date. Subsections (e), (f), and (g) of this section become effective 1 July 2009 and apply to sales occurring on or after that date.

SECTION 11.(a) G.S. 105-187.41 reads as rewritten:

"**§ 105-187.41. Tax imposed on piped natural gas.**

(a) Scope. – An excise tax is imposed on piped natural gas received for consumption in this State. This tax is imposed in lieu of a sales and use tax and a percentage gross receipts tax on piped natural gas.

(b) Rate. – The tax rate is set in the table below. The tax rate is based on monthly therm volumes of piped natural gas received by the end-user of the gas. If an end-user receives piped natural gas that is metered through two or more separate measuring devices, the tax is calculated separately on the volume metered through each device rather than on the total volume metered through all measuring devices, unless the devices are located on the same premises and are part of the same billing account. In that circumstance, the tax is calculated on the total volume metered through the two or more separate measuring devices.

Monthly Volume of Therms Received	Rate Per Therm
First 200	$.047
201 to 15,000	.035
15,001 to 60,000	.024
60,001 to 500,000	.015
Over 500,000	.003

(c) Gas City Exemption. – The tax imposed by this section does not apply to piped natural gas received by a gas city for consumption by that city or to piped natural gas delivered by a gas city to a sales or transportation customer of the gas city.

(d) Reduction of Tax. – The tax imposed by this section is reduced by one-third for piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility and for piped natural gas received by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes."

SECTION 11.(b) G.S. 105-187.41(d), as enacted by subsection (a) of this section, reads as rewritten:

"(d) Reduction of Tax. – The tax imposed by this section is reduced by ~~one-third (1/3)~~ two-thirds for piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility or for piped natural gas received by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes."

SECTION 11.(c) G.S. 105-187.41(d), as enacted by this section, is repealed.

SECTION 11.(d) G.S. 105-187.41(c) reads as rewritten:

"(c) ~~Gas City Exemption.~~ Exemptions.– The tax imposed by this section does not apply to ~~piped~~ any of the following:

(1) Piped natural gas received by a gas city for consumption by that ~~city or to piped~~ city.

(2) Piped natural gas delivered by a gas city to a sales or transportation customer of the gas city.

(3) Piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility.

(4) Piped natural gas received by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes."

SECTION 11.(e) Subsection (a) of this section becomes effective July 1, 2007, and applies to piped natural gas received on or after that date. Subsection (b) of this section becomes effective July 1, 2008, and applies to piped natural gas received on or after that date. Subsections (c) and (d) of this section become effective July 1, 2009, and apply to piped natural gas received on or after that date. The remainder of this section is effective when it becomes law.

SECTION 12.(a) G.S. 105-187.51A reads as rewritten:

"**§ 105-187.51A. Tax imposed on manufacturing fuel.**

A privilege tax is imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant. The tax is ~~one percent (1%)~~ sixty-seven hundredths percent (0.67%) of the sales price of the fuel. The tax does not apply to electricity or piped natural gas."

SECTION 12.(b) G.S. 105-187.51A, as amended by subsection (a) of this section, reads as rewritten:

"**§ 105-187.51A. Tax imposed on manufacturing fuel.**

A privilege tax is imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant. The tax is ~~sixty-seven hundredths percent (0.67%)~~ thirty-four hundredths percent (0.34%) of the sales price of the fuel. The tax does not apply to electricity or piped natural gas."

SECTION 12.(c) G.S. 105-187.51A is repealed.

SECTION 12.(d) Subsection (a) of this section becomes effective July 1, 2007, and applies to fuel purchased on or after that date. Subsection (b) of this section becomes effective July 1, 2008, and applies to fuel purchased on or after that date. Subsection (c) of this section becomes effective July 1, 2009. The remainder of this section is effective when it becomes law.

SECTION 13.(a) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.49. Construction or improvement of energy-efficient home.**

(a) Definitions. – The following definitions apply in this section:

(1) Energy-efficient home. – A single- or multi-family home that is a federally qualified energy-efficient home or a State-certified energy-efficient home.

(2) Federally qualified energy-efficient home. – A residence qualified under the ENERGY STAR Program administered by the United States Environmental Protection Agency.

(3) State-certified energy-efficient home. – A residence certified under the NC Healthy Built Homes Program administered by the North Carolina Solar Center, the State Energy Office, and the North Carolina Department of Administration.

(b) Credit. – A taxpayer that builds or manufactures an energy-efficient home is allowed a credit against the taxes imposed by this Part. In order to claim a credit under this section, the taxpayer must include with the tax return documentation that the property with respect to which a credit is claimed is an energy-efficient home. A taxpayer may claim only one of the credits allowed under this section with respect to a single home. The amount of the credit is as follows:

(1) For a taxpayer that builds or manufactures a new federally qualified energy-efficient home, the credit is one thousand dollars ($1,000).

(2) For a taxpayer that builds or manufactures a new State-certified energy-efficient home, the credit is two thousand dollars ($2,000).

(c) Cap. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of a credit under this section may be carried forward for the succeeding five years.

(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2012."

SECTION 13.(b) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.31. Construction or improvement of energy-efficient home.**

(a) Definitions. – The following definitions apply in this section:

(1) Energy-efficient home. – A single- or multi-family home that is a federally qualified energy-efficient home or a State-certified energy-efficient home.

(2) Federally qualified energy-efficient home. – A residence qualified under the ENERGY STAR Program administered by the United States Environmental Protection Agency.

(3) State-certified energy-efficient home. – A residence certified under the NC Healthy Built Homes Program administered by the North Carolina Solar Center, the State Energy Office, and the North Carolina Department of Administration.

(b) Credit. – A taxpayer that builds or manufactures an energy-efficient home is allowed a credit against the taxes imposed by this Part. In order to claim a credit under this section, the taxpayer must include with the tax return documentation that the property with respect to which a credit is claimed is an energy-efficient home. A taxpayer may claim only one of the credits allowed under this section with respect to a single home. The amount of the credit is as follows:

(1) For a taxpayer that builds or manufactures a new federally qualified energy-efficient home, the credit is one thousand dollars ($1,000).

(2) For a taxpayer that builds or manufactures a new State-certified energy-efficient home, the credit is two thousand dollars ($2,000).

(c) Cap. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of a credit under this section may be carried forward for the succeeding five years.

(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2012."

SECTION 13.(c) This section is effective for taxable years beginning on or after 1 January 2007 and applies to homes that receive the qualification or certification on or after that date.

SECTION 14.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16G. Credit for contributing to a nonprofit organization that invests in renewable energy property.**

(a) Credit. – A taxpayer that makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Code is allowed a credit under this section. The amount of credit allowed is equal to a portion of the credit that the nonprofit organization would be allowed under G.S. 105-129.16A if the nonprofit organization was subject to tax. The portion allowed to each taxpayer is equal to the percentage of the total costs for which the nonprofit organization would have been eligible for a credit under G.S. 105-129.16A that were covered by the taxpayer's eligible contribution.

(b) Definition. – For the purposes of this section, an 'eligible contribution' is one that satisfies all of the following conditions:

(1) The contribution was designated by the taxpayer to be used for investing in renewable energy property.

(2) The nonprofit organization used the contribution for investing in renewable energy property.

(c) Administration. – The nonprofit organization must keep records of all contributions that have been designated to be used for investing in renewable energy property and must keep records of all investments in renewable energy property. The nonprofit organization must inform all taxpayers that make eligible contributions of the amount of credit for which they are eligible."

SECTION 14.(b) G.S. 105-259(b) is amended by adding a new section to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(38) To verify with a nonprofit organization information relating to eligibility for a credit under G.S. 105-129.16G."

SECTION 14.(c) This section is effective for taxable years beginning on or after 1 January 2007.

SECTION 15. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 16. Sections 1, 2, 6, 7, and 8 of this act become effective 1 January 2008. The provisions of Section 2 of this act that provide for the recovery of costs incurred under Section 2 apply only to costs that are incurred on and after 1 January 2008. Sections 3, 4, 15, and 16 of this act become effective when this act becomes law. The provisions of Section 4 of this act that provide for the recovery of costs incurred under Section 4 apply only to costs that are incurred on and after the date that this act becomes law. Section 5 of this act becomes effective 1 January 2008 provided that (i) the provisions of G.S. 62-133.2, as amended by Section 5 of this act, apply only to fuel and fuel-related costs incurred on and after 1 January 2008 regardless of the test period established by the Utilities Commission, and (ii) the costs described in G.S. 62-133.2(a1)(3) that are incurred on and after the date this act becomes law shall be recoverable as provided in G.S. 62-133.2 as amended by Section 5 of this act. Sections 10, 11, 12, 13, and 14 of this act become effective as provided in those sections. Section 9 of this act becomes effective 1 July 2007.

SENATE BILL 3:
Promote Renewable Energy/Energy Efficiency

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Sen. Albertson	**Summary by:**	Jeff Hudson,
Version:	Second Edition		Committee Counsel for Senate Agriculture, Environment, and Natural Resources

SUMMARY:

Senate Bill 3 would:

Establish a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) in North Carolina that would include:

- ***A 12.5% REPS for electric public utilities.***
- ***A 10% REPS for electric membership corporations and municipalities that sell electric power in the State.***
- ***Provisions to encourage the use of solar energy, swine waste, and poultry waste resources.***
- ***Provisions to encourage the implementation of demand-side management and energy efficiency programs.***

Amend the cost recovery procedures for electric power suppliers to provide for:

- ***Recovery of additional costs under the annual fuel charge.***
- ***Ongoing review of construction costs and the inclusion of construction costs in rates.***
- ***Recovery of construction costs for out-of-state electric generating facilities.***
- ***Recovery of project development costs for nuclear facilities.***
- ***Recovery of construction work in progress when reasonable and prudent and subject to an ongoing review by the Utilities Commission***

Adjust the public utility and electric membership corporation regulatory fees.

Phase out the sales taxes paid by farmers and manufacturers for electricity, piped natural gas, and other fuels.

Establish renewable energy and energy efficiency tax credits.

BILL ANALYSIS:

ESTABLISH RENEWABLE ENERGY AND ENERGY EFFICIENCY PORTFOLIO STANDARD.

Renewable Energy Portfolio Standards (REPS) require that utilities operating within a state provide a designated amount or percentage of power from renewable energy resources as a portion of their overall provision of electricity. Iowa enacted the first REPS in 1991 and as of June 2007, REPS have been enacted by the majority of the 24 states and the District of Columbia that have adopted standards

requiring electric utilities to generate electricity from renewable resources. Over half of the American public lives in a state in which a REPS is in effect. The map at the end of this analysis identifies those states that have adopted standards for renewable energy generation.

States have adopted or expanded their REPS for many reasons including: economic development benefits through the promotion of a state's renewable energy resources; potential for jobs creation; prospect of increased reliability in electricity supply; and reduction of conventional air pollutants and greenhouse gases.

(From: *Race to the Top: The Expanding Role of U.S. State Renewable Portfolio Standards*, http://www.pewclimate.org/docUploads/RPSReportFinal%2Epdf.)

Section 1 would provide that it is the policy of the State to promote the development of renewable energy and energy efficiency through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) that will:

- Diversify the resources used to reliably meet the energy needs of consumers in the State.
- Provide greater energy security through the use of indigenous energy resources available within the State.
- Encourage private investment in renewable energy and energy efficiency.
- Provide improved air quality and other benefits to energy consumers and citizens of the State.

Section 2 defines "renewable energy resource" as a solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a renewable energy resource. "Renewable energy resource" does not include a fossil fuel or nuclear energy resource.

Section 2 would establish a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) in North Carolina as follows:

Electric Public Utilities

Each electric public utility in the State would have to meet the Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

An electric public utility could meet the REPS requirement by doing any one or more of the following:

- Generate electric power at a new renewable energy facility.
- Use a renewable energy resource to generate electric power at a generating facility.
- Reduce energy consumption through the implementation of an energy efficiency measure.
- Purchase electric power from a new renewable energy facility.
- Purchase renewable energy certificates derived from in-state or out-of-state new renewable energy facilities.
- Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of this section for any calendar year as a credit towards meeting the requirements of this section in the following calendar year or sell the associated renewable energy certificates.

Electric Membership Corporations and Municipalities

Each electric membership corporation and municipality that sells electric power to retail electric customers in the State would have to meet the Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018 and thereafter	10% of 2017 North Carolina retail sales

An electric membership corporation or municipality could meet the REPS requirement by doing any one or more of the following:

- Generate electric power at a new renewable energy facility.
- Reduce energy consumption through the implementation of an energy efficiency measure.
- Purchase electric power from a new renewable energy facility.
- Purchase renewable energy certificates derived from in-state or out-of-state new renewable energy facilities.
- Acquire all or part of its electric power from an electric power supplier who meets the requirements of this section.
- Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of this section for any calendar year as a credit towards meeting the requirements of this section in the following calendar year or sell the associated renewable energy certificates.

Use of Solar Energy Resources

For calendar year 2018 and each calendar year thereafter, at least two tenths of one percent (0.2%) of the total electric power in kilowatt-hours sold to retail electric customers in the State would have to be supplied by a combination of new solar electric facilities and new metered solar thermal energy facilities

that use solar hot water, solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, or solar industrial process heat. Electric power suppliers would comply with these requirements according to the following schedule:

Calendar Year	Requirement for Solar Energy Resources
2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

Use of Swine Waste Resources

For calendar year 2018 and each calendar year thereafter, at least two tenths of one percent (0.2%) of the total electric power in kilowatt-hours sold to retail electric customers in the State would have to be supplied by swine waste. Electric power suppliers would comply with these requirements according to the following schedule:

Calendar Year	Requirement for Swine Waste Resources
2012	0.07%
2015	0.14%
2018	0.20%

Use of Poultry Waste Resources

For calendar year 2014 and each calendar year thereafter, at least nine hundred thousand (900,000) megawatt-hours of the total electric power sold to retail electric customers in the State would have to be supplied by poultry waste. Electric power suppliers would comply with these requirements according to the following schedule:

Calendar Year	Requirement for Poultry Waste Resources
2012	170,000 megawatt-hours
2013	700,000 megawatt-hours
2014	900,000 megawatt-hours

Cost Cap

The recovery of costs that would be incurred by an electric power supplier to comply with the REPS requirements could not exceed an amount equal to the per-customer annual charges in the following schedule:

Customer Class	2008-2011	2012-2014	2015 and thereafter
Residential per account	$10.00	$12.00	$34.00
Commercial per account	$50.00	$150.00	$150.00
Industrial per account	$500.00	$1,000.00	$1,000.00

Adoption of Rules by the Utilities Commission

The Utilities Commission (Commission) would adopt rules to implement the REPS requirements that specifically:

- Provide for the monitoring of compliance with and enforcement of the REPS requirements.
- Include a procedure to modify or delay the REPS requirements in whole or in part if the Commission determines that it is in the public interest to do so and the public utility demonstrates that it has made a reasonable effort to meet the REPS requirements.
- Ensure that energy credited toward compliance with the provisions of this section not be credited toward any other purpose.
- Establish standards for interconnection of renewable energy facilities and other non-utility owned generation with a generation capacity of 10 megawatts or less to a public utility's electric distribution system.
- Consider whether it is in the public interest to adopt rules for electric public utilities for net metering of renewable energy facilities with a generation capacity of one megawatt or less.

Report

No later than 1 October of each year, the Commission would submit a report on the activities taken by the Commission to implement and by electric power suppliers to comply with the REPS requirements to the Governor, the Environmental Review Commission, and the Joint Legislative Utility Review Committee. The Commission would submit the first report no later than 1 October 2008.

Section 3 would provide that if the federal government imposes requirements similar to the REPS requirements on electric power suppliers in the State, the Commission will determine the applicability of federal and State requirements so as to apply the more stringent requirements. The Commission would adopt rules to establish a procedure as an alternative to the procedure set out in G.S. 62-133 to annually adjust the rates of electric public utilities to allow timely recovery of all reasonable costs of compliance with the federal and State requirements. In adopting rules to establish the procedure, the Commission would incorporate the provisions of this act in accordance with this section and the public interest.

DEMAND-SIDE MANAGEMENT AND ENERGY EFFICIENCY MEASURES.

Section 2 defines "Demand-side management" as activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electricity use from peak to non peak demand periods. 'Demand side management' includes, but is not limited to, load management, electric system equipment and operating controls, direct load control, and interruptible load. This section defines "energy efficiency measure" as an equipment, physical, or program change implemented after 1 January 2007 that results in less energy used to perform the same function. 'Energy efficiency measure' includes, but is not limited to, energy produced from a combined heat and power system that uses non-renewable energy resources. 'Energy efficiency measure' does not include demand side management.

Section 4 would direct electric power suppliers to implement demand-side management and energy efficiency measures to establish the least cost mix of demand reduction and generation measures that meet the electricity needs of its customers. An electric power supplier may petition the Commission to approve an annual rider to its rates to recover all reasonable and prudent costs incurred for adoption and implementation of demand-side management and energy efficiency measures adopted and implemented after 1 January 2007. The Commission would assign the costs of measures only to the class of customers that directly benefit from the measures. No costs of demand-side management or energy

efficiency programs would be assigned to an industrial customer that has or will implement its own demand-side management and energy efficiency measures. Recoverable costs would include, but not be limited to, all capital costs, including cost of capital and depreciation expenses, administrative costs, implementation costs, incentive payments to program participants, and operating costs.

AMEND COST RECOVERY PROCEDURES FOR ELECTRIC POWER SUPPLIERS.

Section 5: Recovery of Additional Costs under the Annual Fuel Charge.

Section 5 would shift the recovery of certain costs incurred by an electric public utility from recovery through the rate base to recovery through the annual fuel charge adjustment. The new costs that would be recoverable under this provision would be:

- The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions. These costs would be adjusted for gains or losses resulting from the sale of byproducts produced in the generation process.
- The total delivered non-capacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility.
- The capacity costs associated with purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities.
- Except for those costs recovered pursuant to the new REPS requirement statute, the total delivered costs of purchases of power from renewable energy facilities and new renewable energy facilities pursuant to the REPS requirement or any similar federal requirement.
- Cost recoverable under the fuel charge would be adjusted for gains or losses resulting from the sale of fuel, and other fuel related costs components.

For he total delivered non-capacity costs, the capacity costs associated with purchasing electric power from qualifying cogeneration and qualifying small power production facilities, and the costs of purchases of power from renewable energy facilities and new renewable energy facilities, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility could not exceed two percent (2%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. These costs would be recoverable from each class of customers as a separate component of the rider as follows:

- For the total delivered non-capacity costs, the specific component for each class of customers would be determined by allocating these costs among customer classes based on the electric public utility's North Carolina energy usage for the prior year, as determined by the Commission, until the Commission determines how these costs should be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.
- For the capacity costs associated with purchasing electric power from qualifying cogeneration and qualifying small power production facilities and the costs of purchases of power from renewable energy facilities and new renewable energy facilities, the specific component for each class of customers would be determined by allocating these costs among customer classes based on the electric public utility's North Carolina peak demand for the prior year, as determined by the Commission, until the Commission determines how these costs should be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

Notwithstanding these provisions, for an electric public utility that has less than 150,000 North Carolina retail jurisdictional customers as of 31 December 2006, the costs recoverable under the fuel charge would be recovered through the electric public utility's base and fuel rates respectively in the manner approved by the Commission as of 1 July 2007 and could be subsequently modified by the Commission except that the costs of purchases of power from renewable energy facilities and new renewable energy facilities that are incurred on or after 1 January 2008 would be recovered as cost of fuel and fuel related cost and the annual increase in the amount of those costs shall not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. These costs would be recoverable from each class of customers as a separate component of the rider. For these costs, the specific component for each class of customers would be determined by allocating the costs among customer classes based on the electric public utility's North Carolina peak demand for the prior year, as determined by the Commission, until the Commission determines how these costs should be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

Section 6: Ongoing Review of Construction Costs and Inclusion of Construction Costs in Rates.

Under current law, an electric public utility is responsible for bearing the construction costs of a generating facility until the facility goes into operation. In the first general rate case after the facility goes into service, if the Commission finds the facility to be used and useful, the total facility costs, excluding any imprudently incurred costs, are included in rates charged to customers. There is one exception to this system of construction cost recovery; prudently incurred expenses for construction work in progress may be included in the rate base if the Commission finds that this is in the public interest and is necessary to the utility's financial stability.

Under current practice, if a facility is abandoned before it is completed, the Commission may authorize the electric public utility to recover the costs of the incomplete facility, excluding any imprudently incurred costs, by amortizing these costs over a period of years, with no return on the unamortized balance.

Section 6 would alter these current procedures for construction cost recovery as follows.

Once a construction certificate has been granted by the Commission, a public utility may not cancel construction of a generating facility without receiving approval from the Commission. If the Commission finds that completion of the generating facility is no longer in the public interest, the Commission may modify or revoke the certificate.

A public utility would submit an annual progress report on construction to the Commission, including any revisions in the cost estimate for the construction. The Commission may conduct an ongoing review of construction of the facility. If the Commission disapproves any part of the revised cost estimate or finds that the incurrence of the cost of that portion of the construction of the facility then under review was unreasonable or imprudent, the Commission may modify or revoke the certificate.

The public utility would recover through rates in a general rate case the actual costs it has incurred in constructing a generating facility in reliance on a construction certificate as provided below, unless new evidence is discovered (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost had been just and reasonable and prudently incurred was erroneous. The public utility would have the burden of proof to demonstrate that the material item of cost was in fact just and reasonable and prudently incurred.

Whether under construction or completed, if the construction of the facility:

- Has been subject to ongoing review, the reasonable and prudent costs of construction approved by the Commission during the ongoing review would be included in the public utility's rate base.
- Has not been subject to ongoing review, the costs of construction would be included in the public utility's rate base if the Commission finds that the incurrence of these costs is reasonable and prudent.

If the construction of a facility is cancelled and the facility:

- Has been subject to ongoing review, the public utility would recover through rates in a general rate case the costs of construction approved by the Commission during the ongoing review that were actually incurred prior to cancellation, amortized over a reasonable time as determined by the Commission. The public utility would have the burden of proof to demonstrate that the material item of cost was in fact just and reasonable and prudently incurred.
- Has not been subject to ongoing review, the public utility would recover through rates in a general rate case the costs of construction that were actually incurred prior to cancellation and are found by the Commission to be reasonable and prudent, amortized over a reasonable time as determined by the Commission.

Section 7: Recovery of Construction Costs for Out-of-State Electric Generating Facilities and Project Development Costs for Nuclear Facilities.

Section 7 would provide that upon petition by a public utility, the Commission would determine the need for and, if need is established, approve an estimate of the construction costs and construction schedule for an electric generating facility in another state. The construction cost estimate and the recovery of costs through a general rate case would be governed by the provision that apply to facilities built in the State (see Section 6 above).

Sections 7 would also provide for the treatment of project development costs for a nuclear facility as follows:

Section 7 defines "project development costs" as all capital costs associated with a potential nuclear electric generating facility, including the costs of evaluation, design, engineering, environmental analysis and permitting, early site permitting, combined operating license permitting, initial site preparation costs, and allowance for funds used during construction associated with such costs.

A public utility would be able to request that the Commission review the public utility's decision to incur project development costs for the construction of a nuclear electric generating facility. The Commission would approve the public utility's decision to incur project development costs if the public utility demonstrates by a preponderance of evidence that the decision to incur project development costs is reasonable and prudent.

All reasonable and prudent project development costs, as determined by the Commission, incurred for the potential nuclear electric generating facility would be included in the public utility's rate base and would be fully recoverable through rates in a general rate case If the public utility is allowed to cancel the project, the Commission would permit the public utility to recover all reasonable and prudently incurred project development costs in a general rate case amortized over a period equal to the period during which the costs were incurred, or five years, whichever is greater.

Section 8: Recovery of Construction Work in Progress.

Section 8 would change the standard by which the Commission may include construction work in progress included in rates. Under current law, construction work in progress may only be included if the Commission determines that inclusion is in the public interest and necessary to the financial stability of the utility. Section 8 would allow inclusion of construction work in progress if the construction is subject to ongoing review and Commission determines that expenditures are reasonable and prudent.

ADJUST THE PUBLIC UTILITY AND ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEES.

Section 9 would provide that the percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after 1 July 2007. This section also provides that the electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is two hundred thousand dollars ($200,000).

PHASE OUT OF SALES TAXES PAID BY FARMERS AND MANUFACTURERS ON ELECTRICITY, PIPED NATURAL GAS, AND OTHER FUELS.

Sections 10, 11, and 12 would phase out the tax on electricity, piped natural gas, and fuel used by manufacturers to operate their industries and by farmers in their farming operations, effective for sales made on or after July 1, 2007

Section 10 would phase out the current sales tax rate of 2.83% on sales of electricity to manufacturing industries and manufacturing plants for use in connection with their operation and to farmers to be used by them for farming purposes as follows:

- Effective July 1, 2007, reduces the rate from 2.83% to 1.89%.
- Effective July 1, 2008, reduces the rate from 1.89% to 0.94%.
- Effective July 1, 2009, exempts these sales from tax.

The general rate of tax on sales of electricity is 3%. Sales of electricity to an aluminum smelting facility are taxed at the rate of 1%, but this rate expires for sales made on or after October 1, 2007. Last session, in S.L. 2006-66, the tax on sales of electricity to manufacturing industries and manufacturing plants was reduced from 2.83% to 2.6%, effective July 1, 2007. This bill repeals the reduction enacted last session and replaces it with the 1.89% rate provided in this section of the bill.

Section 11 would phase out the tax imposed on piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility and on piped natural gas received by a farmer to be used for any farming purpose, other than preparing food, heating dwellings, and other household purposes.

The excise tax on piped natural gas applies uniformly to all users. The tax rate is structured as a "declining block" that decreases as the amount of therms of piped gas consumed in a month increases. A declining block tax rate structure means that low end users, such as residential users, pay a higher effective rate of tax and high volume users, such as business and industrial users, pay a lower effective rate of tax.

The only exemption from the tax is for piped natural gas distributed to or by a gas city. A gas city is a city that operated a piped natural gas distribution system as of July 1, 1998. Effective July 1, 2009, this section would exempt from tax piped natural gas distributed to a manufacturer or farmer. It lowers the tax imposed on these end-users by one-third effective July 1, 2007, and by two-thirds, effective July 1, 2008. These end-users will be exempt from the tax, effective July 1, 2009.

The tax is due monthly and is payable, generally, by the company that delivers the gas to the end-user. This section would require the company to calculate not only the tax owed by an end-user, but also to identify the end-user and, if the end-user is a manufacturer or a farmer, reduce the tax accordingly.

Section 12 would phase out the privilege tax imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant by reducing the tax rate from 1% to 0.67%, effective July 1, 2007, from 0.67% to 0.34%, effective July 1, 2008, and from 0.34% to 0%, effective July 1, 2009.

Farmers are exempt from sales tax on purchases of fuel. Manufacturers are exempt from sales tax on fuel, but they are subject to a privilege tax equal to 1% of the sales price of the fuel. This section would phase that tax out over three years.

ESTABLISH RENEWABLE ENERGY AND ENERGY EFFICIENCY TAX CREDITS.

Section 13 would allow an individual or corporate income tax credit for builders of energy-efficient homes. An energy efficient home is a residence that is qualified under the ENERGY STAR Program administered by the United States Environmental Protection Agency or a residence that is certified under the NC Healthy Built Homes Program. The credit is equal to $1,000 for a federally qualified energy-efficient home and $2,000 for a State-certified energy-efficient home. The credit applies only to new homes. Any unused portion of a credit may be carried forward for five years. The credit is effective for taxable years beginning on or after January 1, 2007, and expires for taxable years beginning on or after January 1, 2012.

G.S. 105-129.16A provides a tax credit for investing in renewable energy property. This tax credit is not used by a nonprofit corporation that invests in renewable energy property because the nonprofit organization does not owe any tax. Section 14 would allow this tax credit to a taxpayer that makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Code. An eligible contribution is a contribution designated by the taxpayer to be used for investing in renewable energy property and used by the nonprofit organization for investing in renewable energy property.

The amount of the credit would be equal to a portion of the credit for investing in renewable energy property that the nonprofit organization would be allowed if the nonprofit organization was subject to tax. The amount of the credit for investing in renewable energy property is 35% of the cost of the property placed in service. The credit must be taken in five equal installments, beginning with the taxable year in which the property is placed in service. The credit may not exceed $2,500,000 per installation (the maximum credit amount is less for residential property). The portion allowed to each taxpayer is equal to the percentage of the total costs for which the nonprofit organization would have been eligible for a credit which were covered by the taxpayer's eligible contribution.

The tax credit may be taken against either the franchise tax or the individual or corporate income tax. The election is binding and any carryforwards of a credit must be claimed against the same tax. The credit may not exceed 50% of the tax against which it is claimed. Any unused portion of the credit may be carried forward for five years. The credit is effective for taxable years beginning on or after January

1, 2007. Although this credit does not have a sunset, the credit under G.S. 105-129.16A expires for renewable energy property placed into service on or after January 1, 2011.

Renewable energy property includes the following machinery and equipment or real property:

- Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. Renewable biomass resources are organic matters produced by terrestrial and aquatic plants and animals, such as standing vegetation, forestry and agricultural residues, landfill wastes, and animal wastes.
- Hydroelectric generators
- Solar energy equipment
- Wind equipment

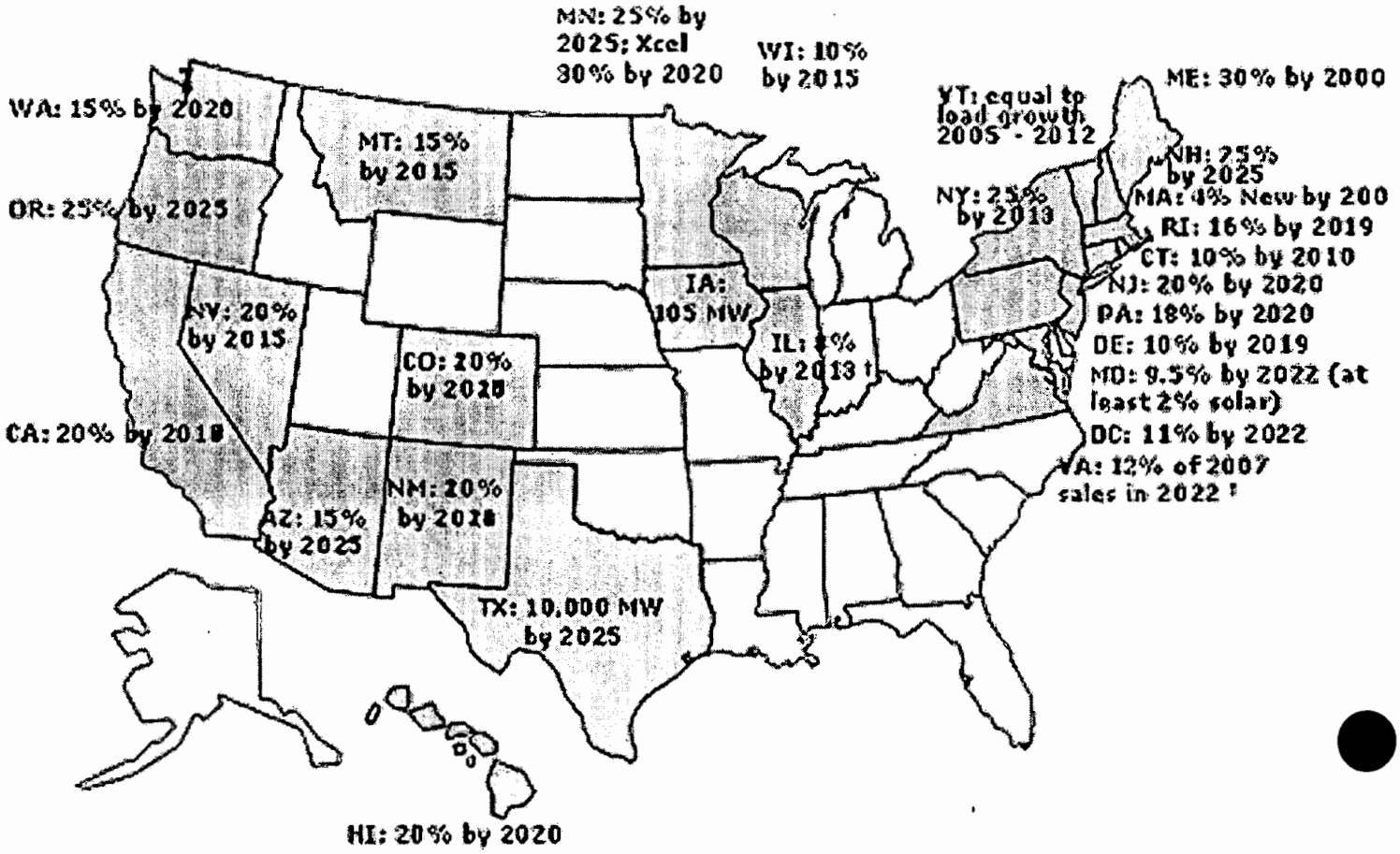
SEVERABILITY CLAUSE AND EFFECTIVE DATES.

Section 15 would provide that if any section or provision of the act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of the act as a whole or any part of the act other than the unconstitutional or invalid part.

Section 16 would provide for the effective dates of the act as follows:

- Sections 1, 2, 6, 7, and 8 of the act would become effective 1 January 2008. The provisions of Section 2 of the act that provide for the recovery of costs incurred under Section 2 apply only to costs that are incurred on and after 1 January 2008.
- Sections 3, 4, 15, and 16 of the act would become effective when the act becomes law. The provisions of Section 4 of the act that provide for the recovery of costs incurred under Section 4 apply only to costs that are incurred on and after the date that the act becomes law.
- Section 5 of the act would become effective 1 January 2008 provided that (i) the provisions of G.S. 62-133.2, as amended by Section 5 of the act, apply only to fuel and fuel related costs incurred on and after 1 January 2008 regardless of the test period established by the Utilities Commission, and (ii) the costs described in G.S. 62-133.2(a1)(3) that are incurred on and after the date the act becomes law will be recoverable as provided in G.S. 62-133.2, as amended by Section 5 of the act.
- Sections 10, 11, 12, 13, and 14 of the act would become effective as provided in those sections.
- Section 9 of the act would become effective 1 July 2007.

States with Renewable Energy Portfolio Standards as of June 2007



†IL and VA RPS implemented through voluntary utility commitments

The percentages shown on the map for each state are not directly comparable to one another because each states' standard varies in its regulatory design with respect to: the definition of qualifying renewable energy resources; provisions for energy efficiency measures and applicability of renewable energy credit trading mechanisms; mandatory versus voluntary commitments; compliance standards and timetables; and the predominant state goals underlying development and implementation of the standard.

(From: The Pew Center on Global Climate Change, http://www.pewclimate.org/what_s_being_done/in_the_states/rps.cfm)

Cindy Avrette, Committee Counsel, Finance Committees; Jennifer Mundt, Legislative Analyst for the Senate Committee on Agriculture, Environment, and Natural Resources; and Diana Jessup, Staff Attorney, North Carolina Utilities Commission - Public Staff, contributed to this summary.

S0003e1-SMSB-CSRTxf-3 v28

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 26, 2007

TO: Senator Clodfelter

FROM: Rodney Bizzell
Barry Boardman
Kristine Leggett
Fiscal Research Division

RE: Senate Bill 3 (Third Edition)

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES: ($ Millions)					
Sections 10-12 (State)	(14.5)	(30.1)	(44.8)	(45.0)	(44.7)
Section 13	(2.0)	(2.2)	(2.5)	(2.8)	(3.2)
Section 14	** See Assumptions and Methodology**				
Section 11 (municipalities)	(2.5)	(5.8)	(8.1)	(8.0)	(7.8)
EXPENDITURES:	$0	$0	$0	$0	$0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Utilities Commission, Department of Revenue

EFFECTIVE DATE: Sections 1,2,5,6,7, and 8 become effective January 1, 2008. Sections 3, 4, 15, 16 become effective when the bill becomes law. The effective date for Section 9 is July 1, 2007. Sections 10, 11, 12, 13, and 14 become effective as provided in those sections.

BILL SUMMARY:

Sections 1 through 4 of the Proposed Committee Substitute (PCS) for Senate Bill 3 establishes a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) in North Carolina that would include:

- A 12.5% REPS for electric public utilities.
- A 10% REPS for electric membership corporations and municipalities that sell electric power in the State.
- Provisions to encourage the use of solar energy, swine waste, and poultry waste resources.
- Provisions to encourage the implementation of demand-side management and energy efficiency programs.

Sections 5 through 9 amend the cost recovery procedures for electric power suppliers to provide for:

- Recovery of additional costs under the annual fuel charge.
- Ongoing review of construction costs and the inclusion of construction costs in rates.
- Recovery of construction costs for out-of-state electric generating facilities.
- Recovery of project development costs for nuclear facilities.
- Recovery of construction work in progress when reasonable and prudent and subject to an ongoing review by the Utilities Commission

Section 9 maintains the public utility and electric membership corporation regulatory fees at their current level.

Sections 10 through 12 phase out the sales taxes paid by farmers and manufacturers for electricity, piped natural gas, and other fuels.

Section 13 establishes renewable energy and energy efficiency tax credits.

Sections 15 is the severability clause, and Section 16 lays out the effective dates for various portions of the bill.

ASSUMPTIONS AND METHODOLOGY:

Sections 1 through 9 require no additional expenditures from the General Fund. These parts will be administered by the NC Utilities Commission, a receipt supported State entity. While the Commission may require additional staff in the future to administer this bill, any costs associated with that would be covered by receipts generated by the Commission.

Section 10 would phase out the current sales tax rate of 2.83% on sales of electricity to manufacturing industries and manufacturing plants for use in connection with their operation and to farmers to be used by them for farming purposes as follows:

- Effective July 1, 2007, reduces the rate from 2.83% to 1.89%.
- Effective July 1, 2008, reduces the rate from 1.89% to 0.94%.
- Effective July 1, 2009, exempts these sales from tax.

The general rate of tax on sales of electricity is 3%. Sales of electricity to an aluminum smelting facility are taxed at the rate of 1%, but this rate expires for sales made on or after October 1, 2007. Last session, in S.L. 2006-66, the tax on sales of electricity to manufacturing industries and manufacturing plants was reduced from 2.83% to 2.6%, effective July 1, 2007. This bill repeals the reduction enacted last session and replaces it with the 1.89% rate provided in this section of the bill. This rate applies to manufacturers and farmers. The rate is reduced to 0.94% effective July 1, 2008 and eliminated effective July 1, 2009.

According to the Department of Revenue, the amount of tax collected in this category for FY 2005-06 was approximately $32.1 million. The amount of tax collected for FY 2006-07 is projected to be $32.9 million. The impact of phasing out the tax for future years is estimated by applying projected percentage changes in sales of electricity to the current amount of tax collected and prorating the amount of tax to account for the rate reduction.

According to the U.S. Energy Information Administration (EIA), sales of electricity in the industrial sector are projected to increase by 0.7% in FY 07-08. Similar increases are projected for the following four years. The projected percentage increase is applied for each year to project the amount of tax that would be exempted. This amount is then prorated by the percentage of the rate reduction for each year of the phase-out to determine the amount of sales tax on electricity that would be exempted under the bill.

Section 11 would phase out the tax imposed on piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility and on piped natural gas received by a farmer to be used for any farming purpose, other than preparing food, heating dwellings, and other household purposes.

The excise tax on piped natural gas is based on a tiered rate structure. Rates are lower for those consumers who use a greater volume. The NC Public Utilities Commission reported that the excise tax on piped natural gas sold to large industrial customers generated approximately $18.6 million during FY 2005-06. A small additional amount of tax revenue is related to consumption by farmers. Natural gas providers were unable to provide an estimate for farming consumption, however, the amount of piped gas excise tax collected from farmers is expected to be less than $1 million annually. Projections for future years are based on EIA estimates for sales of natural gas.

Of the total amount of the piped gas tax collected, half of the tax attributable to activity within municipal boundaries is distributed to municipalities. The percentage of overall piped gas collections distributed to municipalities is approximately 40%. This analysis assumes that manufacturing facilities are located within municipal boundaries to a greater extent than other piped natural gas consumers and uses 45% as the portion distributed to municipalities.

Section 12 would phase out the privilege tax imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant by reducing the tax rate from 1% to 0.67%, effective

July 1, 2007, from 0.67% to 0.34%, effective July 1, 2008, and from 0.34% to 0%, effective July 1, 2009.

Farmers are exempt from sales tax on purchases of fuel. Manufacturers are exempt from sales tax on fuel, but they are subject to a privilege tax equal to 1% of the sales price of the fuel. This section would phase that tax out over three years.

The NC Department of Revenue estimates that the privilege tax on manufacturing fuel generated approximately $2.3 million in FY 2005-06. Inflation estimates from Moody's Economy.com are used to estimate the change in tax revenue for future years.

Section 13 en acts new G.S. 105-130.49 and new G.S. 105-151.31 to provide corporate and individual income tax credits for taxpayers that build or manufacture energy-efficient homes, as defined in the bill. The taxpayer must document the home's energy efficiency. The amount of credit is $1,000 for a new federally qualified energy-efficient home, or $2,000 for a new state-certified energy efficient home, but not both. The credit may not exceed the amount of corporate or individual income tax imposed for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of a credit may be carried forward for the succeeding five years. The credit is effective for taxable years beginning on or after January 1, 2007, and expires for taxable years beginning on or after January 1, 2012.

A fiscal estimate for this section was developed using data provided by the State Energy Office. They stated that in 2006, 1,942 federally certified energy-efficient homes and 50 NC Healthy Built Homes were constructed. Based on this information plus information on new construction starts as projected by Moody's economy.com and previous year growth in the Federal Energy Star program, it was estimated that in FY2007-08 tax credits taken would equal $2.0 million.

This estimate assumed that all tax credits generated by the bill would be taken in the tax year they were generated. It was also assumed that the tax credits would have a modest stimulative effect on the construction of energy-efficient homes. Finally, it was assumed that growth in the NC Healthy Built Home program would mirror growth in the federal Energy Star program.

Section 14 would allow a tax credit to a taxpayer that makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Code. An eligible contribution is a contribution designated by the taxpayer to be used for investing in renewable energy property and used by the nonprofit organization for investing in renewable energy property. Renewable energy property includes the following machinery and equipment or real property:

- Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. Renewable biomass resources are organic matters produced by terrestrial and aquatic plants and animals, such as standing vegetation, forestry and agricultural residues, landfill wastes, and animal wastes.
- Hydroelectric generators
- Solar energy equipment

- Wind equipment

The amount of the credit would be equal to a portion of the credit for investing in renewable energy property that the nonprofit organization would be allowed if the nonprofit organization was subject to tax. The amount of the credit for investing in renewable energy property is 35% of the cost of the property placed in service. The credit must be taken in five equal installments, beginning with the taxable year in which the property is placed in service. The credit may not exceed $2,500,000 per installation (the maximum credit amount is less for residential property). The portion allowed to each taxpayer is equal to the percentage of the total costs for which the nonprofit organization would have been eligible for a credit which were covered by the taxpayer's eligible contribution.

The tax credit may be taken against either the franchise tax or the individual or corporate income tax. The election is binding and any carry forwards of a credit must be claimed against the same tax. The credit may not exceed 50% of the tax against which it is claimed. Any unused portion of the credit may be carried forward for five years. The credit is effective for taxable years beginning on or after January 1, 2007. Although this credit does not have a sunset, the credit under G.S. 105-129.16A expires for renewable energy property placed into service on or after January 1, 2011.

There is no data on the number of taxpayers that might donate to nonprofits for renewable energy purposes. Likewise, the total dollars donated cannot be estimated. It should be noted, the language in this section does not preclude a taxpayer who contributes to a 501(c)(3) organization for the purpose of purchasing renewable energy property from taking both a deduction against taxable income plus claiming a tax credit.

SOURCES OF DATA: NC Utilities Commission; NC Department of Revenue; State Energy Office; U.S. Department of Energy; Moody's economy.com

TECHNICAL CONSIDERATIONS: The July 1, 2007 effective date for energy tax reductions would not allow sufficient time for providers to make necessary adjustments to implement the changes. Natural gas providers have also indicated that they would need language requiring customers to identify themselves to the provider as eligible manufacturers or farmers in order to receive the preferential rate. Section 14 does not make clear how the portion allowed each taxpayer is to be calculated.

NCPIRG
Public Interest Advocate

112 S. Blount Ste. 102 (919) 833-2070
Raleigh, NC 27601 www.ncpirg.org

Nonpartisan, nonprofit research and advocacy group dedicated to consumer rights, public health, and good government.

— Protect S3 —
Revive Fairness, Renewable Energy-Focus
Strike costly, unrelated additions.

NO PAYMENT FOR OFF-LINE COAL AND NUCLEAR. For over twenty years, investor-owned utilities have lobbied for the right to charge customers for incomplete coal and nuclear projects, and the legislature has refused: no payment for incomplete coal and nuclear projects is the law[i]. Investor-owned utilities get paid when consumers get a benefit from the construction. In the current version of S3, investor-owned utilities lobbied for provisions to change the law, and to permit recovery for incomplete coal and nuclear projects (a.k.a. *baseload financing* and *prudency review*). In S3:

- Residents can be obligated to pay for off-line coal and nuclear facilities that may never be useful.
- Residents receive no guaranteed benefit for their payment, except higher rates and the possibility of expensive (and dirty) energy.
- Residents can be charged for *potential* nuclear project development costs – a sum related to a potential project, not an actual one.
- Residents' rates will increase dramatically as soon utilities file a rate case to finance their coal and nuclear construction. Initial cost estimates for coal and nuclear construction reach $10 billion.[ii]
- The costs of coal and nuclear construction can increase without limit in S3. S3 lacks any cap or other consumer protection measure for baseload financing.

The additions to S3 change its character, and put residents in a lose-lose situation. The additions promote the development of non-renewable energy, and subject residents to higher rates without guaranteed benefits.

[i] No payment for incomplete coal and nuclear projects is the law. An exception occurs if the investor-owned utility demonstrates that prepayment is in the public interest and required for the company's financial stability.

[ii] Wade Rawlins, "Utility plans exclude conservation," *News & Observer,* Raleigh, May 21, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1036
PROPOSED COMMITTEE SUBSTITUTE S1036-CSSVf-39 [v.3]

6/25/2007 11:32:52 PM

Short Title: Motorcycle and Other Special Plates. (Public)

Sponsors:

Referred to:

March 21, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO DEVELOP THE BLUE RIDGE PARKWAY PLATE AND OTHER SPECIALIZED LICENSE PLATES FOR MOTORCYCLES AND TO ISSUE A SPECIAL REGISTRATION PLATE FOR THE BACK COUNTRY HORSEMEN OF NORTH CAROLINA AND FOR THE MAGGIE VALLEY TROUT FESTIVAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.

(2) Rocky Mountain Elk Foundation.

(3) Blue Ridge Parkway Foundation.

(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) In God We Trust.
(7) Stock Car Racing Theme.
(8) Buddy Pelletier Surfing Foundation.
(9) Guilford Battleground Company.
(10) National Wild Turkey Federation.
(11) North Carolina Aquarium Society.
(12) First in Forestry.
(13) North Carolina Wildlife Habitat Foundation.
(14) NC Trout Unlimited.
(15) Ducks Unlimited.
(16) Lung Cancer Research.
(17) NC State Parks.
(18) Support Our Troops.
(19) US Equine Rescue League.
(20) Fox Hunting.
(21) Back Country Horsemen of North Carolina."

SECTION 2. G.S. 20-79.4 is amended by adding a new subsection to read:

"(a1) Motorcycles. – Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motorcycle registered in that person's name if the person qualifies for the registration plate. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, must return the special plate within 30 days. The registration fees and the restrictions on the issuance of a specialized license plate to a motorcycle shall be the same as for any vehicle eligible under subsection (a) of this section. There shall be no reduced fees for motorcycles. If there is a requirement that the Division receive a minimum of 300 applications to develop a special registration plate for a motor vehicle, then the Division must receive a minimum of 300 applications to develop a special registration plate for a motorcycle."

SECTION 3. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(13a) Back Country Horsemen of North Carolina. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture of a horseman trail riding and bear the phrase 'Back Country Horsemen of NC.'

...

(68a) Maggie Valley Trout Festival. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the Trout Festival logo.

..."

SECTION 4. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Back Country Horsemen of NC	$30.00
Coastal Conservation Association	$30.00
Crystal Coast	$30.00
El Pueblo	$30.00
First in Forestry	$30.00
Historical Attraction	$30.00
HOMES4NC	$30.00
In God We Trust	$30.00
Maggie Valley Trout Festival	$30.00
North Carolina 4-H Development Fund	$30.00
North Carolina Libraries	$30.00
Personalized	$30.00
Share the Road	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Support Our Troops	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00
NC Children's Promise	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
Animal Lovers	$20.00
ARC of North Carolina	$20.00
Audubon North Carolina	$20.00

Autism Society of North Carolina	$20.00
Be Active NC	$20.00
Breast Cancer Awareness	$20.00
Buddy Pelletier Surfing Foundation	$20.00
Daughters of the American Revolution	$20.00
Ducks Unlimited	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Harley Owners' Group	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
NC Trout Unlimited	$20.00
NC Wildlife Habitat Foundation	$20.00
Omega Psi Phi Fraternity	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 5. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Alpha Phi Alpha Fraternity	$10	$10	0	0
Animal Lovers	$10	$10	0	0
ARC of North Carolina	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Back Country Horsemen of NC	$10	$20	0	0
Be Active NC	$10	$10	0	0
Breast Cancer Awareness	$10	$10	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina's Aviation Museum	$10	$5	0	0
Coastal Conservation Association	$10	$20	0	0
Crystal Coast	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
First in Forestry	$10	$10	$10	0
Goodness Grows	$10	$15	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
HOMES4NC	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
Maggie Valley Trout Festival	$10	$20	0	0
March of Dimes	$10	$10	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
NC Agribusiness	$10	$15	0	0
NC Children's Promise	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
NC 4-H Development Fund	$10	$20	0	0

NC Trout Unlimited	$10	$10	0	0
North Carolina Libraries	$10	$20	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Personalized	$10	0	$15	$5
Prince Hall Mason	$10	$10	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 6. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b62) Back Country Horsemen of North Carolina. – The Division must receive 300 or more applications for a Back Country Horsemen of North Carolina plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Back Country Horsemen of North Carolina plates to the Back Country Horsemen of North Carolina to promote the development and maintenance of back country trails for trail riding.

(b63) Maggie Valley Trout Festival. – The Division must receive 300 or more applications for a Maggie Valley Trout Festival plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and

Cultural Attraction Plate Account derived from the sale of Maggie Valley Trout Festival plates to the Town of Maggie Valley to promote trout fishing in Maggie Valley."

SECTION 7. This act is effective when it becomes law.

SENATE BILL 1036:
Motorcycle and Other Special Plates

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 27, 2007
Introduced by:	Sen. Queen	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S1036-CSSVf-39		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 1036 would:

- ***Authorize DMV to develop specialized license plates for motorcycles. Under this bill, DMV would be authorized to develop for a motorcycle any special registration plate that is currently authorized for other motor vehicles. If a special registration plate is subject to a minimum 300-application requirement, then there would also have to be a minimum of 300 applications for that plate to be developed as a motorcycle plate.***
- ***Authorize DMV to issue two new special registration plates: one for the Back Country Horsemen of NC and one for the Maggie Valley Trout Festival.***

CURRENT LAW: The Division of Motor Vehicles is authorized to issue more than 164 special license plates. As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The Division may issue one free registration plate to a recipient of the Legion of Valor[2] award, a 100% disabled veteran, or an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee of $28 and the additional special registration plate fee of $10.

The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $1,000,000 is annually appropriated to provide operating assistance for ten Visitor Centers.[3] The Centers are located in Brunswick, Camden, Carteret, Caswell, Columbus, Macon, McDowell, Transylvania, Tyrell, and Watauga Counties.[4] The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

The cost of some special plates includes a fee in addition to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 1036 does two things:

- It authorizes DMV to develop specialized registration plates for motorcycles. Under this provision, any special registration plate that may be developed for motor vehicles may also be developed for motorcycles. If a special registration plate requires a minimum of 300 applications, then there would

[1] Aside from the three plates available free of charge, three special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Purple Heart Recipient, and the Silver Star Recipient.

[2] The Legion of Valor plate is issuable to a recipient of one of the following: Congressional Medal of Honor, Distinguished Service Cross, Navy Cross, or Air Force Cross.

[3] There are 12 Visitors' Centers. The two centers that do not receive State funding are located in Dare County.

[4] Each Visitor's Center receives $100,000.

also have to be a minimum of 300 applications for a particular plate to be developed as a motorcycle plate. The motorcycle plates would be subject to the same fees as for other special registration plates.

- It authorizes the Division of Motor Vehicles to issue two new special registration plates. Both plates must meet the 300 minimum plate requirement[5] and require the $10 special registration plate fee that is credited to the Special Registration Plate Account. The Back Country Horsemen of North Carolina plate would not be required to be on the 'First in Flight' background.[6] Additional details regarding these plates are set out below:

Purposes	Fee in Addition to $10 Special Plate Fee
Back Country Horsemen of North Carolina. – The plate would bear a picture of a horseman trail riding and the phrase 'Back Country Horsemen of NC.' The additional $20 fee would be remitted to the Back Country Horsemen of North Carolina to promote the development and maintenance of back country trails for trail riding.	**$20**
Maggie Valley Trout Festival. – The plate would bear the Trout Festival logo. The additional $20 fee would be remitted to the Town of Maggie Valley to promote the trout festival.	**$20**

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: DMV has indicated that the Department of Corrections is in the process of purchasing equipment that will allow for the manufacturing of flat license plates, rather than embossed plate, for special and personalized plates. With this new process, DMV would be in a position to begin manufacturing motorcycle license plates next year.

S1036e1-SMSV-CSSVf-39

[5] There are 123 organizations trying to obtain the 300 minimum plate applications. Some of the organizations have been trying to meet this minimum number since 1992.

[6] The design of plates that are not 'First in Flight' plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification. G.S. 20-63(b).

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1036

Short Title:	Blue Ridge Parkway Special Motorcycle Plate.	(Public)
Sponsors:	Senator Queen.	
Referred to:	Finance.	

March 21, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO DEVELOP SPECIALIZED LICENSE PLATES FOR MOTORCYCLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4 is amended by adding a new subsection to read:

"(a1) Motorcycles. – Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motorcycle registered in that person's name if the person qualifies for the registration plate. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, must return the special plate within 30 days. The registration fees and the restrictions on the issuance of a specialized license plate to a motorcycle shall be the same as any vehicle eligible under subsection (a) of this section. There shall be no reduced fees for motorcycles."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1036

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1036-ASV-14 [v.1]

Date _____,2007

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Senator _____

moves to amend the bill on page 1, lines 3-4, by rewriting the lines to read:
THE BLUE RIDGE PARKWAY PLATE FOR MOTORCYCLES AND TO ISSUE A SPECIAL REGISTRATION";

and on page 2, lines 19-30, by deleting the lines.

and on page 7, line 3, by rewriting the line to read:

"**SECTION 7.** G.S. 20-81.12(b2)(1) reads as rewritten:

'(1) Blue Ridge Parkway Foundation. – The revenue derived from the special plate shall be transferred quarterly to Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. The registration fees and the restrictions on the issuance of a specialized registration plate for a motorcycle are the same as for any motor vehicle. The Division must receive a minimum of 300 applications to develop a special registration plate for a motorcycle.

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1036

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1036-ASV-14 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 1036 (First Edition)

SHORT TITLE: Blue Ridge Parkway Special Motorcycle Plate.

SPONSOR(S): Senator Queen

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
General Fund	**No General Fund Impact**				
Highway Fund	**See Assumptions & Methodology**				
EXPENDITURES					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Transportation

EFFECTIVE DATE: When bill becomes law

BILL SUMMARY:
The Proposed Committee Substitute for Senate Bill 1036 would:

- Authorize DMV to develop specialized license plates for motorcycles. Under this bill, DMV would be authorized to develop for a motorcycle any special registration plate that is currently authorized for other motor vehicles. If a special registration plate is subject to a minimum 300-application requirement, then there would also have to be a minimum of 300 applications for that plate to be developed as a motorcycle plate.
- Authorize DMV to issue two new special registration plates: one for the Back Country Horsemen of NC and one for the Maggie Valley Trout Festival.

ASSUMPTIONS AND METHODOLOGY:
Senate Bill 1036 authorizes two special plates subject to the $10 fee and therefore is anticipated to have a fiscal impact. Fiscal Research Division does not have any means to

determine how many individuals will sign up for either of these plates and therefore cannot provide a monetary estimate.

SOURCES OF DATA: NC DOT

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Joseph Futima

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 463

Committee Substitute Favorable 3/27/07
Committee Substitute #2 Favorable 6/5/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H463-CSMCx-33 [v.1]

6/26/2007 5:45:40 PM

Short Title: Conservation Tax Credit Modifications. (Public)

Sponsors:

Referred to:

March 5, 2007

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CREDIT FOR CERTAIN REAL PROPERTY DONATIONS AND TO CLARIFY THE PRESENT-USE VALUATION OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.34 reads as rewritten:

"**§ 105-130.34. Credit for certain real property donations.**

(a) Any ~~corporation~~ C Corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, ~~or other similar land conservation purposes~~ (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed five hundred thousand dollars ($500,000). To support the credit allowed by this section, the taxpayer must file with ~~its~~ the income tax ~~return,~~return for the taxable year in which the credit is ~~claimed, a certification by the Department of Environment and~~

~~Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~claimed the following:

(1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9."

SECTION 2. G.S. 105-151.12 reads as rewritten:

"**§ 105-151.12. Credit for certain real property donations.**

(a) ~~A person who~~An individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, ~~or (iv) other similar land conservation purposes~~(iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. ~~The credit allowed under this section may not exceed two hundred fifty thousand dollars ($250,000).~~ To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed ~~a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~the following:

(1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.

(2) A self-contained or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty thousand dollars ($250,000). In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a husband and wife filing a joint tax return may not exceed five hundred thousand dollars ($500,000). If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(a2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through entity in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of another pass-through entity, may not exceed five hundred thousand dollars ($500,000). Each individual who is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed two hundred fifty thousand dollars ($250,000). Each corporation that is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed five hundred thousand dollars ($500,000). If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Repealed by Session Laws 1998-212, s. 29A.13(b).

~~(d) In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. If only one spouse is required to~~

~~file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.~~

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.

~~(f) Notwithstanding G.S. 105-269.15, the maximum dollar limit that applies in determining the amount of the credit applicable to a partnership that qualifies for the credit applies separately to each partner.~~"

SECTION 3. G.S. 105-277.3(d1) reads as rewritten:

"(d1) Exception for Easements on Qualified Conservation Lands Previously Appraised at Use Value. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this ~~section.~~ section; and (ii) the taxpayer received no more than fifty percent (50%) of the fair market value of the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to an enforceable conservation easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 4. Section 3 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of this act is effective for taxable years beginning on or after January 1, 2007.

HOUSE BILL 463:
Conservation Tax Credit Modifications

BILL ANALYSIS

Committee:	House Finance	**Date:**	March 26, 2007
Introduced by:	Rep. Luebke	**Summary by:**	Dan Ettefagh
Version:	PCS to First Edition		Committee Counsel

SUMMARY: ***HB 463 would equalize the cap for the conservation tax credit for corporations and pass-through entities at $500,000. The bill, a recommendation of the Revenue Laws Study Committee, would also require any taxpayer claiming the credit to support the claim's represented value of the real property donation by using either certain appraisal reports or the county's appraisal value as adjusted by the sales assessment ratio. The also bill narrows the conservation purposes which qualify the land for a credit. The Proposed Committee Substitute also requires that property appraised at present-use value would continue to qualify for use value appraisal as long as the property was subject to a conservation easement that qualifies for the conservation income tax credit for donated lands and the taxpayer received no more than 50% of the fair market value of the donated property interest as compensation, even if the property no longer meets the production or income requirements for qualified farmland. The PCS further makes technical and clarifying changes to the bill requested by the Department of Revenue and clarifies that married couples filing jointly are entitled to the same tax credit cap as two unrelated individuals making an equivalent donation of property.***

[As introduced, this bill was identical to S241, as introduced by Sen. Clodfelter, which is currently in Senate Finance.]

CURRENT LAW: Under current law, a taxpayer receives an income tax credit for certain donations of real property located in North Carolina. The amount of the credit is 25% of the fair market value of the donated property interest, capped at $250,000 for individuals and $500,000 for corporations. To be eligible for the credit, the land must be useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes, and the land must be donated in perpetuity to and accepted by the State, a local government, or a body organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions.

In support of the claim of the credit, a taxpayer is required to file with the income tax return a certification by DENR that the property is suitable for the statutorily listed conservation purposes. DENR does not review the documentation in an effort to verify the taxpayer's representation as to the fair market value of the donated property interest.

BILL ANALYSIS: The PCS for House Bill 463 accomplishes the following four primary functions:

- It brings equity to the tax treatment of C Corporation and pass-through entity taxpayers by equalizing the tax credit dollar amount limitation for both at $500,000.
- It addresses valuation concerns of donated property by requiring the use of certain types of supported appraisal reports or the county's appraisal value.
- It reduces uncertainty with respect to the types of uses that qualify for conservation purposes by substituting specific uses in place of a catch-all use.

- It clarifies the present-use valuation of property subject to a conservation easement.

With respect to the first primary function, the PCS for House Bill 463 raises the existing conservation tax credit dollar limitation for pass-through entities from $250,000 to $500,000. Current law limits the tax credit a pass-through business entity receives for conservation land donations to $250,000 while C Corporation business entities receive $500,000 for similarly valued conservation land donations. This bill brings the credit for pass-through entities to the same level as that which is available to C Corporations for similar donations of land useful for conservation purposes.

With respect to the second primary function, the PCS for House Bill 463 addresses concerns regarding the accuracy of the stated fair market value of donated property interests. These concerns, reported by the Department, stem from (a) the use of restricted appraisal reports that are compiled specifically for one person and contain little or no information relied upon by the appraiser to formulate the property's value and (b) the lack of any requirement in the current law of specific documentation useful for establishing the fair market value of the donation. The bill addresses this issue by requiring a taxpayer to support a claim for a credit with either a self-contained or a summary appraisal report, which are two types of reports defined by Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice and required to have certain information included supporting the valuation determination. A taxpayer may elect, for fee simple donations of property only, to use the county's appraised value of the property as adjusted by the sales assessment ratio.

With respect to the third primary function, the PCS for House Bill 463 adds specificity to what conservation purposes qualify for the conservation tax credit. Differences in the statutory construction of the phrase, "other similar land conservation purposes" developed between DENR and Revenue. The bill eliminates the phrase and substitutes six, new, specific conservation purposes: forestland or farmland conservation, watershed protection, conservation of natural areas as that term is defined in G.S. 113A-164.3(3), conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, conservation of predominantly natural parkland, or historic landscape conservation.

With respect to the fourth primary function, the PCS for House Bill 463 allows present-use valued property that becomes subject to a conservation easement that qualifies for the conservation income tax credit for donated lands to remain in present-use value as long as the taxpayer received no more than 50% of the fair market value of the donated property interest in compensation. In section 2 of S.L. 2002-184, the General Assembly created an exception to the present-use value statutes for land appraised at its present-use value that becomes subject to a conservation easement that would qualify for the conservation income tax credit. This exception allows the land subject to the easement to remain in present-use value for property tax purposes, even though the land no longer meets the production and income requirements of present-use value. The Property Tax Division within the Department of Revenue has given this exception a narrow interpretation, thus allowing the property to stay in present-use value only when the entire conservation easement is donated. In contrast, the Income Tax Division within the Department has allowed an income tax credit for any percentage of the easement value that is donated. For example, if a taxpayer donates an easement for conservation purposes to the State valued at $100,000 and receives $60,000 for the easement, the taxpayer has donated an easement worth $40,000. The taxpayer is then allowed an income tax credit equal to 25% of the donated value, or $10,000. However, because the taxpayer received some compensation for the easement, the Property Tax Division denies the property present-use value status and requires the taxpayer to pay deferred taxes.

Finally, the PCS makes a technical change to the language of G.S. 105-130.34 to refer specifically to C Corporations, since G.S. 105-151.12 deals with pass-through entities, including S Corporations, and clarifies that the cap for a married couple filing jointly is $500,000.

EFFECTIVE DATE: This bill would become effective for taxable years beginning on or after January 1, 2007.

BACKGROUND: The conservation tax credit was enacted in 1983 with a dollar limitation for all taxpayers of $5,000. That cap was raised in 1989 (to $25,000 for all taxpayers), 1997 (to $100,000 for individuals and $250,000 for corporations), and in 1999 (to $250,000 for individuals and $500,000 for corporations).

Prior to January 1, 2007, the cap for individuals claiming a conservation tax credit was not applied to pass-through entities as a whole. Rather, the pass-through entity received tax credits up to the statutory dollar amount limitation for each member making a qualifying donation. In 2001, the Revenue Laws Study Committee proposed that North Carolina begin applying dollar amount limitations of most tax credits to pass-through entities as a whole as well as to each individual partner. Doing so brought North Carolina into conformity with how federal law allowed pass-through entities to take tax credits. While the original proposal applied to the conservation tax credit, the bill ultimately enacted excluded the conservation tax credit and preserved the historic treatment of pass-through entities taking the tax credit by applying the cap only to the individual members of the pass-through entity and not to the entity as a whole. This exception for the conservation tax credit was originally set to expire in 2005; however, the sunset was extended twice, preserving the unique application of the cap for the conservation tax credit until it expired on January 1, 2007. Effective January 1, 2007, pass-through entities claiming the conservation tax credit are limited, as are all individual taxpayers, to a cap of $250,000. The amount of the tax credit dollar limitation for C Corporations claiming the conservation tax credit is $500,000.

H0463e1-SMMC

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 463 (Third Edition)

SHORT TITLE: Conservation Tax Credit Modifications.

SPONSOR(S): Representative Luebke

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:		***See Assumptions and Methodology***			
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: January 1, 2007

BILL SUMMARY:

This legislative proposal would equalize the cap for the conservation tax credit for corporations and pass-through entities at $500,000. Individuals can receive a credit not to exceed $250,000 and as amended, married taxpayers filing jointly can receive a tax credit up to $500,000 rather than the $250,000 cap under current law. The bill would also require any taxpayer claiming the credit to support the claim's represented value of the real property donation by using either certain appraisal reports or the county's appraisal value as adjusted by the sales assessment ratio. Finally, the bill narrows the conservation purposes that qualify the land for a credit.

ASSUMPTIONS AND METHODOLOGY:

Based on discussions with the Department of Revenue, there is not sufficient data available for an accurate assessment of the overall fiscal impact from the proposed changes in the bill. Fiscal Research thinks that raising the cap on pass through entities may lead to granting higher tax credits

for donated lands, while the improved valuation guidelines and a more narrowly defined conservation purpose may offset the increased credit cap for pass through entities. Increasing the credits allowed for married couples filing jointly may allow a few taxpayers to receive more credits than allowed under current law. The Department of Revenue in analyzing past returns of married filers claiming the conservation credit have estimated the impact at less than $500,000 per tax year.

SOURCES OF DATA: Department of Revenue

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY:

Barry Boardman

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: June 26, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 540*

PROPOSED COMMITTEE SUBSTITUTE S540-CSRBx-40 [v.3]

Short Title: Revenue Laws & Motor Fuels Tax Tech. Changes. (Public)

Sponsors:

Referred to:

March 7, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS, MOTOR FUELS TAX LAWS, AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53B-4(2) reads as rewritten:

"(2) Authorization under G.S. ~~105-251, 105-251.1,~~ 105-251 or G.S. 105-258."

SECTION 2. G.S. 105-40(7a) reads as rewritten:

"(7a) All exhibitions, performances, and entertainments promoted and managed by 'a nonprofit arts organization.' ~~organization' that is exempt from income tax under G.S. 105-130.11(a)(3).~~ This exemption does not apply to athletic events. A 'nonprofit arts organization' is an organization that meets both of the following requirements:

a. It is exempt from income tax under G.S. 105-130.11(a)(3).

b. Its primary purpose is to offer choral and theatrical performances."

SECTION 3.(a) G.S. 105-40(10) reads as rewritten:

"(10) Arts festivals held by a person that is exempt from income tax under Article 4 of this Chapter and that meets the following conditions:

a. The person holds no more than two arts festivals during a calendar year.

b. Each of the person's arts festivals last no more than seven consecutive days.

c. The arts festivals are held outdoors on public property and involve a variety of exhibitions, entertainments, and activities."

SECTION 3.(b) G.S. 105-40(11) reads as rewritten:

"(11) Community festivals held by a person who is exempt from income tax under Article 4 of this Chapter and that meets all of the following conditions:

a. The person holds no more than one community festival during a calendar year.

b. The community festival lasts no more than seven consecutive days.

c. The community festival involves a variety of exhibitions, entertainments, and activities, the majority of which are held outdoors and are open to the public."

SECTION 4. G.S. 105-113.82(a) reads as rewritten:

"(a) Amount, Method. – The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March ~~31, less the amount of the net proceeds credited to the Department of Commerce under G.S. 105-113.81A,~~ 31 to the counties and cities in which the retail sale of these beverages is authorized in the entire county or city:

(1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23¾%);

(2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and

(3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

For purposes of this subsection, 'net amount' means gross collections less refunds and amounts credited to the Department of Commerce under G.S. 105-113.81A. If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributed under subdivisions (1), (2), and (3) shall be computed separately."

SECTION 5. G.S. 105-129.16E(b) reads as rewritten:

"(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its ~~business~~ apportionable income to this State."

SECTION 6. G.S. 105-129.87(b) reads as rewritten:

"(b) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier designation of the county where the new

jobs are created during the taxable year. If the taxpayer creates new jobs at more than one eligible establishment in a county during the taxable year, the threshold applies to the aggregate number of new jobs created at all eligible establishments within the county during that year. If the taxpayer creates new jobs at eligible establishments in different counties during the taxable year, the threshold applies separately to the aggregate number of new jobs created at eligible establishments in each county. If the taxpayer creates new jobs in an urban progress zone or an agrarian growth zone, the applicable threshold is the one for a development tier one area. New jobs created in an urban progress zone or an agrarian growth zone are not aggregated with jobs created at any other eligible establishments regardless of county.

Area Development Tier	Threshold
Tier One	5
Tier Two	10
Tier Three	15"

SECTION 7. G.S. 105-129.88(c) reads as rewritten:

"(c) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier where the eligible business property is placed in service during the taxable year. If the taxpayer places business property in service in an urban progress zone or an agrarian growth zone, the applicable threshold is the one for a development tier one area. Business property placed in service in an urban progress zone or an agrarian growth zone is not aggregated with business property placed in service at any other eligible establishments regardless of county. If the taxpayer places eligible business property in service at more than one establishment in a county during the taxable year, the threshold applies to the aggregate amount of eligible business property placed in service during the taxable year at all establishments in the county. If the taxpayer places eligible business property in service at establishments in different counties, the threshold applies separately to the aggregate amount of eligible business property placed in service in each county. If the taxpayer places eligible ~~machinery and equipment~~business property in service at an establishment over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Development Tier	Threshold
Tier One	$ -0-
Tier Two	1,000,000
Tier Three	2,000,000"

SECTION 8. G.S. 105-129.88(e) reads as rewritten:

"(e) Transferred Property. – If, in one of the four years in which the installment of a credit accrues, the business property with respect to which the credit was claimed is moved to a county in a higher-numbered development tier or ~~to~~ out of an urban progress zone or an agrarian growth zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the business property had been placed in service initially in the area to which it was moved. If, in one of the four years in which the installment of a credit accrues, the business property with respect to which a credit was claimed is moved to a county in a lower-numbered development tier or an

urban progress zone or an agrarian growth zone, the remaining installments of the credit shall be calculated as if the business property had been placed in service initially in the area to which it was moved."

SECTION 9.(a) G.S. 105-130.48(e) reads as rewritten:

"(e) Documentation of Credit. – ~~To~~ Upon request, to support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer."

SECTION 9(b). G.S. 105-151.30(d) reads as rewritten:

"(d) Documentation of Credit. – ~~To~~ Upon request, to support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer."

SECTION 10. G.S. 105-164.13(52) reads as rewritten:

"(52) Items subject to sales and use tax under G.S. 105-164.4, other than ~~electricity and~~ electricity, telecommunications service, and ancillary service as defined in G.S. 105-164.4, if all of the following conditions are met:

~~(a)~~a. The items are purchased by a State agency for its own use and in accordance with G.S. 105-164.29A.

~~(b)~~b. The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account of the State agency.

~~(c)~~c. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number."

SECTION 11. G.S. 105-164.16(b1) reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for ~~more than~~at least one hundred dollars ($100.00) but less than ten thousand dollars ($10,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return."

SECTION 12. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases tangible personal ~~property~~property, excluding purchases of boats and aircrafts, outside the State for a nonbusiness purpose is due on an annual basis. For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use tax return is due by the following April 15. For an individual who is

required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14."

SECTION 13.(a) G.S. 105-187.51B reads as rewritten:

"**§ 105-187.51B. Tax imposed on certain recyclers and research and development companies.**

(a) Tax. – A privilege tax is imposed on the following:

(1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:

a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

b. Port and dock facilities.

c. Rail equipment.

d. Material handling equipment.

(2) A research and development company in the physical, engineering, and life sciences that is included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company in the research and development of tangible personal property.

c. Would be considered mill machinery or mill machinery parts or accessories under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars ($80.00) per article."

SECTION 13.(b) This section becomes effective July 1, 2007.

SECTION 14. G.S. 105-187.52 reads as rewritten:

"**§ 105-187.52. Administration.**

(a) Administration. – The privilege taxes imposed by this Article are in addition to the State use tax. Except as otherwise provided in this Article, the collection and administration of these taxes is the same as the State use tax imposed by Article 5 of this Chapter.

(b) Credit. – A credit is allowed against the tax imposed by this Article for the amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax paid to another state. The credit allowed by this subsection does not apply to tax paid to another state that does not grant a similar credit for the privilege tax paid in North Carolina.

(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this Article."

SECTION 15. G.S. 105-258(a) reads as rewritten:

"(a) Secretary May Examine Data and Summon Persons. The Secretary of Revenue, for the purpose of ascertaining the correctness of any return, making a return where none has been made, or determining the liability of any person for ~~any tax imposed by this Subchapter,~~a tax, or collecting any such tax, shall have the power to examine, personally, or by an agent designated by him, any books, papers, records, or other data which may be relevant or material to such inquiry, and the Secretary may summon the person liable for the tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may administer oaths to such person or persons. If any person so summoned refuses to obey such summons or to give testimony when summoned, the Secretary may apply to the Superior Court of Wake County for an order requiring such person or persons to comply with the summons of the Secretary, and the failure to comply with such court order shall be punished as for contempt."

SECTION 16.(a) G.S. 105-449.52 reads as rewritten:

"**§ 105-449.52. Civil penalties applicable to motor carriers.**

(a) Penalty. – A motor carrier who does any of the following is subject to a civil penalty:

(1) Operates in this State or causes to be operated in this State a motor vehicle that either fails to carry the registration card required by this Article or fails to display an identification marker in accordance with this Article. The amount of the penalty is one hundred dollars ($100.00).

(2) Is unable to account for identification markers the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars ($100.00) for each identification marker the carrier is unable to account for.

(3) Displays an identification marker on a motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars ($1,000) for each identification marker unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the identification marker and the motor carrier displaying the unlawfully obtained identification marker are jointly and severally liable for the penalty under this subdivision.

~~A~~

(a1) Payment. – A penalty imposed under this section is payable to the ~~Department of Revenue, the Department of Crime Control and Public Safety, or the Division of Motor Vehicles.~~ agency that assessed the penalty. When a motor vehicle is found to be operating without a registration card or an identification marker or with an

identification marker the Secretary did not issue for the vehicle, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty.

(b) Hearing. – The procedure set out in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

SECTION 16.(b) G.S. 105-449.115(f) reads as rewritten:

"(f) Sanctions Against Transporter. – The following acts are grounds for a civil ~~penalty payable to the Department of Crime Control and Public Safety or the Department of Revenue:~~penalty:

(1) Transporting motor fuel in a railroad tank car or transport truck without a shipping document or with a false or an incomplete shipping document.

(2) Delivering motor fuel to a destination state other than that shown on the shipping document.

The penalty ~~imposed under this subsection~~ is payable to the agency that assessed the penalty and is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars ($5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed."

SECTION 16.(c) G.S. 105-449.115A(c) reads as rewritten:

"(c) Sanctions. – Transporting motor fuel in a tank wagon without an invoice, bill of sale, or shipping document containing the information required by this section is grounds for a civil ~~penalty payable to the Department of Crime Control and Public Safety or the Department of Revenue.~~penalty. The penalty ~~imposed under this subsection~~ is payable to the agency that assessed the penalty and is payable by the person in whose name the tank wagon is registered. The amount of the penalty is one thousand dollars ($1,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed."

SECTION 16.(d) G.S. 105-449.117(b) reads as rewritten:

"(b) Civil Penalty. – The civil penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue~~ agency that assessed the penalty and is payable by the person in whose name the highway vehicle is registered. The amount of the penalty depends on the amount of fuel in the supply tank of the highway vehicle. The penalty is the greater of one thousand dollars ($1,000) or five times the amount of motor fuel tax payable on the fuel in the supply tank. A penalty imposed under this section is in addition to any motor fuel tax assessed."

SECTION 16.(e) G.S. 105-449.118 reads as rewritten:

"**§ 105-449.118. Civil penalty for buying or selling non-tax-paid motor fuel.**

A person who dispenses non-tax-paid motor fuel into the supply tank of a highway vehicle or who allows non-tax-paid motor fuel to be dispensed into the supply tank of a

highway vehicle is subject to a civil penalty of two hundred fifty dollars ($250.00) per occurrence.

The penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue.~~ agency that assessed the penalty. Failure to pay a penalty imposed under this section is grounds under G.S. 20-88.01(b) to withhold or revoke the registration plate of the motor vehicle into which the motor fuel was dispensed."

SECTION 16.(f) G.S. 105-449.118A reads as rewritten:

"**§ 105-449.118A. Civil penalty for refusing to allow the taking of a motor fuel sample.**

A person who refuses to allow the taking of a motor fuel sample is subject to a civil penalty of one thousand dollars ($1,000). The penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue.~~ agency that assessed the penalty. If the refusal is for a sample to be taken from a vehicle, the penalty is payable by the person in whose name the vehicle is registered. If the refusal is for a sample to be taken from any other storage tank or container, the penalty is payable by the owner of the container."

SECTION 17.(a) G.S. 105-449.72(a) reads as rewritten:

"(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:

(1) For an applicant for a license as any of the following, the amount is two million dollars ($2,000,000):
   a. A refiner.
   b. A terminal operator.
   c. A supplier that is a position holder or a person that receives motor fuel pursuant to a two-party exchange.
   d. A bonded importer.
   e. A permissive supplier.

(2) For an applicant for a license as any of the following, the amount is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. The amount may not be less than two thousand dollars ($2,000) and may not be more than five hundred thousand dollars ($500,000):
   ~~a. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange.~~
   b. An occasional importer.
   c. A tank wagon importer.
   d. A distributor.

e. Repealed by Session Laws 1997-60, s. 5, effective October 5, 1997.

(3) For an applicant for a license ~~as a blender,~~ as any of the following, a bond is required only if the applicant's average expected annual tax liability under this Article, as determined by the Secretary, is at least two thousand dollars ($2,000). When a bond is required, the bond amount is the same as under subdivision (2) of this subsection.

a. A blender.

b. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange."

SECTION 17.(b) This section becomes effective October 1, 2007.

SECTION 18.(a) G.S. 105-449.115(g) reads as rewritten:

"(g) Penalty Defense. – Compliance with the conditions set out in this subsection is a defense to a civil penalty imposed under subsection (f) of this section as a result of the delivery of fuel to a state other than the destination state printed on the shipping document for the fuel. The Secretary must waive a penalty imposed against a person under that subsection if the person establishes a defense under this subsection. The conditions for the defense are:

(1) The person notified the Secretary of the diversion ~~within seven days after the diversion occurred~~ and received a confirmation number for the ~~diversion.~~diversion before the imposition of the penalty.

(2) Tax was timely paid on the diverted ~~fuel.~~fuel, unless the person is a motor fuel transporter."

SECTION 18.(b) This section is effective when it becomes law and applies to penalties assessed on or after that date and to refund requests that have not been finally determined as of that date.

SECTION 19. G.S. 115D-31.3(j) reads as rewritten:

"(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is ~~located:~~located meets all of the following:

(1) Is designated as a Tier 1 or Tier 2 county in accordance with~~G.S. 105-129.3;~~ G.S. 143B-437.08.

(2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar ~~year; and~~year.

(3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

SECTION 20. G.S. 119-17 is repealed.

SECTION 21.(a) Subsection (a) of Section 12 of Part V of Chapter 908 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(b) Section 39 of Part IX of Chapter 908 of the 1983 Session Laws reads as rewritten:

"**Sec. 39.** Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both."

SECTION 21.(c) Subsection (a) of Section 26 of Part VII of Chapter 908 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(d) Subsection (a) of Section 4 of Chapter 988 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(e) Subsection (a) of Section 3 of Chapter 1055 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(f) Section 10 of Part IV of Chapter 570 of the 1985 Session Laws reads as rewritten:

"**Sec. 10.** Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both."

SECTION 21.(g) Subsection (a) of Section 4 of Chapter 857 of the 1985 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by Onslow County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(h) Subsection (c) of Section 1 of Chapter 892 of the 1985 Session Laws, as amended by Chapter 154 of the 1991 Session Laws, reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(i) Subsection (c) of Section 1 of Chapter 923 of the 1985 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law. "

SECTION 21.(j) Subsection (a) of Section 4 of Chapter 929 of the 1985 Session Laws as amended by S.L.1985-929 reads as rewritten:

"(a) Any tax levied under this act is due and payable to the levying jurisdiction in monthly installments on or before the ~~25th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~25th~~ 20th day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(k) Subsection (c) of Section 1 of Chapter 969 of the 1985 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly

installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(l) Subsection (c) of Section 1 of Chapter 140 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer the tax levied under this act. The tax shall be due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax is collected. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals subject to the tax. A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(m) Subsection (c) of Section 1 of Chapter 141 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(n) Subsection (c) of Section 1 of Chapter 143 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(o) Subsection (c) of Section 1 of Chapter 170 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly

installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(p) Subsection (c) of Section 5 of Chapter 172 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(q) Subsection (a) of Section 3 of Chapter 188 of the 1987 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(r) Subsection (c) of Section 1 of Title I. of Chapter 460 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The Town shall administer a tax levied under this section. A tax levied under this section is due and payable to the Town revenue collector in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the Town. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied."

SECTION 21.(s) Subsection (c) of Section 1 of Chapter 472 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(t) Subsection (c) of Section 1 of Chapter 484 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(u) Subsection (c) of Section 1 of Chapter 538 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(v) Subsection (c) of Section 1 of Chapter 561 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(w) Subsection (c) of Section 1 of Chapter 618 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(x) Subsection (a) of Section 4 of Chapter 647 of the 1987 Session Laws reads as rewritten:

"(a) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(y) Subsection (c) of Section 1 of Chapter 950 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(z) Subsection (c) of Section 1 of Chapter 979 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(aa) Subsection (c) of Section 1 of Chapter 173 of the 1989 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(bb) Subsection (c) of Section 1 of Chapter 422 of the 1989 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(cc) Subsection (e) of Section 8 of Chapter 821 of the 1989 Session Laws reads as rewritten:

"(e) Administration. Mecklenburg County and the City of Charlotte shall determine by agreement which of them will administer and collect each of the taxes levied pursuant to this Part. In the event an agreement cannot be reached, then any tax levied pursuant to this Part shall be administered and collected by Mecklenburg County. The local administrative authority may promulgate additional rules and regulations necessary for the implementation of this Part.

The taxes levied pursuant to this Part are due and payable to the local administrative authority as agent for the taxing entity in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return to the local administrative authority. The local administrative authority shall design, print, and furnish to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

A return filed with the local administrative authority under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(dd) Subsection (c) of Section 1 of Chapter 163 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ee) Subsection (c) of Section 1 of Chapter 230 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly

installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ff) Subsection (c) of Section 1 of Chapter 392 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(gg) Subsection (c) of Section 5 of Chapter 577 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(hh) Section 9 of Chapter 594 of the 1991 Session Laws, as amended by Section 5 of Chapter 458 of the 1995 Session Laws, reads as rewritten:

"Sec. 9. Administration. – The county shall administer and collect the taxes levied pursuant to this act. Wake County may contract with the City of Raleigh to perform these functions.

The taxes levied pursuant to this act are due and payable to the county in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return to the county. The county shall design, print, and furnish on request to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Returns filed with the county pursuant to this act are not public records and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 21.(ii) Subsection (c) of Section 1 of Chapter 453 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(jj) Subsection (c) of Section 1 of Chapter 549 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(kk) Subsection (c) of Section 1 of Part 1 of Chapter 642 of the 1993 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ll) Subsection (c) of Section 1 of Chapter 648 of the 1993 Session Laws reads as rewritten:

"(c) Administration. The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(mm) Subsection (c) of Section 1 of Chapter 695 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the town under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(nn) Subsection (c) of Section 1 of Chapter 530 of the 1995 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 22.(a) Section 9 of S.L. 2005-294 is repealed.

SECTION 22.(b) S.L. 2005-294 is amended by adding a new section to read:

"**SECTION 9.1.** G.S. 105-330.10 reads as rewritten:

"**§ 105-330.10. Disposition of interest.**

~~Sixty percent (60%) of the first month's~~The interest collected on unpaid ~~taxes~~ registration fees pursuant to G.S. 105-330.4 shall be transferred on a monthly basis to the ~~Combined Motor Vehicle and Registration Account created within the Treasurer's Office.~~North Carolina Highway Fund for technology improvements within the Division of Motor Vehicles. ~~The funds in this account shall be used to develop and implement an integrated computer system within the Division of Motor Vehicles that would allow for the combined assessment, billing, and collection of property taxes on motor vehicles and the issuance of registration plates. The Treasurer shall report to the Revenue Laws Study Committee semi-annually with the first report due by April 30, 2006. The report shall contain a detailed description of the amount of moneys transferred to the Account and distributed from the Account.~~"

SECTION 22.(c) Section 13 of S.L. 2005-294, as amended by Section 31.5 of S.L. 2006-259, reads as rewritten:

"**SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006. Sections 1, 2, 3, 5, 6, 7, ~~9,~~ 9.1, 10, and 11 of this act become effective July 1, 2010, or

when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. Sections 12 and 13 of this act are effective when they become law. Nothing in this act shall require the General Assembly to appropriate funds to implement it for the biennium ending June 30, 2007."

SECTION 23. The introductory language of Section 6 of S.L. 2006-128 reads as rewritten:

"**SECTION 6.** G.S. ~~153A-215(g)~~153A-155(g) reads as rewritten:"

SECTION 24. Section 33 of S.L. 2006-162 reads as rewritten:

"**SECTION 33.** ~~Section 4~~Sections 4(a) and 4(b) of this act ~~is~~are effective for taxable years beginning on or after January 1, 2006. Section 13 of this act becomes effective July 1, 2007, and applies to motor fuel transported on or after that date. Sections 14, 15, and 17 of this act become effective January 1, 2007, and apply to motor fuel purchased on or after that date. An exempt card or code will not be valid for sales of motor fuel at the terminal rack on or after January 1, 2007. Section 26 of this act is effective when it becomes law and applies to the estates of decedents dying on or after January 1, 2005. Section 32 of this act becomes effective January 1, 2007. The remainder of this act is effective when it becomes law."

SECTION 25. Sec. 8.4 of Chapter 692 of the 1989 Session Laws is repealed.

SECTION 26.(a) G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges ~~with respect to which credits were taken.~~assessed for the taxable year.

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

SECTION 26.(b) G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges ~~with respect to which credits were taken.~~assessed for the taxable year.

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

SECTION 27. G.S. 105-164.13(38) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

...

(38) Food and other items lawfully purchased under the Food Stamp Program, ~~7 U.S.C. § 51,~~ 7 U.S.C. § 2011, and supplemental foods lawfully purchased with a food instrument issued under the Special

Supplemental Food Program, 42 U.S.C. § 1786, and supplemental foods purchased for direct distribution by the Special Supplemental Food Program."

SECTION 28. G.S. 105-164.44I is amended by adding a new subsection to read:

"(c1) Revised Certification. – If a county or city determines that the amount of cable franchise tax it imposed during the first six months of the 2006-2007 fiscal year differs from the amount certified to the Secretary under subsection (c) of this section, the county or city may submit a new certification to the Secretary revising the amount. For distributions for quarters beginning on or after October 1, 2007, the Secretary must determine the proportionate share of a county or city based upon certifications submitted on or before October 1, 2007. For distributions for quarters beginning on or after April 1, 2008, the Secretary must determine the proportionate share of a county or city based upon certifications submitted on or before April 1, 2008. Certifications submitted after April 1, 2008, may not be used to adjust a county's or city's base amount under subsection (c) of this section."

SECTION 29. G.S. 105-187.9 reads as rewritten:

"**§ 105-187.9. Disposition of tax proceeds.**

(a) ~~Distribution. Taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. Taxes collected under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund.~~

~~(b) Transfer. In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~

~~(1) The sum of one hundred seventy million dollars ($170,000,000).~~

~~(2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars ($1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars ($2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available.~~

(a) Highway Trust Fund. – All taxes collected under this Article must be credited to the Highway Trust Fund unless subsection (b) of this section requires a different disposition.

(b) General Fund. – The following taxes collected under this Article must be credited to the General Fund:

(1) Taxes collected at the rate of eight percent (8%).

(2) Forty two million five hundred thousand dollars ($42,500,000) of the amount collected each quarter at the rate of three percent (3%).

(3) For the 2006-07 fiscal year, the sum of two million four hundred eighty-six thousand six hundred two dollars ($2,485,602). For each subsequent fiscal year, a sum equal to the amount credited under this subdivision the previous fiscal year plus or minus the percentage of this amount that equals the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

SECTION 30. G.S. 105-187.11 is repealed.

SECTION 31. G.S. 105-241(b)(2) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

...

(2) ~~Semimonthly~~ Prepayment taxes. – A taxpayer that is required to ~~pay tax on a semimonthly schedule~~ prepay tax must pay the tax by electronic funds transfer."

SECTION 32. G.S. 105-248.1 is repealed.

SECTION 33. G.S. 105-259(b)(3) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(3) ~~Review by~~ To exchange the following types of information with a tax official of another jurisdiction if the laws of the other jurisdiction allow it to provide similar tax information to a representative of this State:

a. ~~to~~ Information to aid the jurisdiction in collecting a tax imposed by this State or the other ~~jurisdiction if the laws of the other jurisdiction allow it to provide similar tax information to a representative of this State.~~jurisdiction.

b. Information needed for statistical reports and revenue estimates."

SECTION 34. G.S. 105-259(b)(7) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(7) To exchange information with the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, the Division of Motor Vehicles of the Department of Transportation, ~~or~~ the International Fuel Tax Association, Inc., or the Joint Operations for

Fuel Tax Compliance when the information is needed to fulfill a duty imposed on the Department of Revenue, the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, or the Division of Motor Vehicles of the Department of Transportation."

SECTION 35. G.S. 105-259(b)(13) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(13) To furnish the following to the Fiscal Research Division of the General Assembly, upon ~~request, a~~ request:

a. A sample, suitable in character, composition, and size for statistical analyses, of tax returns or other tax information from which taxpayers' names and identification numbers have been removed.

b. An analysis of the fiscal impact of proposed legislation."

SECTION 36. G.S. 105-259 (b)(27) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(27) To provide a report required under this Chapter.

~~105-129.85~~"

SECTION 37. G.S. 105-275(41) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(41) Objects of art held by the North Carolina State Art Society, Incorporated."

SECTION 38. G.S. 105-449.81(3a) is repealed.

SECTION 39. G.S. 142-95 is repealed.

SECTION 40. Article 3 of Chapter 159D of the General Statutes is repealed.

SECTION 41. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 540:
Revenue Laws & Motor Fuels Tax Tech. Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 22, 2007
Introduced by:	Sen. Hartsell	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S540-CSRB		Committee Counsel

SUMMARY: ***The proposed committee substitute for Senate Bill 540 makes several technical, clarifying, and administrative changes to the revenue laws and related statutes. The provisions contained in Sections 1 through 24 of the bill were contained in the bill as introduced. The remaining sections have been added in this proposed committee substitute.***

BILL ANALYSIS: This bill makes the following technical, clarifying, and administrative changes:

Section	Explanation
1	Deletes reference to a repealed statute.
2	Clarifies the term "arts organization" in the area of exemptions from the gross receipts tax on amusements.
3	Clarifies the duration of an arts festival and a community festival, for purposes of the exemption from the gross receipts tax on amusements. Under current law the festival may not last more than seven days. This provision would clarify to say seven consecutive days.
4	Clarifies that the allocation of tax proceeds from the excise tax on fortified wine to the NC Wine and Grape Growers Council occurs before the revenues are distributed to counties and cities in which the retail sale of alcoholic beverages are authorized to be sold.
5	Substitutes the defined term "apportionable" for the term "business."
6-7	Clarifies that for the purposes of granting credits for the creation of new jobs, urban progress and agrarian growth zones should be treated separately from other eligible establishments.
7	Section 7 also substitutes the defined term "business property" for term "machinery and equipment."
8	Substitutes the appropriate reference "out of," for the prior reference "to."
9	Alters the documentation process for the credit for recycling oyster shells to reflect the current Department of Revenue practice. DENR maintains the information for the Department so that this general requirement is not necessary.
10	Adds ancillary services to items for which the sales tax exemption for State agencies does not apply, in order to conform to the changes made in S.L. 2006-33. S.L. 2006-33 separated ancillary services from telecommunications services to conform to the Streamlined Sales Tax Agreement. The change did not alter the taxation of these services.
11	Clarifies the dollar threshold for filing monthly sales tax returns.

12	Clarifies the payment of use tax on purchases of boats and airplanes would not be made on the use tax line of the income tax return. The payment of use tax on these items is due by the 20th day of the month following the purchase. Boats and aircraft are registered and the Department examines information on registration to verify that use tax has been paid
13	Clarifies that the 1% privilege tax on the purchase of equipment by a research and development company applies to equipment that would be considered mill machinery *parts and accessories* as well as mill machinery itself. The tax was intended to correspond to the property used by manufacturers for research and development. This section becomes effective July 1, 2007; that is the date that the 1% privilege tax begins to apply to equipment purchased by a research and development company. Prior to this date, the equipment was subject to the State and local sales tax.
14	Exempts State agencies from the privilege tax imposed on mill machinery. The Department has interpreted the sales tax exemption for State agencies to also apply to this tax since the tax was established when these products were exempted from the sales tax in January 2006 to conform with the Streamlined Sales Tax Agreement. Under the Agreement, the State must have uniform rates. Rather than increase the tax rate on these items, they were exempt from sales tax and subject to this new privilege tax. The Department of Correction industries constitute manufacturing plants and thus purchase equipment subject to this tax.
15	Provides that the Secretary of Revenue's authority to summon records also applies to the motor fuel tax statutes. The section makes this change by using the defined term 'tax'. G.S. 105-228.90 defines 'tax' includes all of the State levied taxes.
16	Provides that a civil penalty imposed under the motor fuel statutes is payable to the agency that assessed the penalty. In addition to the Department of Revenue, G.S. 105-269.3 provides that the State Highway Patrol, law enforcement officers, and other appropriate personnel in the Department of Crime Control and Public Safety may enforce the motor fuel tax laws. The reorganization of the Division of Motor Vehicles in 2003 moved the State Highway Patrol from DMV to the Department of Crime Control and Public Safety. This substantive change in 2003 necessitated technical, conforming changes to the tax statutes. The wording proposed by this section would eliminate the need for similar conforming changes in the future.
17	Provides that a fuel alcohol provider and a biodiesel provider need only post a bond to receive a license as a supplier[1] if its annual motor fuel tax liability is at least $2,000. Under current law, to be licensed as a supplier, a fuel alcohol provider or a biodiesel provider must post a bond in an amount that is two times the applicant's average expected monthly tax liability. The amount may not be less than $2,000 and may not be more than $5,000. Under this section, if a fuel alcohol provider or biodiesel provider must post a bond, then the amount would be the same as the current law bond requirement. This section would become effective October 1, 2007.
18	Modifies the defense to imposition of a penalty for failure to obtain a diversion number for motor fuel delivered to a state other than the destination state printed on the

[1] A supplier is defined as any of the following: a position holder or a person who receives motor fuel pursuant to a two-party exchange, a fuel alcohol provider, a biodiesel provider, or a refiner. (G.S. 105-449.60)

	shipping document. Under current law, the defense is that the person notified the Secretary of the diversion within seven days after the diversion occurred and timely paid the tax on the diverted fuel.[2] This section removes the seven-day time period by providing that the notification must have occurred prior to the imposition of the penalty. It also removes the requirement that the tax be timely paid if the person assessed with the penalty is the motor fuel transporter because it is not the motor fuel transporter's responsibility to pay the tax. This section is effective when it becomes law and applies to penalties assessed on or after that date and to refund requests that have not been finally determined as of that date.
19	Substitutes the correct statutory reference.
20	Repeals an unnecessary statute. Article 3 of Chapter 119 directs the Commissioner of Agriculture to inspect alternative fuel, motor fuel, and kerosene to protect the public. This statute says that various fuels are subject to inspection. It does not appear to be a necessary statute because the provisions of Article 3 govern what fuel is inspected and what standards the fuel must meet. The terms 'alternative fuel', 'motor fuel', and 'kerosene' are defined terms in Article 3.
21	Conforms the date a local occupancy tax return and tax is due to the date that the sales and use tax is due.
22	Conforms the language in a session law to language amended by a subsequent session law.
23	Corrects a statutory reference.
24	Conforms the effective date for a 2006 change to the confidentiality provisions to administrative practices.
25	Repeals the sunset of the highway use tax provisions contained in the 1989 session law. When the highway use tax was enacted, it was believed the highway projects could be completed in 13 years. It has been 18 years. The 1989 session law would repeal the highway use tax, the Transportation Oversight Committee, and various motor vehicle fees when contracts for all projects specified in Article 14 of Chapter 136 have been let and sufficient revenue has been accumulated to pay the contracts. The various fees have been amended several times since 1989. Based upon this sunset language, the fees would revert to their pre-1989 amounts at some undetermined point in the future. At this point, the sunset creates a 'trap for the unwary'.
26	Makes a change in the reporting requirements for the State Ports Tax credit. Based upon conversations with the Tax Research Division, the change will better enable it to report information that the General Assembly will be able to use to determine the credit's effectiveness. The report language was added in S.L. 2005-429.
27	Corrects a statutory reference.
28	Allows local governments to correct errors in their certification of cable television revenues submitted to the Department of Revenue. The certification of the amount of cable franchise tax imposed had to be made by March 15, 2007. Many local governments are in the process of auditing their cable franchise taxes. As a result of those audits, many are discovering errors in their certifications. This provision would

[2] The General Assembly established this defense in 2005. (S.L. 2005-435.)

	allow local governments to submit a new certification on or before April 1, 2008. This provision has been requested by the League of Municipalities and agreed upon by the Department of Revenue.
29	Revises the accounting for the General Fund "hold harmless" amount that is part of the 3% highway use tax, but makes no change in the amount the General Fund receives. It rewrites the statute to require the hold harmless amount to be credited directly to the General Fund rather than first credited to the Highway Trust Fund and then transferred from the Highway Trust Fund to the General Fund. This transfer continues to be a source of needless confusion and controversy. To resolve the confusion and controversy, the provision ends the transfer while preserving the hold harmless. The General Fund "hold harmless" amount is the amount of sales tax revenue attributable to the sales tax on motor vehicles that existed prior to the establishment of the Highway Trust Fund and the enactment of the highway use tax. The 3% highway use tax became effective October 1, 1989. Before that, motor vehicles were subject to sales tax at the rate of 2% with a $300 cap and the sales tax revenue on motor vehicles was credited to the General Fund. At the time, the General Fund received $170 million in sales tax revenue from sales of motor vehicles. The highway use tax replaced the sales tax on motor vehicles. To prevent a loss of revenue in the General Fund, the law enacting the highway use tax required $170 million to be transferred each year from the Highway Trust Fund to the General Fund.
30	Repeals an obsolete statute. The statute was enacted to facilitate a transition from the sales tax imposed on the gross receipts of motor vehicle leases prior to 1989 and the highway use tax.
31	Conforms the provisions for making an electronic funds transfer to the changes made in S.L. 2006-66. Last session, the General Assembly replaced the semimonthly sales tax payment with a single monthly payment and a prepayment of the next month's liability due on the same day as the monthly payment. The change was made at the request of several large retailers in the Streamlined Sales Tax Project.
32	Repeals an obsolete statute. These reimbursements were repealed in 2001 as part of the agreement on the third one-half cent local option sales tax.
33-35	Makes two changes to the tax secrecy provisions at the request of the Tax Research Division of the Department of Revenue. Section 33 would allow the Division to share information with other governmental units outside this State for the purpose of statistical reports and revenue estimates. Section 34 would allow the Department of Revenue to share information with the Joint Operations for Fuel Tax Compliance to better enable the Department to enforce motor fuel tax laws and identify motor fuel tax evasion. The compliance effort consists of a group that includes representatives of the IRS, the federal highway administration, and three pilot states: North Carolina, Texas, and California. Other states will be joining this group after the pilot phase is completed. Section 35 would allow the Division to provide information needed by the Fiscal Research Division of the General Assembly to determine the fiscal impact of proposed legislation. Sometimes, if the fiscal affects of legislation apply only to a limited number of taxpayers, the Division is unable to share the information with Fiscal Research because to do so may, by virtue of the small taxpayer pool, indicate the tax liability of a particular group of taxpayers. The Division would continue to be

	required to remove any identifying information from the data shared.
36	Removes an unnecessary citation that is in the statute due to redlining errors.
37	Inserts the correct corporate name of the North Carolina *State* Art Society, Incorporated.
38	Repeals a conflicting subdivision. This subdivision imposes the excise tax on motor fuel that is fuel alcohol or biodiesel when it is sold for use. However, these fuels are included in the definitions of gasoline and diesel and should be taxed at the same point in the distribution chain as gasoline and diesel. Current law conflicts as to the point at which these fuels should be taxed. The repeal of this subdivision clarifies that they will be taxed at the terminal rack or at importation.
39	Repeals the statute that authorizes real estate certificates of participation. RECOP indebtedness is a form of special indebtedness that is intended to be structured so that the principal and a portion of the interest is not paid in installments over the term of the debt. That portion of the interest compounds and is payable, along with the principal, only at maturity. The provision was enacted in 2004. The 2004 legislation directed the State Treasurer to conduct a study of RECOP indebtedness and to report to the Joint Legislative Commission on Governmental Operations by February 1, 2005. The Treasurer's Office reported that it did not recommend the State using this form of indebtedness.
40	Repeals the Article creating the Life Sciences Revenue Bond Authority. The Authority was created in 2003. The purpose of the Authority was to determine the best way to establish a credit enhancement program for construction of infrastructure for life sciences manufacturing facilities. The Authority is not functioning. Proponents in the life sciences area agree that the Authority is not needed at this time.
41	Except as otherwise provided, the provisions of the bill are effective when they become law.

S0540e1-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1362

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/15/07

PROPOSED COMMITTEE SUBSTITUTE S1362-CSMCxf-32 [v.2]

6/20/2007 8:50:46 AM

Short Title: Amend Dry-Cleaning Solvent Cleanup Act. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT TO CLARIFY THE DEFINITION OF DRY-CLEANING SOLVENT, TO AUTHORIZE THE USE OF FUNDS FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR THE INVESTIGATION OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES REASONABLY BELIEVED TO BE CONTAMINATED BY DRY-CLEANING SOLVENT, TO PROVIDE THAT ALL SITE WORK WILL BE PERFORMED BY A PRIVATE CONTRACTOR RETAINED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION, TO MODIFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO POTENTIALLY RESPONSIBLE PARTIES, TO AUTHORIZE TEMPORARY RULE-MAKING, AND TO INCREASE THE ANNUAL SPENDING CAP FOR THE CLEANUP OF SITES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.104B(b) reads as rewritten:

"(b) Unless a different meaning is required by the context, the following definitions apply in this Part. The definitions set out in this subsection apply only to the implementation of this Part and do not define or limit the scope of any other remedial program:

...

(9) "Dry-cleaning solvent" means ~~Perchloroethylene F-1,1,3 or 1,1,1 tricholorethane, a petroleum-based solvent, another comparable product used as a cleaning agent~~any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these ~~hazardous substances.~~solvents.

(10) "Dry-cleaning solvent assessment agreement" or "assessment agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to assess~~an assessment of whether a release of dry-cleaning solvents at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility may be eligible for remediation under this Part and whether any other contaminants that are identified in the agreement may require remediation under other remedial programs operated or administered by the Department.

...

(12) "Dry-cleaning solvent remediation agreement" or "remediation agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to clean up~~the cleanup of dry-cleaning solvent contamination resulting from a release at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility under this Part and any other contaminants that are identified in the agreement under other remedial programs operated or administered by the Department.

(13) "Facility" means a dry-cleaning facility or a wholesale distribution facility.

(14) "Fund" means the Dry-Cleaning Solvent Cleanup Fund.

(14a) "Halogenated hydrocarbon" means any hydrocarbon where at least one hydrogen atom is substituted by a halogen atom.

(15) "Hazardous waste" ~~shall have~~ has the same meaning ~~ascribed to it~~as in G.S. 130A-290.

(15a) "Hydrocarbon" means any linear, branched, saturated, or unsaturated compound whose molecules contain only carbon and hydrogen atoms.

..."

SECTION 2. G.S. 143-215.104C reads as rewritten:

"**§ 143-215.104C. Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. – The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. – The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the Fund under G.S. 105-164.44E.

(5) Application fees pursuant to G.S. 215.104F(a1).

(c) Disbursements. – A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay ~~or reimburse~~ claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay ~~or reimburse~~ any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay ~~or reimburse~~ costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities.

(d) Up to one percent (1%) of the amount of the Fund balance may be used by the Department in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department reasonably believes to be contaminated by dry-cleaning solvent. If the contamination is determined to originate from a dry-cleaning facility, a potentially responsible party may petition for certification of the facility or abandoned facility site. Acceptance of a petition shall be conditioned upon the written acceptance by the petitioner of responsibility for the costs of investigation incurred by the Department pursuant to this subsection. Costs of investigation that are recovered pursuant to this subsection shall not exceed, and shall be credited toward, the financial responsibility of the petitioner pursuant to G.S. 143-215.104F(f). If a potentially responsible party does not petition for certification of the facility or abandoned facility site, the Commission may request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this subsection."

SECTION 3. G.S. 143-215.104D reads as rewritten:

"**§ 143-215.104D. Powers of the Commission.**

(a) Administrative Functions. – The Commission may delegate any or all of the powers enumerated in this subsection to the Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation ~~activities that are reimbursable from the Fund.~~activities.

~~(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.~~

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, and certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund ~~to reimburse~~for the costs of assessment and remediation.

(b) Rule making. – The Commission shall adopt rules as are necessary to implement the provisions of this Part. Rules adopted by the Commission shall be consistent with and shall not duplicate, but may incorporate by reference, the rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes. The Commission shall not delegate the rule-making powers provided in this subsection.

(1) The Commission may adopt rules governing:

~~a. Fees for response costs reimbursable under this Part.~~

b. The certification and decertification of facilities or abandoned sites.

c. The prioritization of facilities or abandoned sites and scheduling of funding for assessment and remediation activities. These rules shall provide for:

1. Consideration of the degree of harm or risk to public health and the environment.
2. Consideration of the order in which certification is issued for the facility or abandoned site.
3. Consideration of the relative cost of assessment and remediation activities.
4. Use of the Fund so as to maximize the reduction of harm or risk posed by certified facilities, certified abandoned sites, uncertified facilities and uncertified sites.

d. The disbursement of revenue from the Fund for payment ~~or reimbursement~~ of approved assessment or remediation costs.

e. The determination whether assessment or remediation is necessary at a contamination site.

f. The determination that all necessary assessment and remediation has been completed at a contamination site.

g. The terms and conditions of dry-cleaning solvent assessment agreements and remediation agreements.

h. The determination whether additional assessment or remediation is necessary at a contamination site previously closed under this Part.

(2) The Commission may adopt rules establishing minimum management practices for handling of dry-cleaning solvent at dry-cleaning facilities and wholesale distribution facilities. The rules may:

a. Require that all perchloroethylene dry-cleaning machines installed at a dry-cleaning facility after the effective date of the rule or temporary rule meet air emission standards that equal or exceed the standards that apply to comparable dry-to-dry perchloroethylene dry-cleaning machines with integral refrigerated condensation.

b. Prohibit the discharge of dry-cleaning solvents or water that contains dry-cleaning solvents into sanitary sewers, septic systems, storm sewers, or waters of the State.

c. Require spill containment structures around dry-cleaning machines, filters, stills, vapor adsorbers, solvent storage areas, and waste solvent storage areas.

d. Require floor sealants for cleaning room areas if the Commission finds the sealants to be effective.

e. Require, by 1 January 2002, the use of improved solvent transfer systems to prevent releases at the time of delivery of solvents to a dry-cleaning facility.

f. Require any other solvent-handling practices the Commission may find necessary and appropriate to minimize the risk of releases at dry-cleaning facilities or wholesale distribution facilities.

(3) The Commission shall adopt rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination resulting from releases at facilities or abandoned sites certified pursuant to G.S. 143-215.104G. The rules shall address, at a minimum:

a. Criteria and methods for determining remediation requirements, including the level of remediation necessary to assure adequate protection of public health and the environment.

b. The circumstances under which information specific to the dry-cleaning solvent contamination site should be considered and required.

c. The circumstances under which restrictions on the future use of any remediated dry-cleaning solvent contamination site should be considered and required as a means of achieving and maintaining an adequate level of protection for public health and the environment.

d. Strategies for the assessment and remediation of dry-cleaning solvent contamination, including presumptive remedial responses sufficient to provide an adequate level of protection as described under sub-subdivision a. of this subdivision.

(c) All rules adopted by the Commission shall be applicable to all dry-cleaning facilities, wholesale distribution facilities, and abandoned dry-cleaning facilities in the State and shall, to the maximum extent practicable, be cost-effective and technically feasible while protecting public health and the environment from the release of dry-cleaning solvents.

(d) Unless otherwise provided in this Part, the Commission may delegate any of its rights, duties, and responsibilities under this Part to the Department."

SECTION 4. G.S. 143-215.104F reads as rewritten:

"**§ 143-215.104F. Requirements for certification, assessment agreements, and remediation agreements.**

(a) General Requirements. – Any person petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(a1) Application Fees. – Each person petitioning or co-petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G shall pay an application fee of one thousand dollars ($1,000) to the Commission.

(b) Requirements for Potentially Responsible Persons Generally. – Every petitioner shall provide the Commission with:

(1) Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner, has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. – In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide

the Commission a written agreement authorizing the ~~Commission~~ Commission, ~~or~~ its ~~agent~~ agent, and its private contractor to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement. (c1) Costs incurred by the petitioner for activities to obtain certification of a facility or abandoned site shall not be reimbursable from the Fund.

(d) The Commission ~~shall~~ may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

~~(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:~~

~~(1)~~(4) The petitioner fails to provide the information required by subsection (b) of this section.

~~(2)~~(5) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. The financial responsibility required shall be as follows:

(1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first five thousand dollars ($5,000) of the costs of assessment or remediation and~~ one percent (1%) of the costs of assessment or remediation ~~in excess of two hundred thousand dollars ($200,000) but~~ not exceeding one million dollars ($1,000,000).

(2) For abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first ten thousand dollars ($10,000) of the costs of assessment or remediation, two percent (2%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and~~ one and one-half percent ~~(1%)~~ (1.5%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

(3) For wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first fifteen thousand dollars ($15,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%)~~ two percent (2%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

~~(4) For wholesale distribution facilities and abandoned dry-cleaning facility sites, the first twenty-five thousands dollars ($25,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).~~

(g) Repealed by Session Laws 2000, c. 19, s. 3."

SECTION 5. G.S. 143-215.104H reads as rewritten:

"**§ 143-215.104H. Dry-Cleaning Solvent Assessment Agreements.**

(a) Assessment Agreements. – One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. The Commission may require the petitioners to provide the Commission with any information necessary to demonstrate:

(1) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission.

~~(2) The projected schedule for funding of assessment activities is adequate.~~

~~(3) The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.~~

~~(4) The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.~~

~~(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or abandoned site.~~

(5) The petitioner has and will continue to have available the financial resources necessary to pay ~~the costs of assessment activities and the~~ share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

~~(8) The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.~~

(9) The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

(1) Repealed by Session Laws 2000, c. 19, s. 9.

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount for which the petitioner is responsible under G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and that are otherwise consistent with the requirements of this Part.

~~(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.~~

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the petitioner's share of the response costs required by G.S. 143-215.104F.

~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.~~

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay ~~or reimburse~~ any ~~response~~ costs otherwise payable ~~or reimbursable~~ under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

SECTION 6. G.S. 143-215.104I reads as rewritten:

"**§ 143-215.104I. Dry-Cleaning solvent remediation agreements.**

(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate:

(1) Repealed by Session Laws 2000, c. 19, s. 10.
(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.
(3) There is a public benefit commensurate with the liability protection provided under this Part.
~~(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.~~
(5) The petitioner has complied with or will comply with all applicable procedural requirements.
(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.
(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.
~~(8) The projected schedule for funding of remediation activities.~~
(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.
~~(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.~~
(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement.

(b) In negotiating a remediation agreement, parties may rely on land-use restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M. A remediation agreement may provide for remediation in accordance with standards that are based on those land-use restrictions.

(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

(1) Any remediation, including remediation of contaminants other than dry-cleaning solvents, to be conducted on the property, including:

a. A description of specific areas where remediation is to be conducted.
b. The remediation method or methods to be employed.
~~c. The resources that the petitioner will make available and the degree to which the petitioner intends to rely on the Fund for resources.~~
d. A schedule of remediation activities.
e. Applicable remediation standards. Applicable remediation standards for dry-cleaning solvent contamination shall not exceed the requirements adopted by the Commission pursuant to G.S. 143-104D(b)(3).
f. A schedule and the method or methods for evaluating the remediation.

(2) Any land-use restrictions that will apply to the contamination site or other property.
(3) The desired results of any remediation or land-use restrictions with respect to the contamination site.
(4) The guidelines, including parameters, principles, and policies within which the desired results are to be accomplished.
(5) The consequences of achieving or not achieving the desired results.
(6) The priority ranking of the facility or abandoned site.
~~(7) The person who will conduct the remediation if that person is not the potentially responsible party entering the remediation agreement.~~

(d) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with any petitioner ~~if:~~if

~~(1) The petitioner will not accept financial responsibility for the share of the response costs established in G.S. 143-215.104F. This requirement shall not apply to a petitioner who (i) is the owner of property upon which the dry-cleaning solvent contamination is located, and (ii) is not a current or former owner or operator of a facility believed to be responsible for the contamination.~~
~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking remediation activities required by the Commission.~~
~~(3) The~~ the petitioner fails to provide any information that is necessary to demonstrate the facts required to be shown by subsection (a) of this section.

(e) In addition to the ~~bases~~ basis set forth in subsection (d) of this section, the Commission may refuse to enter into a dry-cleaning solvent remediation agreement with ~~the~~ an owner of the property on which a contamination site is located if the owner refuses to accept limitations on the future use of the property and to give notice of these limitations pursuant to G.S. 143-215.104M.

(f) The refusal of the Commission to enter into a dry-cleaning remediation agreement with any petitioner shall not affect the rights of any other petitioner, other

than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The refusal of the Commission to enter into a remediation agreement may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site.

(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. ~~A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part.~~ A remediation agreement ~~may~~ shall provide that the ~~Commission~~ Commission's private contractor conduct assessment and remediation activities at the facility or abandoned site.

(h) Any failure of a petitioner or the petitioner's agents or employees to comply with the dry-cleaning solvent remediation agreement constitutes a violation of this Part by the petitioner."

SECTION 7. G.S. 143-215.104J(a) reads as rewritten:

"(a) The Commission may decertify a facility or abandoned site or renegotiate or terminate an assessment agreement or remediation agreement with respect to any party thereto in the following circumstances:

(1) The owner or operator of the facility, at any time subsequent to the certification of the facility, violates any of the minimum management requirements adopted by the Commission pursuant to G.S. 143-215.104D(b)(2).

(2) In the case of dry-cleaning contamination on property that is owned by a petitioner, the petitioner fails to file a Notice of Dry-Cleaning Solvent Remediation, if required, as provided in G.S. 143-215.104M.

(3) The potentially responsible persons who are parties to a dry-cleaning solvent assessment agreement are unable to reach an agreement with the Commission to enter into a dry-cleaning solvent remediation agreement within the time specified in the assessment agreement.

(4) The payment of taxes assessed to the facility under Article 5D of Chapter 105 of the General Statutes is delinquent.

(5) Repealed by Session Laws 2000, c. 19, s. 3.

(6) The owner or operator fails to comply with all applicable requirements of this Part ~~to complete any assessment or remediation activities required by~~or fails to comply with all applicable requirements of an assessment agreement or remediation agreement.

(7) The owner or operator of a facility for which an assessment or remediation activity is scheduled or in progress transfers the ownership or operation of the facility or abandoned site to another person without the prior consent of the Commission and the execution of a substitute assessment agreement or remediation agreement.

(8) The standards applied to the dry-cleaning solvent contamination remediation or containment under the provisions of this Part and the dry-cleaning solvent remediation agreement will, or are likely to, cause the Department to fail to comply with the terms and conditions under which it operates and administers a remediation program by delegation or similar authorization from the United States or one of its departments or agencies, including the Environmental Protection Agency.

(9) A petitioner fails to pay the Commission any amounts for which a petitioner is responsible pursuant to G.S. 143-215.104F."

SECTION 8. G.S. 143-215.104K(a) reads as rewritten:

"(a) A potentially responsible party who enters into an assessment agreement or remediation agreement with the Commission and who is complying with the agreement shall not be held liable for assessment or remediation of areas of contamination identified in the agreement except as specified in the assessment agreement or remediation agreement, so long as ~~the~~ any activities conducted at the contamination site by or under the control or direction of the petitioner do not increase the risk of harm to public health or the environment and the petitioner is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section. The liability protection provided under this Part applies to all of the following persons to the same extent as the petitioner, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties and the person is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section:

~~(1) Any person under the direction or control of the petitioner who directs or contracts for assessment, remediation, or redevelopment of the contamination site.~~

(2) Any future owner of the contamination site.

(3) A person who ~~develops or~~ occupies the contamination site.

(4) A successor or assign of any person to whom the liability protection provided under this Part applies.

(5) Any lender or fiduciary that provides financing ~~for assessment, remediation, or redevelopment of the contamination site.~~to the petitioner to pay the petitioner's financial obligations under G.S. 143-215.104F."

SECTION 9. G.S. 143-215.104L reads as rewritten:

"**§ 143-215.104L. Public notice and community involvement.**

(a) If a petitioner desires to enter into a dry-cleaning solvent remediation agreement based on remediation standards that rely on the creation of land-use restrictions, the Commission or the Commission's private contractor on behalf of the petitioner shall notify the public and the community in which the facility or abandoned site is located of the planned remediation and redevelopment activities. ~~The petitioner~~On behalf of the petitioner, the Commission or the Commission's private contractor shall ~~submit~~ prepare a Notice of Intent to Remediate a Dry-Cleaning Solvent

Facility or Abandoned Site and a summary of the Notice of ~~Intent to the Commission.~~Intent. The Notice of Intent shall provide, to the extent known, a legal description of the location of the contamination site, a map showing the location of the contamination site, a description of the contaminants involved and their concentrations in the media of the contamination site, a description of the future use of the contamination site, any proposed investigation and remediation, and a proposed Notice of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed dry-cleaning solvent remediation agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Commission, ~~the petitioner~~the Commission or the Commission's private contractor shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the contamination site. The ~~petitioner~~ Commission or Commission's private contractor shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the contamination is located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register. The ~~petitioner~~ Commission or the Commission's private contractor shall also conspicuously post a copy of the summary of the Notice of Intent at the contamination site.

(b) Publication of the approved summary of the Notice of Intent in the North Carolina Register and publication in a newspaper of general circulation shall begin a public comment period of at least 60 days from the later date of publication. During the public comment period, members of the public, residents of the community in which the contamination site is located, and local governments having jurisdiction over the contamination site may submit comment on the proposed dry- cleaning solvent remediation agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed dry- cleaning solvent remediation agreement shall submit a written request for a public meeting to the Commission within 30 days after the public comment period begins. The Commission shall consider all requests for a public meeting and shall hold a public meeting if the Commission determines that there is significant public interest in the proposed remediation agreement. If the Commission decides to hold a public meeting, the Commission shall, at least 30 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to any other person who had previously requested notice. The Commission shall also ~~direct the petitioner to~~ publish, at least 30 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in the county where the contamination site is located. In any county in which there is more than one newspaper having general circulation, the Commission shall ~~direct the petitioner to~~ publish a copy of the notice in as many newspapers having general circulation in the county as the Commission in its discretion determines to be necessary to assure that the

notice is generally available throughout the county. The Commission shall prescribe the form and content of the notice to be published. The Commission shall prescribe the procedures to be followed in the public meeting. The Commission shall take detailed minutes of the meeting. The minutes shall include any written dry-cleaning solvent remediation agreement. The Commission shall take into account the comment received during the comment period and at the public meeting if the Commission holds a public meeting. The Commission shall incorporate into the remediation agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Commission shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis."

SECTION 10. G.S. 143-215.104M(a) reads as rewritten:

"(a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health or the environment posed by a dry-cleaning solvent contamination site, the owner of property upon which dry-cleaning solvent contamination has been discovered may ~~prepare and submit to the Commission for approval~~file a Notice of Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which the contamination has been discovered and providing for current or future restrictions on the use of the property. If a petitioner requests that a contamination site be remediated to standards that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning Solvent Remediation for the remediation agreement to become effective."

SECTION 11. G.S. 143-215.104N reads as rewritten:

"**§ 143-215.104N. ~~Reimbursement~~ Disbursement of dry-cleaning solvent assessment and remediation costs; limitations; ~~collection of reimbursement.~~cost recovery.**

(a) ~~Reimbursement.~~Allowable Costs. – To the extent monies are available in the ~~Fund for reimbursement of response costs,~~Fund, the Commission shall ~~reimburse any person, including a private contractor, responsible for implementing~~ pay for reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.

(2) Costs of treatment or replacement of potable water supplies affected by the contamination.

(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.

(4) Monitoring of the contamination.

(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment.

(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

(1) For costs incurred in connection with facilities or abandoned sites not certified pursuant to G.S. 143-215.104G.

(2) For costs not incurred pursuant to a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement.

~~(3) For costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site for which funds obligated by petitioners pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in accordance with G.S. 143-214.104F(f) are overdue.~~

(4) For costs at a contamination site that has been identified by the United States Environmental Protection Agency as a federal Superfund site pursuant to 40 Code of Federal Regulations, Part 300 (1 July 1996 Edition), except that the Commission may authorize distribution of the required State match in an amount not to exceed two hundred thousand dollars ($200,000) per year per site. The Commission shall not delegate its authority to disburse funds pursuant to this subdivision.

(5) For remediation beyond the level required under the Commission's risk-based criteria for determining the appropriate level of remediation.

(6) For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in excess of ~~two~~ five hundred thousand dollars ~~($200,000)~~ ($500,000) per year. However, that the Commission may disburse up to ~~four hundred thousand~~ one million dollars ~~($400,000)~~($1,000,000) per year for assessment and remediation costs incurred in connection with a ~~certified~~ facility or ~~a certified~~ an abandoned site ~~that~~ if the facility or abandoned site has been certified and poses an imminent hazard.

(7) That would result in a diminution of the Fund balance below one hundred thousand dollars ($100,000), unless an emergency exists in connection with a dry-cleaning solvent contamination abandoned site that constitutes an imminent hazard.

(8) For any costs incurred in connection with dry-cleaning solvent contamination from a facility located on a United States military base or owned by the United States or a department or agency of the United States.

(9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State.

~~(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation~~

~~agreement until the petitioners who are party to the agreement have paid all sums due under the agreement.~~

(d) ~~Each dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreements made by the Commission pursuant to this Part shall expressly state that the Commission's obligation to reimburse response costs incurred pursuant to these agreements shall be contingent upon the availability of monies from the Fund and that the State and its departments and agencies have no obligation to reimburse otherwise eligible expenses if monies are not available in the Fund to pay the reimbursements.~~ If, at any time, the Commission determines that the cost of assessment and remediation activities ~~reimbursable~~ incurred pursuant to existing dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements equals or exceeds the total revenues expected to be credited to the Fund over the life of the Fund, the Commission shall publish notice of the determination in the North Carolina Register. Following the publication of a notice pursuant to this section, the Commission may continue to enter into dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements until the day of adjournment of the first regular session of the General Assembly that begins after the date the notice is published, but shall have no authority to enter into additional dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements after that date unless the Commission first determines either (i) that revenues will be available from the Fund to ~~reimburse~~ pay the costs of assessment and remediation activities expected to be ~~reimbursable~~ incurred pursuant to the agreements, or (ii) that assessment and remediation activities undertaken pursuant to the agreements will be paid entirely from sources other than the Fund. For the purposes of this subsection, the term "day of adjournment" shall mean: (i) in the case of a regular session held in an odd-numbered year, the day the General Assembly adjourns by joint resolution for more than 10 days, and (ii) in the case of a regular session held in an even-numbered year, the day the General Assembly adjourns sine die.

(e) ~~The Commission shall pay the reimbursable response costs of eligible parties as they are incurred.~~ If the cleanup of the contamination site is not completed through fault of the petitioner as required by the remediation agreement, the petitioner shall reimburse the Fund for any response costs previously ~~reimbursed~~ disbursed from the fund for the ~~cleanup shall be repaid to the Fund,~~cleanup, with interest. The Commission shall request the Attorney General to commence a civil action to secure repayment of response costs and interest of the costs."

SECTION 12. G.S. 143-215.104P(a) reads as rewritten:

"(a) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) or, if the violation involves a hazardous waste, as defined in G.S. 130-290, of not more than twenty-five thousand dollars ($25,000) against any person who:

(1) Repealed by Session Laws 2000, c. 19, s. 3.

(2) Engages in dry-cleaning operations using dry-cleaning solvent for which the appropriate sales or use tax has not been paid.

(3) Fails to comply with rules adopted by the Commission pursuant to this Part.

(3a) Fails to comply with the rules adopted by the Commission pursuant to Article 21B of Chapter 143 of the General Statutes that apply to dry-cleaning solvents at facilities as defined in this Part. This enforcement authority does not apply to facilities located in counties that have been delegated as local air pollution control programs by the Commission pursuant to G.S. 143-215.112.

(3b) Fails to comply with rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes that apply to dry-cleaning solvents at facilities as defined in this Part.

(4) Fails to file, submit, or make available, as the case may be, any documents, data, or reports required by this Part.

(5) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.2.

(6) Falsifies or tampers with any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(7) Knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(8) Knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Part or rule implementing this Part.

(9) Knowingly makes a false statement of material fact in a rule-making proceeding or contested case under this Part.

(10) Refuses access to the Commission or its duly designated representative to any premises for purposes of conducting a lawful inspection provided for in this Part or rule implementing this Part."

SECTION 13. G.S. 143-215.104T(b) reads as rewritten:

"(b) Notwithstanding the provision of the Tort Claims Act, G.S. 143-291 through G.S. 143-300.1 or any other provision of law waiving the sovereign immunity of the State of North Carolina, the State, its agencies, officers, employees, and agents shall be absolutely immune from any liability in any proceeding for any injury or claim arising from negotiating, entering into, implementing, monitoring, or enforcing a dry-cleaning solvent assessment agreement, a dry-cleaning solvent remediation agreement, or a Notice of Dry-Cleaning Solvent Remediation under this Part or any other action implementing this Part."

SECTION 14. G.S. 105-187.31 reads as rewritten:

"**§ 105-187.31. Tax imposed.**

A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise tax is imposed on dry-cleaning solvent purchased outside the State for storage, use, or consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the

excise tax is ten dollars ($10.00) for each gallon of halogenated hydrocarbon-based dry-cleaning solvent ~~that is chlorine-based~~ and one dollar and thirty-five cents ($1.35) for each gallon of hydrocarbon-based dry-cleaning ~~solvent that is hydrocarbon-based.~~ solvent. These taxes are in addition to all other taxes."

SECTION 15. If the Environmental Management Commission adopts rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination, the original notice of text for which was published at 21 N.C. Reg. 1818 (April 16, 2007); the Rules Review Commission approves these rules, including any changes incorporated as a result of public comments or Rules Review Commission requirements; and the Rules Review Commission receives 10 or more letters of objection to these rules in accordance with G.S. 150B-21.3(b2), the Environmental Management Commission, notwithstanding the requirements of G.S. 150B-21.1 and 150B-21.3, may adopt these rules as temporary rules in accordance with the temporary rulemaking procedures set out in Chapter 150B.

SECTION 16. G.S. 143-215.104F(a1), as enacted by Section 4 of this act, becomes effective on August 1, 2007, and applies to applications for certifications made, and assessment agreements and remediation agreements entered into, on or after that date. G.S. 143-215.104F(f), as amended by Section 4 of this act, is effective retroactively to August 1, 2001, and applies to assessment agreements and remediation agreements entered into on or after that date. The Environmental Management Commission shall credit any payment received from a petitioner prior to July 1, 2007, against the petitioner's future co-payment obligation, but the Environmental Management Commission shall not repay to a petitioner any funds received prior to July 1, 2007. Section 15 of this act is effective when it becomes law. All other amendments to G.S. 143-215.104F, as enacted by Section 4 of this act, and all other sections of this act become effective July 1, 2007.

SENATE BILL 1362:
Amend Dry-Cleaning Solvent Cleanup Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 19, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Dan Ettefagh
Version:	PCS to Second Edition S1362-CSMC		Committee Counsel

SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 1362 would amend the Dry-Cleaning Solvent Cleanup Act by:

- *Clarifying the definition of dry-cleaning solvent.*
- *Authorizing the use of funds from the Dry-Cleaning Solvent Cleanup Fund for the investigation of inactive hazardous waste disposal sites.*
- *Providing that all site work be performed by a private contractor retained by the Environmental Management Commission (EMC).*
- *Modifying the financial responsibility requirements applicable to potentially responsible parties.*
- *Authorizing temporary rule-making authority by the EMC.*
- *Increasing annual spending cap for site cleanup.*

[As introduced, this bill was identical to H1778, as introduced by Reps. Gibson, Allen, which is currently in House Appropriations.]

BILL ANALYSIS: The PCS for Senate Bill 1362 would make the following changes to the Dry-Cleaning Solvent Cleanup Act (Act):

- **Section 1:** would change the definition for the term "dry-cleaning solvent" and would add new definitions for the terms "halogenated hydrocarbon," and "hydrocarbon."
- **Sections 2 and 4:** would replace the existing co-payment scheme with a one-time $1,000.00 application fee and would revise the current financial responsibility requirements payment schedule as follows:
  - *Dry-cleaning facilities owned by persons who employ fewer than 5 full-time employees*: 1% of the costs of assessment or remediation, but not exceeding $1,000,000.
  - *Dry-cleaning facilities owned by persons who employ at least 5 but fewer than 10 full-time employees* AND *abandoned dry-cleaning facility sites*: 1.5% of the costs of assessment or remediation, but not exceeding $1,000,000.
  - *Dry-cleaning facilities owned by persons who employ 10 or more full-time employees* AND *wholesale distribution facilities*: 2% of the costs of assessment or remediation, but not exceeding $1,000,000.

  Section 2 would also authorize the Department of Environment and Natural Resources to use up to 1% of the balance in the Dry-Cleaning Solvent Fund in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department believes to be contaminated by dry-cleaning solvent.

Section 4 would also provide the EMC with discretion in rejecting petitions made by operators who are not in compliance with minimum management practices for handling of solvents or operators delinquent in paying solvent taxes.

- **Sections 3, 5, 6, 7, 8, 9, 10, and 13:** would modify language throughout the Act to clarify that all site assessment and cleanup procedures will be performed by private contractors hired by the EMC. These changes would clarify that the State is responsible for the hiring and awarding of contracts pursuant to the Act.
- **Section 11:** would increase the amount of money that may be disbursed to a site per year from the Dry-Cleaning Solvent Cleanup Fund as follows:
    - For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement from $200,000 to $500,000 per year.
    - For assessment and remediation costs incurred in connection with a certified facility or an abandoned site that poses an imminent hazard from $400,000 to $1,000,000 per year.
- **Section 12:** would authorize the Environmental Management Commission and the Commission for Health Services to assess civil penalties for violations of hazardous waste and air quality regulations respectively that apply to dry-cleaning facilities.
- **Section 14:** would make conforming changes to the Dry-Cleaning Solvent Tax under Article 5D of Chapter 105 of the General Statutes.
- **Section 15**: would authorize the EMC to adopt temporary rules if the Rules Review Commission receives 10 or more letters of objection to the rules establishing a risk-based approach to dry-cleaning solvent contamination published at 21 N.C. Reg. 1818 (April 16, 2007).

EFFECTIVE DATE: The application fee requirements amended under Section 4 of this act would become effective August 1, 2007 and apply to applications for certifications made, and assessment agreements and remediation agreements entered into on or after that date. The financial responsibility requirements as amended under Section 4 of this act would become effective retroactively to August 1, 2001 and apply to assessment agreements and remediation agreements entered into on or after that date. Section 15 of this act is effective when it becomes law. All other amendments in Section 4 of this act and all other sections of this act become effective July 1, 2007.

BACKGROUND: There are an estimated 900 active and abandoned dry-cleaning sites in North Carolina. At many of these sites, the groundwater is contaminated with the solvents used in the cleaning process. In 1997, the General Assembly enacted a statute to address this contamination. The dry-cleaning solvent cleanup program is designed to provide a fund, administered by the Department of Environment and Natural Resources, to assess and clean contaminated dry-cleaning sites using State-lead contractors. The source for the cleanup fund is a tax on dry-cleaning and dry-cleaning solvents (both perchloroethylene and petroleum-based solvents).

Drycleaners or dry-cleaning site property owners may petition for entry into this program. Once in the program, drycleaners are subject to deductibles and co-payments. The program will manage the assessment and cleanup work. (From the North Carolina Department of Environment and Natural Resources, Dry-Cleaning Solvent Cleanup Act Program Website, http://www.ncdsca.org/).

S1362e2-SMMC-CSMC

Jennifer Mundt, Legislative Analyst for Senate Committee for Agriculture, Environment, and Natural Resources, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1362 (Second Edition)

SHORT TITLE: Amend Dry-Cleaning Solvent Cleanup Act.

SPONSOR(S): Senator Clodfelter

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Dry Cleaning Solvent Fund		See Assumptions & Methodology.			
Civil Penalty & Forfeiture Fund		See Assumptions & Methodology.			
EXPENDITURES:					
Dry Cleaning Solvent Fund		See Assumptions & Methodology.			
General Fund:					
Correction		See Assumptions & Methodology.			
Judicial					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Dry Cleaning Solvent Cleanup Fund; Civil Penalty & Forfeiture Fund; Attorney General's Office; Department of Correction; Judicial Branch.

EFFECTIVE DATE: New GS 143-215.105F(a1) is effective on August 1, 2007, and applies to applications for certifications made and assessment and remediation agreements entered into on or after that date. The amendments to GS 143-215.104F(f) are effective retroactively to August 1, 2001. All other amendments to GS 143-215.104F are effective July 1, 2007.

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY:

- Changes the definition of *dry-cleaning solvent* in GS 143-215.104B(b) to *any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these solvents.*

- Adds a new definition of *halogenated hydrocarbon* and enacts new GS 143-215.104C(d) authorizing the Department of Environment and Natural Resources to use up to 1% of the Dry-Cleaning Solvent Cleanup Fund balance each fiscal year to investigate inactive hazardous substance disposal sites that the Department believes are contaminated by dry-cleaning solvents.
- Enacts new GS 143-215.104F(a1) providing that each person petitioning for certification of a facility or an abandoned site pursuant to GS 143-215.104G must pay an application fee of $1,000 to the Environmental Management Commission, to be credited to the Dry-Cleaning Solvent Cleanup Fund, as noted above and makes conforming change to GS 143-215.104C. Also makes stylistic changes to GS 143-215.104G(a).
- Amends GS 143-215.104G(d) to make it permissive, rather than required, for the Commission to reject petitions for certification under the circumstances set forth in the subsection.
- Amends GS 143-215.104G(f) to provide that the financial responsibility required of persons petitioning the Commission to certify a facility or abandoned site is (1) 1% of the costs of assessment or remediation not exceeding $1 million for dry-cleaning facilities owned by persons who employ fewer than the equivalent of five full-time employees, (2) 1.5% of the costs of assessment or remediation not exceeding $1 million for abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than ten full-time employees, and (3) 2% of the costs of assessment or remediation not exceeding $1 million for wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ ten or more full-time employees.
- Repeals GS 143-215.104G(f)(4), which set forth financial responsibility requirements for abandoned sites and wholesale facilities.
- Amends GS 143-215.104P(a) to add two additional offenses – violations of air quality and hazardous waste regulations, respectively - for which the Environmental Management Commission (EMC) and Commission of Health Services (CHS) may assess civil penalties.
- Amends GS 105-187.31 (privilege tax on dry-cleaning solvent retailers) by changing the reference to a *dry-cleaning solvent that is chlorine based* to *halogenated hydrocarbon-based dry-cleaning solvent.*

ASSUMPTIONS AND METHODOLOGY:

Revenues – Dry Cleaning Solvent Fund

SB 1362 makes three changes to the amount of revenue received into the Dry Cleaning Solvent Fund each year: 1.) Section 4 creates a new $1,000 application fee for each person petitioning or co-petitioning for certification of a facility or an abandoned site; 2.) Section 4 changes the financial responsibility requirements, effectively decreasing the co-payments into the Fund; and 3.) Section 14 broadens the base of solvents covered by the dry-cleaning solvent tax.

1.) Application Fee

A $1,000 application fee would now be charged for each person petitioning or co-petitioning for certification of a facility or an abandoned site. The table below projects the number of petitioners each year and the application fee revenue generated.

	2007-08	2008-09	2009-10	2010-11	2011-12
Estimated # of Petitioners	50*	54	81	81	109
Application Fee Generated	$50,000	$54,000	$81,000	$81,000	$109,000

*prorated by one month due to August 1, 2007 effective date

DENR anticipates that the number of petitioners will increase for three reasons:
A.) The decrease in financial responsibility requirements will make the program less costly for responsible parties;
B.) The implementation of risk-based rules will attract more responsible parties to participate;
C.) Entry into the program will sunset on January 1, 2012.

2.) Financial Responsibility Requirements
Section 4 would decrease the financial responsibility requirements for potentially responsible persons. *An exact estimate of the decrease in revenue from this change is not available.*

Under existing law, responsible parties must pay a flat deductible and then a percentage co-payment of the clean-up costs after those costs have reached a certain dollar threshold. Under the new provisions in SB 1362, responsible parties would no longer pay a deductible, but rather they would pay the application fee explained above and then pay a percentage of the cleanup costs as a co-payment.

The illustration below provides an example of the decrease in revenue assuming the following conditions:
A.)100 sites active in the program with 60 "abandoned" sites, 13 "large facility" sites, 11 "medium," and 16 "small;" and,
B.) An average site clean-up cost of $250,000.

Under Existing Law

Site Type	# of Sites	Deductible	% Co-payment	Avg. Site Cost	Total Owed by Petitioners
Abandoned	60	$25,000	0.03	$250,000	$1,590,000
Large	13	$15,000	0.03	$250,000	$214,500
Medium	11	$10,000	0.02	$250,000	$126,500
Small	16	$5,000	0.01	$250,000	$104,000
Total Revenue Received for 100 Sites					**$2,035,000**

As Proposed Under SB 1362

Site Type	# of Sites	% Co-payment	Avg. Site Cost	Total Owed by Petitioners
Abandoned	60	0.015	$250,000	$225,000
Large	13	0.020	$250,000	$65,000
Medium	11	0.015	$250,000	$41,250
Small	16	0.010	$250,000	$40,000
Total Revenue Received for 100 Sites				**$371,250**

As the above example illustrates, the loss of revenue would be $1,663,750 for these 100 sites. It should be noted that this loss of revenue does not take place in one fiscal year, but rather would most likely be spread out across three years – with 40% of costs being collected in the first year, 40% in the second year, and 20% in the third year. Thus, a one-year loss of revenue might reasonably be estimated at $665,500. This loss of revenue will be partially offset by the application fees described above.

3.) Solvent Tax
Section 14 broadens the base of solvents covered by the tax. The change from "chlorine-based" to "halogenated hydrocarbon-based" will encompass bromide solvents. Industry sources estimate that

approximately 200 gallons of bromide solvents are sold each year. Thus, approximately $2,000 in new revenue will be raised.

	2007-08	2008-09	2009-10	2010-11	2011-12
New Tax Revenue*	$2,042	$2,085	$2,129	$2,175	$2,226

*adjusted annually for inflation

Revenues – Civil Penalties

Section 12 adds new situations for which civil penalties may be assessed. To date, the Dry-Cleaning Compliance Program has not issued any civil penalties. Based on experience with other DENR compliance programs, the Department estimates that five civil penalties each year would be assessed for the new offenses contained in the PCS with a penalty range of $400 to $25,000.

Expenditures – Dry Cleaning Solvent Fund

This PCS makes two changes to expenditures from the Fund: 1.) Section 2 stipulates that up to 1% of the Fund balance may be used in each fiscal year by the Department for investigation of sites; and, that the Attorney General may bring a civil action to secure reimbursement of costs incurred, per Commission request; and 2.) Section 11 increases the cap on the amount disbursed per year for any individual dry-cleaning solvent assessment agreement or remediation agreement and increases the cap for a certified facility or certified abandoned site that poses an imminent hazard.

1.) Use of Fund Balance for Investigation of Sites

Section 2 authorizes the Department to use up to 1% of the Fund balance for investigation of sites. The Dry Cleaning Solvent Fund balance has grown over the past six years and as of June 19, 2007, the Fund balance was $35,441,005. Revenues for the Fund have fluctuated but are in the range of $9.5 to $10.5 million per year and will continue at that pace until January 1, 2010 when the dry-cleaning solvent tax expires and June 30, 2010 when the dry-cleaning sales tax transfer ends. The Department estimates spending $12 million in FY 2008-09, $18 million in FY 2009-10, $12 million in FY 2010-11, and $10 million in FY 2011-12. Thus, the Fund balance should decrease over time and will range from a high of $36 million to a low of $4.5 million in FY 2011-12. *Therefore, the Department could expend anywhere from $45,000 to $360,000 annually for investigation of sites.*

Existing G.S. 143-215.104C authorizes the Commission to expend 20% of annual Fund revenue to defray the costs incurred by the Department and the Attorney General's Office for administration of the Program. Assuming annual revenues of $10 million, $2 million would be available for such costs – the Department estimates approximately $700,000 in annual administrative costs, leaving $1.3 million to cover any costs incurred by the Attorney General. Section 2 authorizes the Attorney General to initiate civil action to secure reimbursements of the costs incurred in connection with the investigation of inactive hazardous substance disposal sites, per request from the Commission. In addition, existing G.S. 143-215.104R authorizes the AG to initiate civil action for injunctive relief from violations alleged by the Commission. The Department anticipates only one or two injunctive relief actions annually; however, the number of potential civil actions initiated for reimbursements is unknown. Nevertheless, Fiscal Research anticipates that available funds will offset any additional workload increases experienced by the Attorney General's Office.

2.) Increase in Annual Spending Caps

An estimate as to how much additional money may be expended from the Fund due to the new, higher caps is not available. As stated above, total expenditures from the Fund are expected to exceed $10 million per year by 2008-09. The majority of the increase in spending will come as a result of risk-based remediation rules being implemented in the fall of 2007. These rules will allow the Program to

begin remediation at some sites, and it is anticipated that the remediation work will exceed the previous cap limits at some sites.

Expenditures – General Fund

S.B. 1362 adds two offenses under G.S. 143-215.104P, for which civil penalties may be assessed:

1. Proposed G.S. 143-215.104P (a)(3a) makes it unlawful for a person to fail to comply with rules applicable to dry-cleaning solvents at facilities, as adopted by the Environmental Management Commission pursuant Article 21B (Air Pollution Control) of Chapter 143; and,
2. Proposed G.S. 143-215.104P(a)(3b) makes it unlawful for a person to fail to comply with rules applicable to dry-cleaning solvents at facilities, as adopted by the Commission for Health Services pursuant to Article 9 (Solid Waste Management) of Chapter 130A.

Inclusion of these offenses also expands the pool of potential offenders under G.S. 143-215.104Q:

- G.S. 143-215.104Q(a) provides that negligent violation of any subdivision of G.S. 143-215.104P(a) is a Class 2 misdemeanor;
- G.S. 143-215.104Q(b) provides that knowing and willful violation of any subdivision of G.S. 143-215.104P(a) is a Class I felony; and,
- G.S. 143-215.104Q(c) provides that violation of subdivision (3) through (10) of G.S. 143-215.104P(a) that a person knows to place another in imminent danger of death or serious bodily injury is a Class C felony.

Although the Department estimates that five civil penalties (indicative of criminal offenses) will be assessed each year, the elements of these potential offenses are unknown. Thus, *while Fiscal Research does not expect a significant fiscal impact due to the proposed offense expansions, the numbers of potential charges and convictions for the affected offenses are indeterminate.*[1]

Department of Correction – Division of Prisons: Since Class 2 misdemeanants serve their designated terms of incarceration within local jails, any resultant active sentence will not impact the state prison population.[2] In FY 2005-06, 17% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 13 days. Accordingly, any impact on local jail populations and DOC reimbursements should prove negligible.

Conversely, <u>because there are no surplus prison beds, any resultant Class C or I felony active sentence will necessitate the construction of an additional bed</u>. In FY 2005-06, 15% of Class I felony convictions resulted in active sentences, with an average estimated time served of 7 months. For illustration, if *twelve* Class I convictions occur annually, *the combination of active sentences and probation revocations will require one additional prison bed in the first applicable year; four additional beds in the second year; and two new employees in the second year.*

In contrast, under Structured Sentencing (with the exception of extraordinary mitigation), all Class C offenders must receive an active sentence. In FY 2005-06, the average estimated time served was 95 months. Again, for illustration, if *one* Class C conviction occurs annually, *one additional prison bed would be needed in the first applicable year, and two additional beds by the second year.* In addition,

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[1] The Administrative Office of the Courts currently does not maintain any offense code for violation of G.S. 143-215.104Q, possibly indicating that these offenses are infrequently charged and/or infrequently result in conviction.

[2] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

because a mandatory period of Post-Release Supervision follows release from prison for Classes B1-E offenders, additional revocations could occur beyond the five-year fiscal note horizon.

Assuming these examples and inmate assignment to medium custody, the construction of six additional prison beds within a new, stand alone facility could cost the State approximately $408,240 in FY 2007-08; whereas, bed construction within an add-on facility could cost approximately $252,720.[3] These costs are attributed to FY 2007-08 since the construction of additional prison beds, whether within an add-on or stand-alone facility, requires budgeting at least three years in advance. Potential operating costs could total $174,586 by FY 2009-10.[4]

Department of Correction – Community Corrections: In FY 2005-06, 83% of Class 2 misdemeanor and 85% of Class I felony convictions resulted in either intermediate or community punishments – predominantly special, intensive, or general supervision probation. Consequently, *if additional non-active sentences occur, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision (any impact on Post-Release supervision caseloads would be assumed beyond the five-year horizon).* It is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Included below is a brief discussion of DCC supervision costs, per offender:

- General supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of $0.69 per offender sentenced to the Community Service Work Program.
- The daily cost per offender on intermediate sanction is much higher, ranging from $7.71 to $14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated $14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch: As previously indicated, Section 2 expands current G.S. 143-215.104C to authorize the Attorney General (per Environmental Management Commission request) to initiate civil action to recover the costs incurred by the Department of Environment and Natural Resources in investigating inactive hazardous substance disposal sites contaminated by dry-cleaning solvent, where a potentially responsible party is not willing to pay such costs. It is not known how many additional investigations would be conducted or civil actions filed.

In addition, Section 12 expands current G.S. 143-215.104P(a) by imposing a civil penalty of $10,000 or less (or $25,000 or less if hazardous waste is involved) against violators of hazardous waste and air quality regulations that apply to dry-cleaning facilities. Consequently, inclusion of these two

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[3] New, "stand alone" institution built for Expanded Operating Capacity (EOC); single cells are assumed for close custody, and dormitories are assumed for medium and minimum custody (occupancy no greater than 130% of SOC).

"Add-on" facilities (close and medium custody) are built within the perimeter of an existing 1,000-cell Close Security Institution; a minimum custody "add-on" is built adjacent to an existing perimeter. "Add-on" facilities employ the same EOC custody configurations as "stand alone" (i.e. single cells for close custody, and dorms for medium and minimum custody levels).

[4] Impact on incarcerated population is assumed for FY 2008-09, given the effective date of December 1, 2007 and typical lag time between charge and conviction (6 months).

violations could result in additional criminal cases, and increase the opportunity for appeal of civil penalties to superior court. It is not known how many criminal offenses might result, or how many violators would contest the imposition of civil penalties; however, few additional cases are anticipated.

Estimated FY 2007-08 trial and plea costs for the affected offense classes are shown below. These costs account for indigent defense.

Offense Class	*Trial*	*Plea*
Class 2 misdemeanor	$2,770	$226
Class I felony	$6,980	$298
Class C felony	$13,049	$657

SOURCES OF DATA: Department of Environment and Natural Resources; N.C. Association of Launderers and Cleaners; Moody's economy.com; N.C. Sentencing and Policy Advisory Commission; Judicial Branch; Department of Correction; Department of Justice; and Office of State Construction.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and Kristin Walker

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: June 26, 2007

Official
Fiscal Research Division
Publication

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE FINANCE COMMITTEE
Thursday, June 28, 2007
11:00 am in Room 544

MINUTES

The Senate Finance Committee met at 11:00 a.m. on Thursday, June 28, 2007, in room 544 of the Legislative Office Building. Thirty-two members of the committee were present. Senator David Hoyle presided. Abbey Grensch of Belmont, Lindsey Cloninger of Belmont, Baxter Draughn of Gastonia, Heather Cavanaugh of Bessemer City, Charlie Bergman of Gastonia and Larry Sampson of Goldsboro served as pages.

H.B. – Motorcycle Transporter Plates.

Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Rep. Moore was recognized to explain the bill. Senator Rand moved for a favorable report. A copy of the proposed committee substitute and the summary is attached.

S.B. 1362 – Amend Dry-Cleaning Solvent Cleanup Act.

Senator Clodfelter was recognized and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Clodfelter offered an amendment and moved for its adoption. The motion carried. Senator Rand moved to adopt the proposed committee substitute as amended and the motion carried. A copy of the proposed committee substitute, the amendment, and the summary is attached.

S.B. 540 – Revenue Laws & Motor Fuels Tax Tech. Changes.

Senator Hartsell was recognized to discuss the bill and moved to adopt the proposed committee substitute. The motion carried. Senator Tillman moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

S.B. 2044 – 2007 Continuing Budget Authority.

This bill was taken up for discussion only. Senator Garrou was recognized to explain the bill.

The meeting adjourned at 11:25 a.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	June 28, 2007	11:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 135	Motorcycle Transporter Plates.	Representative Moore
HB 2044	2007 Continuing Budget Authority.	Representative Weiss Representative Luebke Representative Gibson, III Representative Wainwright
SB 540	Revenue Laws & Motor Fuels Tax Tech. Changes.	Senator Hartsell
SB 1362	Amend Dry-Cleaning Solvent Cleanup Act.	Senator Clodfelter

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Senate Finance Committee
Thursday, June 28, 2007, 11:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 135	Motorcycle Transporter Plates.	Rep. Moore
HB 2044	2007 Continuing Budget Authority.	Rep. Weiss Rep. Luebke Rep. Gibson Rep. Wainwright
SB 540	Revenue Laws & Motor Fuels Tax Tech. Changes.	Senator Hartsell
SB 1362	Amend Dry-Cleaning Solvent Cleanup Act.	Senator Clodfelter

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, June 28, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **540** Revenue Laws & Motor Fuels Tax Tech. Changes.

Draft Number:	15111
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **1362** Amend Dry-Cleaning Solvent Cleanup Act.

Draft Number:	35404
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, June 28, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #2) **135** Motorcycle Transporter Plates.

Draft Number:	50724
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 28, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
	ElectriCities
	NCPMA
	TWC
	AHA/ASA
Christine Wunsche	103- Dairy Buffalo
Dirk Carlton	atty.
Chris Fitzsimon	N.C. Policy Watch
Vicky Young	NCDOT
Kita Jones	BE

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 28, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
David Knight	TNC
Tom Cors	TNC
John Phelps	NCLM
Chris Hayes	Civitas
Jami Fitzgerald	NCFPC
Jim Stegall	UCPS.
Alice Garland	NCEL
Jennifer Willis	Wake County
Susanne Stoeb	NCRLA
Lou Rabil	CJPC
Cassandra White	Gov. Office

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 28, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ben McNeil	NC Retail Center
Ed Turlington	BP
Cam Lowe	BP
FRANK W. FOLGER	HELMS MULLISS WICKER
DANIEL PAUM	KENNEDY COVINGTON
Gary Salamido	GSK
	GSK
	Parker Poe
	M
Jamal Jones	NCRA
Andy Ellen	NCRMA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 28, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
DAVID BARNES	Poyner + Spruill
Jim Johnson	BSA
SEAN COFFEY	BTC
Bill Rowe	NC Justice Ctr
Meg Gray	NC BOTC
Dan Sims	DOR
Greg Radford	DOR
Andy Sasol	DOR
Anna Mitchell	DOR
Donna Alderman	DOR
Bill Seeger	pcc

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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HOUSE BILL 135

Committee Substitute Favorable 6/13/07
Committee Substitute #2 Favorable 6/19/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H135-CSRBf-41 [v.7]

6/28/2007 9:25:18 AM

Short Title: Motorcycle Manufacturer Plates. (Public)

Sponsors:

Referred to:

February 8, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE DEALER PLATES WITH A SYMBOL NOTING THAT THE HOLDER IS A MANUFACTURER, TO EXEMPT MANUFACTURERS FROM THE RESTRICTIONS ON THE NUMBER OF DEALER PLATES THAT MAY BE ISSUED TO THEM, AND TO CLARIFY THAT THE DIVISION MAY ISSUE A DEALER PLATE IN A SUITABLY REDUCED SIZE FOR MOTORCYCLE DEALERS AND MANUFACTURERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79 reads as rewritten:

"§ 20-79. Dealer license plates.

(a) How to Get a Dealer Plate. – The Division may issue a person ~~A dealer~~ licensed under Article 12 of this Chapter the appropriate classification of dealer license plate. A person eligible for a dealer license plate may obtain ~~a dealer license plate~~ one by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division. The required fee is the amount set by G.S. 20-87(7).

(b) Number of Plates. – A dealer who was licensed under Article 12 of this Chapter for the previous 12-month period ending December 31 may obtain the number of dealer license plates allowed by the following table; the number allowed is based on the number of motor vehicles the dealer sold during the relevant 12-month period and the average number of qualifying sales representatives the dealer employed during that same 12-month period:

Vehicles Sold In Relevant 12-Month Period	Maximum Number of Plates
Fewer than 12	1

At least 12 but less than 25	4
At least 25 but less than 37	5
At least 37 but less than 49	6
49 or more	At least 6, but no more than 4 times the average number of qualifying sales representatives employed by the dealer during the relevant 12-month period.

A dealer who was not licensed under Article 12 of this Chapter for part or all of the previous 12-month period ending December 31 may obtain the number of dealer license plates that equals four times the number of qualifying sales representatives employed by the dealer on the date the dealer files the application. A "qualifying sales representative" is a sales representative who works for the dealer at least 25 hours a week on a regular basis and is compensated by the dealer for this work.

A dealer who sold fewer than 49 motor vehicles the previous 12-month period ending December 31 but has sold at least that number since January 1 may apply for additional dealer license plates at any time. The maximum number of dealer license plates the dealer may obtain is the number the dealer could have obtained if the dealer had sold at least 49 motor vehicles in the previous 12-month period ending December 31.

A dealer who applies for a dealer license plate must certify to the Division the number of motor vehicles the dealer sold in the relevant period. Making a material misstatement in an application for a dealer license plate is grounds for the denial, suspension, or revocation of a dealer's license under G.S. 20-294.

A dealer engaged in the alteration and sale of specialty vehicles may apply for up to two dealer plates in addition to the number of dealer plates that the dealer would otherwise be entitled to under this section.

This subsection does not apply to manufacturers licensed under Article 12 of this Chapter.

(c) Form and Duration. – A dealer license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" plate. ~~In addition, a~~ A dealer license plate must have a distinguishing symbol identifying the plate as a dealer license plate. The symbol may vary depending upon the classification of dealer license plate issued. The Division must provide suitably reduced sized license plates for motorcycle dealers and manufacturers.

A dealer license plate is issued for a period of one year. The Division shall vary the expiration dates of dealer registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. A ~~dealer may transfer a~~ dealer license plate may be transferred from one vehicle to another. When the Division issues a dealer plate, it may issue a registration that expires at the end of any monthly interval. When one of the following occurs, a dealer must surrender to the Division all dealer license plates issued to the dealer:

(1) The dealer surrenders the license issued to the dealer under Article 12 of this Chapter.

(2) The Division suspends or revokes the license issued to the dealer under Article 12 of this Chapter.
(3) The Division rescinds the dealer license plates because of a violation of the restrictions on the use of a dealer license plate.

To obtain a dealer license plate after it has been surrendered, the dealer must file a new application for a dealer license plate and pay the required fee for the plate.

(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

(1) Is part of the inventory of the dealer.
(2) Is not consigned to the dealer.
(3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
(4) Is not used by the dealer in another business in which the dealer is engaged.
(5) Is driven on a highway by a person who carries a copy of the registration card for the dealer plates issued to the dealer while driving the motor vehicle and who meets one of the following descriptions:
a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.
b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.
c. Is an employee of the dealer and is driving the vehicle in the course of employment.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection.

(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a dealer license plate is driven in violation of the restrictions on the use of the plate:

(1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of fifty dollars ($50.00).
(2) The dealer to whom the plate is issued is subject to a civil penalty imposed by the Division of two hundred dollars ($200.00).
(3) The Division may rescind all dealer license plates issued to the dealer whose plate was displayed on the motor vehicle.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue.

(f) Transfer of Dealer Registration. – No change in the name of a firm, partnership or corporation, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered a new business; but if any one or more of the partners remain in the firm, or if there is change in ownership of less than a majority of the stock, if a corporation, the business shall be regarded as continuing and the dealers' plates originally issued may continue to be used.

(g) Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(h) Definition. – For purposes of this section, the term 'dealer' means a person who is licensed under Article 12 of this Chapter."

SECTION 2. This act becomes effective July 1, 2007.

HOUSE BILL 135:
Motorcycle Transporter Plates

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 28, 2007
Introduced by:	Rep. Moore	**Summary by:**	Cindy Avrette
Version:	PCS to Third Edition H135-CSRBf-41		Committee Counsel

SUMMARY: House Bill 135 would do three things:

- ***It would authorize the Division of Motor Vehicles to issue a dealer license plate to a manufacturer with a symbol on the plate noting that the holder of the plate is a manufacturer.***
- ***It would clarify that the Division may provide suitably reduced sized license plates for motorcycle dealers and manufacturers.***
- ***It would provide that the restriction of the number of dealer plates issuable to a motor vehicle dealer does not apply to manufacturers.***

CURRENT LAW: A motor vehicle dealer may be issued a dealer license plate. A vehicle bearing a dealer plate can be driven for any purpose as long as the driver is an officer or an employee of the dealer and it may be driven by a person who is not an officer or an employee of the dealer if that person is test-driving the vehicle and has a demonstration permit. A dealer plate may be transferred from one vehicle to another. A dealer license plate is issued for a period of one year. The fee for a dealer plate is the regular vehicle license fee of $28 for the first five plates and one-half of this amount for each additional plate issued to the same dealer. The purpose of a dealer license plate is to allow a customer of the dealer to test-drive a motor vehicle offered for sale by the dealer and to allow the dealer to pick up a motor vehicle from its point of purchase by the dealer and to have the vehicle prepared for sale.

BILL ANALYSIS: House Bill 135 would authorize the issuance of a dealer license plate to a person licensed under Article 12 of Chapter 20 of the General Statutes. Article 12 is the Motor Vehicle Dealers and Manufacturers Licensing Law. The current statute provides that a dealer license plate ma be issued to a dealer licensed under Article 12. This change clarifies that a dealer plate may also be issued to a manufacturer licensed under Chapter 20.[1]

A dealer plate must have a distinguishing symbol identifying the plate as a dealer license plate. This bill clarifies that the symbol may vary depending upon the classification of dealer plate issued. For example, a 'ID' for a plate issued to an independent dealer; a 'FD' for a plate issued to a franchised dealer; a 'MF' for a plate issued to a manufacturer; and a 'XD' for a plate issued to a trailer dealer.[2]

The number of dealer license plates a dealer may be issued depends upon the number of vehicles the dealer has sold in a 12-month period. This bill would exempt manufacturers from this restriction.

Lastly, the bill would clarify that the Division may issue a suitably reduced size license plate for a motorcycle dealer or manufacturer.

EFFECTIVE DATE: This act becomes effective July 1, 2007.

[1] The Division currently issues dealer license plates to manufacturers licensed under Article 20.
[2] The Division currently issues dealer plates with these different symbols.

BACKGROUND: Indian Motorcycle Company has located its world headquarters in Kings Mountain, North Carolina. It is licensed as a manufacturer under Article 12 of Chapter 20. It has been issued motorcycle dealer plates, but it would like for the plates to note that the company is a manufacturer, not a dealer. The plant will begin production of motorcycles in the second half of 2007.

H0135e3-SMRB-CSRBf-41

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1362

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/15/07

PROPOSED COMMITTEE SUBSTITUTE S1362-CSMCxf-32 [v.3]

6/28/2007 9:38:09 AM

Short Title: Amend Dry-Cleaning Solvent Cleanup Act. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT TO CLARIFY THE DEFINITION OF DRY-CLEANING SOLVENT, TO AUTHORIZE THE USE OF FUNDS FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR THE INVESTIGATION OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES REASONABLY BELIEVED TO BE CONTAMINATED BY DRY-CLEANING SOLVENT, TO PROVIDE THAT ALL SITE WORK WILL BE PERFORMED BY A PRIVATE CONTRACTOR RETAINED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION, TO MODIFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO POTENTIALLY RESPONSIBLE PARTIES, TO AUTHORIZE TEMPORARY RULE-MAKING, AND TO INCREASE THE ANNUAL SPENDING CAP FOR THE CLEANUP OF SITES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.104B(b) reads as rewritten:

"(b) Unless a different meaning is required by the context, the following definitions apply in this Part. The definitions set out in this subsection apply only to the implementation of this Part and do not define or limit the scope of any other remedial program:

...

(9) "Dry-cleaning solvent" means ~~Perchloroethylene F-1,1,3 or 1,1,1 tricholorethane, a petroleum-based solvent, another comparable product used as a cleaning agent~~any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these ~~hazardous substances.~~solvents.

(10) "Dry-cleaning solvent assessment agreement" or "assessment agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to assess~~an assessment of whether a release of dry-cleaning solvents at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility may be eligible for remediation under this Part and whether any other contaminants that are identified in the agreement may require remediation under other remedial programs operated or administered by the Department.

...

(12) "Dry-cleaning solvent remediation agreement" or "remediation agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to clean up~~the cleanup of dry-cleaning solvent contamination resulting from a release at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility under this Part and any other contaminants that are identified in the agreement under other remedial programs operated or administered by the Department.

(13) "Facility" means a dry-cleaning facility or a wholesale distribution facility.

(14) "Fund" means the Dry-Cleaning Solvent Cleanup Fund.

(14a) "Halogenated hydrocarbon" means any hydrocarbon where at least one hydrogen atom is substituted by a halogen atom.

(15) "Hazardous waste" ~~shall have~~ has the same meaning ~~ascribed to it~~as in G.S. 130A-290.

(15a) "Hydrocarbon" means any linear, branched, saturated, or unsaturated compound whose molecules contain only carbon and hydrogen atoms.

..."

SECTION 2. G.S. 143-215.104C reads as rewritten:

"**§ 143-215.104C. Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. – The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. – The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the Fund under G.S. 105-164.44E.

(5) Application fees pursuant to G.S. 215.104F(a1).

(c) Disbursements. – A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay ~~or reimburse~~ claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay ~~or reimburse~~ any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay ~~or reimburse~~ costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities.

(d) Up to one percent (1%) of the amount of the Fund balance may be used by the Department in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department reasonably believes to be contaminated by dry-cleaning solvent. If the contamination is determined to originate from a dry-cleaning facility, a potentially responsible party may petition for certification of the facility or abandoned facility site. Acceptance of a petition shall be conditioned upon the written acceptance by the petitioner of responsibility for the costs of investigation incurred by the Department pursuant to this subsection. Costs of investigation that are recovered pursuant to this subsection shall not exceed, and shall be credited toward, the financial responsibility of the petitioner pursuant to G.S. 143-215.104F(f). If a potentially responsible party does not petition for certification of the facility or abandoned facility site, the Commission may request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this subsection."

SECTION 3. G.S. 143-215.104D reads as rewritten:

"**§ 143-215.104D. Powers of the Commission.**

(a) Administrative Functions. – The Commission may delegate any or all of the powers enumerated in this subsection to the Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation ~~activities that are reimbursable from the Fund.~~activities.

~~(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.~~

(4) Schedule funding of assessment and remediation activities.
(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.
(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, and certified abandoned dry-cleaning facility sites.
(6) Determine that all necessary assessment and remediation has been completed at a contamination site.
(7) Make payments from the Fund ~~to reimburse~~for the costs of assessment and remediation.

(b) Rule making. – The Commission shall adopt rules as are necessary to implement the provisions of this Part. Rules adopted by the Commission shall be consistent with and shall not duplicate, but may incorporate by reference, the rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes. The Commission shall not delegate the rule-making powers provided in this subsection.

(1) The Commission may adopt rules governing:
~~a. Fees for response costs reimbursable under this Part.~~
b. The certification and decertification of facilities or abandoned sites.
c. The prioritization of facilities or abandoned sites and scheduling of funding for assessment and remediation activities. These rules shall provide for:
1. Consideration of the degree of harm or risk to public health and the environment.
2. Consideration of the order in which certification is issued for the facility or abandoned site.
3. Consideration of the relative cost of assessment and remediation activities.
4. Use of the Fund so as to maximize the reduction of harm or risk posed by certified facilities, certified abandoned sites, uncertified facilities and uncertified sites.
d. The disbursement of revenue from the Fund for payment ~~or reimbursement~~ of approved assessment or remediation costs.
e. The determination whether assessment or remediation is necessary at a contamination site.
f. The determination that all necessary assessment and remediation has been completed at a contamination site.
g. The terms and conditions of dry-cleaning solvent assessment agreements and remediation agreements.
h. The determination whether additional assessment or remediation is necessary at a contamination site previously closed under this Part.

(2) The Commission may adopt rules establishing minimum management practices for handling of dry-cleaning solvent at dry-cleaning facilities and wholesale distribution facilities. The rules may:

a. Require that all perchloroethylene dry-cleaning machines installed at a dry-cleaning facility after the effective date of the rule or temporary rule meet air emission standards that equal or exceed the standards that apply to comparable dry-to-dry perchloroethylene dry-cleaning machines with integral refrigerated condensation.

b. Prohibit the discharge of dry-cleaning solvents or water that contains dry-cleaning solvents into sanitary sewers, septic systems, storm sewers, or waters of the State.

c. Require spill containment structures around dry-cleaning machines, filters, stills, vapor adsorbers, solvent storage areas, and waste solvent storage areas.

d. Require floor sealants for cleaning room areas if the Commission finds the sealants to be effective.

e. Require, by 1 January 2002, the use of improved solvent transfer systems to prevent releases at the time of delivery of solvents to a dry-cleaning facility.

f. Require any other solvent-handling practices the Commission may find necessary and appropriate to minimize the risk of releases at dry-cleaning facilities or wholesale distribution facilities.

(3) The Commission shall adopt rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination resulting from releases at facilities or abandoned sites certified pursuant to G.S. 143-215.104G. The rules shall address, at a minimum:

a. Criteria and methods for determining remediation requirements, including the level of remediation necessary to assure adequate protection of public health and the environment.

b. The circumstances under which information specific to the dry-cleaning solvent contamination site should be considered and required.

c. The circumstances under which restrictions on the future use of any remediated dry-cleaning solvent contamination site should be considered and required as a means of achieving and maintaining an adequate level of protection for public health and the environment.

d. Strategies for the assessment and remediation of dry-cleaning solvent contamination, including presumptive remedial responses sufficient to provide an adequate level of protection as described under sub-subdivision a. of this subdivision.

(c) All rules adopted by the Commission shall be applicable to all dry-cleaning facilities, wholesale distribution facilities, and abandoned dry-cleaning facilities in the State and shall, to the maximum extent practicable, be cost-effective and technically feasible while protecting public health and the environment from the release of dry-cleaning solvents.

(d) Unless otherwise provided in this Part, the Commission may delegate any of its rights, duties, and responsibilities under this Part to the Department."

SECTION 4. G.S. 143-215.104F reads as rewritten:

"**§ 143-215.104F. Requirements for certification, assessment agreements, and remediation agreements.**

(a) General Requirements. – Any person petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(a1) Application Fees. – Each person petitioning or co-petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G shall pay an application fee of one thousand dollars ($1,000) to the Commission.

(b) Requirements for Potentially Responsible Persons Generally. – Every petitioner shall provide the Commission with:

(1) Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner, has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. – In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide

the Commission a written agreement authorizing the ~~Commission~~ Commission, ~~or~~ its ~~agent~~ agent, and its private contractor to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement. (c1) Costs incurred by the petitioner for activities to obtain certification of a facility or abandoned site shall not be reimbursable from the Fund.

(d) The Commission ~~shall~~ may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

~~(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:~~

~~(1)~~(4) The petitioner fails to provide the information required by subsection (b) of this section.

~~(2)~~(5) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. The financial responsibility required shall be as follows:

(1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first five thousand dollars ($5,000) of the costs of assessment or remediation and~~ one percent (1%) of the costs of assessment or remediation ~~in excess of two hundred thousand dollars ($200,000) but~~ not exceeding one million dollars ($1,000,000).

(2) For abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first ten thousand dollars ($10,000) of the costs of assessment or remediation, two percent (2%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and~~ one and one-half percent ~~(1%)~~ (1.5%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

(3) For wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first fifteen thousand dollars ($15,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%)~~ two percent (2%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

~~(4) For wholesale distribution facilities and abandoned dry-cleaning facility sites, the first twenty-five thousands dollars ($25,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).~~

(g) Repealed by Session Laws 2000, c. 19, s. 3."

SECTION 5. G.S. 143-215.104H reads as rewritten:

"**§ 143-215.104H. Dry-Cleaning Solvent Assessment Agreements.**

(a) Assessment Agreements. – One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. The Commission may require the petitioners to provide the Commission with any information necessary to demonstrate:

(1) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission.

~~(2) The projected schedule for funding of assessment activities is adequate.~~

~~(3) The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.~~

~~(4) The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.~~

~~(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or abandoned site.~~

(5) The petitioner has and will continue to have available the financial resources necessary to pay ~~the costs of assessment activities and~~ the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

~~(8) The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.~~

(9) The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

(1) Repealed by Session Laws 2000, c. 19, s. 9.

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount for which the petitioner is responsible under G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and that are otherwise consistent with the requirements of this Part.

~~(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.~~

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the petitioner's share of the response costs required by G.S. 143-215.104F.

~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.~~

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay ~~or reimburse~~ any ~~response~~ costs otherwise payable ~~or reimbursable~~ under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

SECTION 6. G.S. 143-215.104I reads as rewritten:

"**§ 143-215.104I. Dry-Cleaning solvent remediation agreements.**

(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate:

(1) Repealed by Session Laws 2000, c. 19, s. 10.
(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.
(3) There is a public benefit commensurate with the liability protection provided under this Part.
~~(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.~~
(5) The petitioner has complied with or will comply with all applicable procedural requirements.
(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.
(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.
~~(8) The projected schedule for funding of remediation activities.~~
(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.
~~(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.~~
(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement.

(b) In negotiating a remediation agreement, parties may rely on land-use restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M. A remediation agreement may provide for remediation in accordance with standards that are based on those land-use restrictions.

(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

(1) Any remediation, including remediation of contaminants other than dry-cleaning solvents, to be conducted on the property, including:

a. A description of specific areas where remediation is to be conducted.
b. The remediation method or methods to be employed.
~~c. The resources that the petitioner will make available and the degree to which the petitioner intends to rely on the Fund for resources.~~
d. A schedule of remediation activities.
e. Applicable remediation standards. Applicable remediation standards for dry-cleaning solvent contamination shall not exceed the requirements adopted by the Commission pursuant to G.S. 143-104D(b)(3).
f. A schedule and the method or methods for evaluating the remediation.

(2) Any land-use restrictions that will apply to the contamination site or other property.
(3) The desired results of any remediation or land-use restrictions with respect to the contamination site.
(4) The guidelines, including parameters, principles, and policies within which the desired results are to be accomplished.
(5) The consequences of achieving or not achieving the desired results.
(6) The priority ranking of the facility or abandoned site.
~~(7) The person who will conduct the remediation if that person is not the potentially responsible party entering the remediation agreement.~~

(d) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with any petitioner ~~if:~~if

~~(1) The petitioner will not accept financial responsibility for the share of the response costs established in G.S. 143-215.104F. This requirement shall not apply to a petitioner who (i) is the owner of property upon which the dry-cleaning solvent contamination is located, and (ii) is not a current or former owner or operator of a facility believed to be responsible for the contamination.~~
~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking remediation activities required by the Commission.~~
~~(3) The~~ the petitioner fails to provide any information that is necessary to demonstrate the facts required to be shown by subsection (a) of this section.

(e) In addition to the ~~bases~~ basis set forth in subsection (d) of this section, the Commission may refuse to enter into a dry-cleaning solvent remediation agreement with ~~the~~ an owner of the property on which a contamination site is located if the owner refuses to accept limitations on the future use of the property and to give notice of these limitations pursuant to G.S. 143-215.104M.

(f) The refusal of the Commission to enter into a dry-cleaning remediation agreement with any petitioner shall not affect the rights of any other petitioner, other

than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The refusal of the Commission to enter into a remediation agreement may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site.

(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. ~~A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part.~~ A remediation agreement ~~may~~ shall provide that the ~~Commission~~ Commission's private contractor conduct assessment and remediation activities at the facility or abandoned site.

(h) Any failure of a petitioner or the petitioner's agents or employees to comply with the dry-cleaning solvent remediation agreement constitutes a violation of this Part by the petitioner."

SECTION 7. G.S. 143-215.104J(a) reads as rewritten:

"(a) The Commission may decertify a facility or abandoned site or renegotiate or terminate an assessment agreement or remediation agreement with respect to any party thereto in the following circumstances:

(1) The owner or operator of the facility, at any time subsequent to the certification of the facility, violates any of the minimum management requirements adopted by the Commission pursuant to G.S. 143-215.104D(b)(2).

(2) In the case of dry-cleaning contamination on property that is owned by a petitioner, the petitioner fails to file a Notice of Dry-Cleaning Solvent Remediation, if required, as provided in G.S. 143-215.104M.

(3) The potentially responsible persons who are parties to a dry-cleaning solvent assessment agreement are unable to reach an agreement with the Commission to enter into a dry-cleaning solvent remediation agreement within the time specified in the assessment agreement.

(4) The payment of taxes assessed to the facility under Article 5D of Chapter 105 of the General Statutes is delinquent.

(5) Repealed by Session Laws 2000, c. 19, s. 3.

(6) The owner or operator fails to comply with all applicable requirements of this Part ~~to complete any assessment or remediation activities required by~~or fails to comply with all applicable requirements of an assessment agreement or remediation agreement.

(7) The owner or operator of a facility for which an assessment or remediation activity is scheduled or in progress transfers the ownership or operation of the facility or abandoned site to another person without the prior consent of the Commission and the execution of a substitute assessment agreement or remediation agreement.

(8) The standards applied to the dry-cleaning solvent contamination remediation or containment under the provisions of this Part and the dry-cleaning solvent remediation agreement will, or are likely to, cause the Department to fail to comply with the terms and conditions under which it operates and administers a remediation program by delegation or similar authorization from the United States or one of its departments or agencies, including the Environmental Protection Agency.

(9) A petitioner fails to pay the Commission any amounts for which a petitioner is responsible pursuant to G.S. 143-215.104F."

SECTION 8. G.S. 143-215.104K(a) reads as rewritten:

"(a) A potentially responsible party who enters into an assessment agreement or remediation agreement with the Commission and who is complying with the agreement shall not be held liable for assessment or remediation of areas of contamination identified in the agreement except as specified in the assessment agreement or remediation agreement, so long as ~~the~~ any activities conducted at the contamination site by or under the control or direction of the petitioner do not increase the risk of harm to public health or the environment and the petitioner is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section. The liability protection provided under this Part applies to all of the following persons to the same extent as the petitioner, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties and the person is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section:

~~(1) Any person under the direction or control of the petitioner who directs or contracts for assessment, remediation, or redevelopment of the contamination site.~~

(2) Any future owner of the contamination site.

(3) A person who ~~develops or~~ occupies the contamination site.

(4) A successor or assign of any person to whom the liability protection provided under this Part applies.

(5) Any lender or fiduciary that provides financing ~~for assessment, remediation, or redevelopment of the contamination site.~~to the petitioner to pay the petitioner's financial obligations under G.S. 143-215.104F."

SECTION 9. G.S. 143-215.104L reads as rewritten:

"**§ 143-215.104L. Public notice and community involvement.**

(a) If a petitioner desires to enter into a dry-cleaning solvent remediation agreement based on remediation standards that rely on the creation of land-use restrictions, the Commission or the Commission's private contractor on behalf of the petitioner shall notify the public and the community in which the facility or abandoned site is located of the planned remediation and redevelopment activities. ~~The petitioner~~On behalf of the petitioner, the Commission or the Commission's private contractor shall ~~submit~~ prepare a Notice of Intent to Remediate a Dry-Cleaning Solvent

Facility or Abandoned Site and a summary of the Notice of ~~Intent to the Commission.~~Intent. The Notice of Intent shall provide, to the extent known, a legal description of the location of the contamination site, a map showing the location of the contamination site, a description of the contaminants involved and their concentrations in the media of the contamination site, a description of the future use of the contamination site, any proposed investigation and remediation, and a proposed Notice of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed dry-cleaning solvent remediation agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Commission, ~~the petitioner~~the Commission or the Commission's private contractor shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the contamination site. The ~~petitioner~~ Commission or Commission's private contractor shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the contamination is located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register. The ~~petitioner~~ Commission or the Commission's private contractor shall also conspicuously post a copy of the summary of the Notice of Intent at the contamination site.

(b) Publication of the approved summary of the Notice of Intent in the North Carolina Register and publication in a newspaper of general circulation shall begin a public comment period of at least 60 days from the later date of publication. During the public comment period, members of the public, residents of the community in which the contamination site is located, and local governments having jurisdiction over the contamination site may submit comment on the proposed dry- cleaning solvent remediation agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed dry- cleaning solvent remediation agreement shall submit a written request for a public meeting to the Commission within 30 days after the public comment period begins. The Commission shall consider all requests for a public meeting and shall hold a public meeting if the Commission determines that there is significant public interest in the proposed remediation agreement. If the Commission decides to hold a public meeting, the Commission shall, at least 30 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to any other person who had previously requested notice. The Commission shall also ~~direct the petitioner to~~ publish, at least 30 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in the county where the contamination site is located. In any county in which there is more than one newspaper having general circulation, the Commission shall ~~direct the petitioner to~~ publish a copy of the notice in as many newspapers having general circulation in the county as the Commission in its discretion determines to be necessary to assure that the

notice is generally available throughout the county. The Commission shall prescribe the form and content of the notice to be published. The Commission shall prescribe the procedures to be followed in the public meeting. The Commission shall take detailed minutes of the meeting. The minutes shall include any written dry-cleaning solvent remediation agreement. The Commission shall take into account the comment received during the comment period and at the public meeting if the Commission holds a public meeting. The Commission shall incorporate into the remediation agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Commission shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis."

SECTION 10. G.S. 143-215.104M(a) reads as rewritten:

"(a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health or the environment posed by a dry-cleaning solvent contamination site, the owner of property upon which dry-cleaning solvent contamination has been discovered may ~~prepare and submit to the Commission for approval~~file a Notice of Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which the contamination has been discovered and providing for current or future restrictions on the use of the property. If a petitioner requests that a contamination site be remediated to standards that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning Solvent Remediation for the remediation agreement to become effective."

SECTION 11. G.S. 143-215.104N reads as rewritten:

"**§ 143-215.104N. ~~Reimbursement~~ Disbursement of dry-cleaning solvent assessment and remediation costs; limitations; ~~collection of reimbursement.~~cost recovery.**

(a) ~~Reimbursement.~~Allowable Costs. – To the extent monies are available in the ~~Fund for reimbursement of response costs,~~Fund, the Commission shall ~~reimburse any person, including a private contractor, responsible for implementing~~ pay for reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.

(2) Costs of treatment or replacement of potable water supplies affected by the contamination.

(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.

(4) Monitoring of the contamination.

(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment.

(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

(1) For costs incurred in connection with facilities or abandoned sites not certified pursuant to G.S. 143-215.104G.

(2) For costs not incurred pursuant to a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement.

~~(3) For costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site for which funds obligated by petitioners pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in accordance with G.S. 143-214.104F(f) are overdue.~~

(4) For costs at a contamination site that has been identified by the United States Environmental Protection Agency as a federal Superfund site pursuant to 40 Code of Federal Regulations, Part 300 (1 July 1996 Edition), except that the Commission may authorize distribution of the required State match in an amount not to exceed two hundred thousand dollars ($200,000) per year per site. The Commission shall not delegate its authority to disburse funds pursuant to this subdivision.

(5) For remediation beyond the level required under the Commission's risk-based criteria for determining the appropriate level of remediation.

(6) For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in excess of ~~two~~ five hundred thousand dollars ~~($200,000)~~ ($500,000) per year. However, that the Commission may disburse up to ~~four hundred thousand~~ one million dollars ~~($400,000)~~($1,000,000) per year for assessment and remediation costs incurred in connection with a ~~certified~~ facility or ~~a certified~~ an abandoned site ~~that~~ if the facility or abandoned site has been certified and poses an imminent hazard.

(7) That would result in a diminution of the Fund balance below one hundred thousand dollars ($100,000), unless an emergency exists in connection with a dry-cleaning solvent contamination abandoned site that constitutes an imminent hazard.

(8) For any costs incurred in connection with dry-cleaning solvent contamination from a facility located on a United States military base or owned by the United States or a department or agency of the United States.

(9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State.

~~(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation~~

~~agreement until the petitioners who are party to the agreement have paid all sums due under the agreement.~~

(d) ~~Each dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreements made by the Commission pursuant to this Part shall expressly state that the Commission's obligation to reimburse response costs incurred pursuant to these agreements shall be contingent upon the availability of monies from the Fund and that the State and its departments and agencies have no obligation to reimburse otherwise eligible expenses if monies are not available in the Fund to pay the reimbursements.~~ If, at any time, the Commission determines that the cost of assessment and remediation activities ~~reimbursable~~ incurred pursuant to existing dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements equals or exceeds the total revenues expected to be credited to the Fund over the life of the Fund, the Commission shall publish notice of the determination in the North Carolina Register. Following the publication of a notice pursuant to this section, the Commission may continue to enter into dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements until the day of adjournment of the first regular session of the General Assembly that begins after the date the notice is published, but shall have no authority to enter into additional dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements after that date unless the Commission first determines either (i) that revenues will be available from the Fund to ~~reimburse~~ pay the costs of assessment and remediation activities expected to be ~~reimbursable~~ incurred pursuant to the agreements, or (ii) that assessment and remediation activities undertaken pursuant to the agreements will be paid entirely from sources other than the Fund. For the purposes of this subsection, the term "day of adjournment" shall mean: (i) in the case of a regular session held in an odd-numbered year, the day the General Assembly adjourns by joint resolution for more than 10 days, and (ii) in the case of a regular session held in an even-numbered year, the day the General Assembly adjourns sine die.

(e) ~~The Commission shall pay the reimbursable response costs of eligible parties as they are incurred.~~ If the cleanup of the contamination site is not completed through fault of the petitioner as required by the remediation agreement, the petitioner shall reimburse the Fund for any response costs previously ~~reimbursed~~ disbursed from the fund for the ~~cleanup shall be repaid to the Fund,~~cleanup, with interest. The Commission shall request the Attorney General to commence a civil action to secure repayment of response costs and interest of the costs."

SECTION 12. G.S. 143-215.104P(a) reads as rewritten:

"(a) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) or, if the violation involves a hazardous waste, as defined in G.S. 130-290, of not more than twenty-five thousand dollars ($25,000) against any person who:

(1) Repealed by Session Laws 2000, c. 19, s. 3.

(2) Engages in dry-cleaning operations using dry-cleaning solvent for which the appropriate sales or use tax has not been paid.

(3) Fails to comply with rules adopted by the Commission pursuant to this Part.

(3a) Fails to comply with the rules adopted by the Commission pursuant to Article 21B of Chapter 143 of the General Statutes that apply to dry-cleaning solvents at facilities as defined in this Part. This enforcement authority does not apply to facilities located in counties that have been delegated as local air pollution control programs by the Commission pursuant to G.S. 143-215.112.

(3b) Fails to comply with rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes that apply to dry-cleaning solvents at facilities as defined in this Part.

(4) Fails to file, submit, or make available, as the case may be, any documents, data, or reports required by this Part.

(5) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.2.

(6) Falsifies or tampers with any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(7) Knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Part or rules implementing this Part.

(8) Knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Part or rule implementing this Part.

(9) Knowingly makes a false statement of material fact in a rule-making proceeding or contested case under this Part.

(10) Refuses access to the Commission or its duly designated representative to any premises for purposes of conducting a lawful inspection provided for in this Part or rule implementing this Part."

SECTION 13. G.S. 143-215.104T(b) reads as rewritten:

"(b) Notwithstanding the provision of the Tort Claims Act, G.S. 143-291 through G.S. 143-300.1 or any other provision of law waiving the sovereign immunity of the State of North Carolina, the State, its agencies, officers, employees, and agents shall be absolutely immune from any liability in any proceeding for any injury or claim arising from negotiating, entering into, implementing, monitoring, or enforcing a dry-cleaning solvent assessment agreement, a dry-cleaning solvent remediation agreement, or a Notice of Dry-Cleaning Solvent Remediation under this Part or any other action implementing this Part."

SECTION 14. G.S. 105-187.31 reads as rewritten:

"**§ 105-187.31. Tax imposed.**

A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise tax is imposed on dry-cleaning solvent purchased outside the State for storage, use, or consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the

excise tax is ten dollars ($10.00) for each gallon of halogenated hydrocarbon-based dry-cleaning solvent ~~that is chlorine-based~~ and one dollar and thirty-five cents ($1.35) for each gallon of hydrocarbon-based dry-cleaning ~~solvent that is hydrocarbon-based.~~ solvent. These taxes are in addition to all other taxes."

SECTION 15. If the Environmental Management Commission adopts rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination, the original notice of text for which was published at 21 N.C. Reg. 1818 (April 16, 2007); the Rules Review Commission approves these rules, including any changes incorporated as a result of public comments or Rules Review Commission requirements; and the Rules Review Commission receives 10 or more letters of objection to these rules in accordance with G.S. 150B-21.3(b2), the Environmental Management Commission, notwithstanding the requirements of G.S. 150B-21.1 and 150B-21.3, may adopt these rules as temporary rules in accordance with the temporary rulemaking procedures set out in Chapter 150B.

SECTION 16. (a) G.S. 143-215.104F(a1), as enacted by Section 4 of this act, becomes effective on 1 September 2007, and applies to applications for certifications made, and assessment agreements and remediation agreements entered into, on or after that date. G.S. 143-215-104F(f), as amended by Section 4 of this act, is effective retroactively to August 1, 2001, and applies to assessment agreements and remediation agreements entered into on or after that date. The Environmental Management Commission shall credit any payment received from a petitioner prior to 1 September 2007 against the petitioner's co-payment obligations under G.S. 143-215.104F, but the Environmental Management Commission shall not repay, and this section shall not operate to create any right for a petitioner to demand, any refund of funds received prior to 1 September 2007. All other amendments to G.S. 143-215.104F, as enacted by Section 4 of this act, are effective when they become law.

(b) G.S. 143-215.104N(b)(6), as enacted by Section 11 of this act, is effective retroactively to 1 January 2007. All other amendments to G.S. 143-215.104N, as enacted by Section 11 of this act, are effective when they become law.

(c) Section 12 of this act is effective 1 January 2008.

(d) Section 13 of this is act effective retroactively to 1 January 1998.

(e) Except as provided in subsections (a) through (d) of this section, this act is effective when it becomes law.

SENATE BILL 1362:
Amend Dry-Cleaning Solvent Cleanup Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 28, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Dan Ettefagh
Version:	PCS to Second Edition S1362-CSMC		Committee Counsel

SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 1362 would amend the Dry-Cleaning Solvent Cleanup Act by:

- *Clarifying the definition of dry-cleaning solvent.*
- *Authorizing the use of funds from the Dry-Cleaning Solvent Cleanup Fund for the investigation of inactive hazardous waste disposal sites.*
- *Providing that all site work be performed by a private contractor retained by the Environmental Management Commission (EMC).*
- *Modifying the financial responsibility requirements applicable to potentially responsible parties.*
- *Authorizing temporary rule-making authority by the EMC.*
- *Increasing annual spending cap for site cleanup.*

[As introduced, this bill was identical to H1778, as introduced by Reps. Gibson, Allen, which is currently in House Appropriations.]

BILL ANALYSIS: The PCS for Senate Bill 1362 would make the following changes to the Dry-Cleaning Solvent Cleanup Act (Act):

- **Section 1:** would change the definition for the term "dry-cleaning solvent" and would add new definitions for the terms "halogenated hydrocarbon," and "hydrocarbon."
- **Sections 2 and 4:** would replace the existing co-payment scheme with a one-time $1,000.00 application fee and would revise the current financial responsibility requirements payment schedule as follows:
  - *Dry-cleaning facilities owned by persons who employ fewer than 5 full-time employees*: 1% of the costs of assessment or remediation, but not exceeding $1,000,000.
  - *Dry-cleaning facilities owned by persons who employ at least 5 but fewer than 10 full-time employees* AND *abandoned dry-cleaning facility sites*: 1.5% of the costs of assessment or remediation, but not exceeding $1,000,000.
  - *Dry-cleaning facilities owned by persons who employ 10 or more full-time employees* AND *wholesale distribution facilities*: 2% of the costs of assessment or remediation, but not exceeding $1,000,000.

Section 2 would also authorize the Department of Environment and Natural Resources to use up to 1% of the balance in the Dry-Cleaning Solvent Fund in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department believes to be contaminated by dry-cleaning solvent.

Section 4 would also provide the EMC with discretion in rejecting petitions made by operators who are not in compliance with minimum management practices for handling of solvents or operators delinquent in paying solvent taxes.

- **Sections 3, 5, 6, 7, 8, 9, 10, and 13:** would modify language throughout the Act to clarify that all site assessment and cleanup procedures will be performed by private contractors hired by the EMC. These changes would clarify that the State is responsible for the hiring and awarding of contracts pursuant to the Act.
- **Section 11:** would increase the amount of money that may be disbursed to a site per year from the Dry-Cleaning Solvent Cleanup Fund as follows:
    - For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement from $200,000 to $500,000 per year.
    - For assessment and remediation costs incurred in connection with a certified facility or an abandoned site that poses an imminent hazard from $400,000 to $1,000,000 per year.
- **Section 12:** would authorize the Environmental Management Commission and the Commission for Health Services to assess civil penalties for violations of hazardous waste and air quality regulations respectively that apply to dry-cleaning facilities.
- **Section 14:** would make conforming changes to the Dry-Cleaning Solvent Tax under Article 5D of Chapter 105 of the General Statutes.
- **Section 15**: would authorize the EMC to adopt temporary rules if the Rules Review Commission receives 10 or more letters of objection to the rules establishing a risk-based approach to dry-cleaning solvent contamination published at 21 N.C. Reg. 1818 (April 16, 2007).

EFFECTIVE DATE: The establishment of the application fee (section 4) is effective September 1, 2007. The elimination of deductibles and change to co-payment amounts (section 4) is effective August 1, 2001. The increase to annual per-site expenditure limits (section 11) is effective January 1, 2007. Consolidation of enforcement of environment laws affecting dry cleaners in the DSCA program (section 12) is effective January 1, 2008. Clarification of the state-lead nature of the DSCA program with respect to the Tort Claims Act (section 13) is effective January 1, 1998. The remainder of the act is effective when it becomes law.

BACKGROUND: There are an estimated 900 active and abandoned dry-cleaning sites in North Carolina. At many of these sites, the groundwater is contaminated with the solvents used in the cleaning process. In 1997, the General Assembly enacted a statute to address this contamination. The dry-cleaning solvent cleanup program is designed to provide a fund, administered by the Department of Environment and Natural Resources, to assess and clean contaminated dry-cleaning sites using State-lead contractors. The source for the cleanup fund is a tax on dry-cleaning and dry-cleaning solvents (both perchloroethylene and petroleum-based solvents).

Drycleaners or dry-cleaning site property owners may petition for entry into this program. Once in the program, drycleaners are subject to deductibles and co-payments. The program will manage the assessment and cleanup work. (From the North Carolina Department of Environment and Natural Resources, Dry-Cleaning Solvent Cleanup Act Program Website, http://www.ncdsca.org/).

S1362e2-SMMC-CSMC

Jennifer Mundt, Legislative Analyst for Senate Committee for Agriculture, Environment, and Natural Resources, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1362

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1362-ART-5 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
S1362-CSMCxf-32 [v.3]

Senator Clodfelter

moves to amend the bill on page 19, line 3,
by rewriting that line to read:

"dry-cleaning solvents at facilities as defined in this Part. Violations of this subdivision shall be enforced as provided in G.S. 143-215.114A, 143-215.114B, and 143-215.114C. This";

on page 19, line 10,
by inserting, at the end of that line;

"Violations of this subdivision shall be enforced as provided in G.S. 130A-18, 130A-22, 130A-25, and 130A-26.1."; and

on page 20, lines 15 through 34,
by rewriting those lines to read;

"**SECTION 16.(a)** G.S. 143-215.104F(a1), as enacted by Section 4 of this act, becomes effective on 1 September 2007 and applies to applications for certifications made, and assessment agreements and remediation agreements entered into, on or after that date. G.S. 143-215-104F(f), as amended by Section 4 of this act, is effective retroactively to 1 August 2001 and applies to assessment agreements and remediation agreements entered into on or after that date. The Environmental Management Commission shall credit any payment received from a petitioner prior to 1 September 2007 against the petitioner's co-payment obligations under G.S. 143-215.104F, but the Environmental Management Commission shall not repay,

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1362

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1362-ART-5 [v.1]

and this section shall not operate to create any right for a petitioner to demand, any refund of funds received prior to 1 September 2007. All other amendments to G.S. 143-215.104F, as enacted by Section 4 of this act, are effective when this act becomes law.

SECTION 16.(b) G.S. 143-215.104N(b)(6), as enacted by Section 11 of this act, is effective retroactively to 1 January 2007. All other amendments to G.S. 143-215.104N, as enacted by Section 11 of this act, are effective when this act becomes law.

SECTION 16.(c) Section 12 of this act is effective 1 January 2008.

SECTION 16.(d) Section 13 of this is act effective retroactively to 1 January 1998.

SECTION 16.(e) Except as provided in subsections (a) through (d) of this section, this act is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 540*
PROPOSED COMMITTEE SUBSTITUTE S540-CSRBx-40 [v.6]

Short Title: Revenue Laws & Motor Fuels Tax Tech. Changes. (Public)

Sponsors:

Referred to:

March 7, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS, MOTOR FUELS TAX LAWS, AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53B-4(2) reads as rewritten:

"(2) Authorization under G.S. ~~105-251. 105-251.1.~~ 105-251 or G.S. 105-258."

SECTION 2. G.S. 105-40(7a) reads as rewritten:

"(7a) All exhibitions, performances, and entertainments promoted and managed by 'a nonprofit arts organization.' ~~organization' that is exempt from income tax under G.S. 105-130.11(a)(3).~~ This exemption does not apply to athletic events. A 'nonprofit arts organization' is an organization that meets both of the following requirements:

a. It is exempt from income tax under G.S. 105-130.11(a)(3).

b. Its primary purpose is to offer choral and theatrical performances."

SECTION 3.(a) G.S. 105-40(10) reads as rewritten:

"(10) Arts festivals held by a person that is exempt from income tax under Article 4 of this Chapter and that meets the following conditions:

a. The person holds no more than two arts festivals during a calendar year.

b. Each of the person's arts festivals last no more than seven consecutive days.

c. The arts festivals are held outdoors on public property and involve a variety of exhibitions, entertainments, and activities."

SECTION 3.(b) G.S. 105-40(11) reads as rewritten:

"(11) Community festivals held by a person who is exempt from income tax under Article 4 of this Chapter and that meets all of the following conditions:

a. The person holds no more than one community festival during a calendar year.

b. The community festival lasts no more than seven consecutive days.

c. The community festival involves a variety of exhibitions, entertainments, and activities, the majority of which are held outdoors and are open to the public."

SECTION 4. G.S. 105-113.82(a) reads as rewritten:

"(a) Amount, Method. – The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March ~~31, less the amount of the net proceeds credited to the Department of Commerce under G.S. 105-113.81A,~~ 31 to the counties and cities in which the retail sale of these beverages is authorized in the entire county or city:

(1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23¾%);

(2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and

(3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

For purposes of this subsection, 'net amount' means gross collections less refunds and amounts credited to the Department of Commerce under G.S. 105-113.81A. If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributed under subdivisions (1), (2), and (3) shall be computed separately."

SECTION 5. G.S. 105-129.16E(b) reads as rewritten:

"(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its ~~business~~ apportionable income to this State."

SECTION 6. G.S. 105-129.87(b) reads as rewritten:

"(b) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier designation of the county where the new

jobs are created during the taxable year. If the taxpayer creates new jobs at more than one eligible establishment in a county during the taxable year, the threshold applies to the aggregate number of new jobs created at all eligible establishments within the county during that year. If the taxpayer creates new jobs at eligible establishments in different counties during the taxable year, the threshold applies separately to the aggregate number of new jobs created at eligible establishments in each county. If the taxpayer creates new jobs in an urban progress zone or an agrarian growth zone, the applicable threshold is the one for a development tier one area. New jobs created in an urban progress zone or an agrarian growth zone are not aggregated with jobs created at any other eligible establishments regardless of county.

Area Development Tier	Threshold
Tier One	5
Tier Two	10
Tier Three	15"

SECTION 7. G.S. 105-129.88(c) reads as rewritten:

"(c) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier where the eligible business property is placed in service during the taxable year. If the taxpayer places business property in service in an urban progress zone or an agrarian growth zone, the applicable threshold is the one for a development tier one area. Business property placed in service in an urban progress zone or an agrarian growth zone is not aggregated with business property placed in service at any other eligible establishments regardless of county. If the taxpayer places eligible business property in service at more than one establishment in a county during the taxable year, the threshold applies to the aggregate amount of eligible business property placed in service during the taxable year at all establishments in the county. If the taxpayer places eligible business property in service at establishments in different counties, the threshold applies separately to the aggregate amount of eligible business property placed in service in each county. If the taxpayer places eligible ~~machinery and equipment~~business property in service at an establishment over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Development Tier	Threshold
Tier One	$ -0-
Tier Two	1,000,000
Tier Three	2,000,000"

SECTION 8. G.S. 105-129.88(e) reads as rewritten:

"(e) Transferred Property. – If, in one of the four years in which the installment of a credit accrues, the business property with respect to which the credit was claimed is moved to a county in a higher-numbered development tier or ~~to~~ out of an urban progress zone or an agrarian growth zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the business property had been placed in service initially in the area to which it was moved. If, in one of the four years in which the installment of a credit accrues, the business property with respect to which a credit was claimed is moved to a county in a lower-numbered development tier or an

urban progress zone or an agrarian growth zone, the remaining installments of the credit shall be calculated as if the business property had been placed in service initially in the area to which it was moved."

SECTION 9.(a) G.S. 105-130.48(e) reads as rewritten:

"(e) Documentation of Credit. – ~~To~~ Upon request, to support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer."

SECTION 9(b). G.S. 105-151.30(d) reads as rewritten:

"(d) Documentation of Credit. – ~~To~~ Upon request, to support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer."

SECTION 10. G.S. 105-164.13(52) reads as rewritten:

"(52) Items subject to sales and use tax under G.S. 105-164.4, other than ~~electricity and~~ electricity, telecommunications service, and ancillary service as defined in G.S. 105-164.4, if all of the following conditions are met:

~~(a)~~a. The items are purchased by a State agency for its own use and in accordance with G.S. 105-164.29A.

~~(b)~~b. The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account of the State agency.

~~(c)~~c. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number."

SECTION 11. G.S. 105-164.16(b1) reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for ~~more than~~at least one hundred dollars ($100.00) but less than ten thousand dollars ($10,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return."

SECTION 12. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases tangible personal ~~property~~property, excluding purchases of boats and aircraft, outside the State for a nonbusiness purpose is due on an annual basis. For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use tax return is due by the following April 15. For an individual who is required to file

an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14."

SECTION 13.(a) G.S. 105-187.51B reads as rewritten:

"**§ 105-187.51B. Tax imposed on certain recyclers and research and development companies.**

(a) Tax. – A privilege tax is imposed on the following:

(1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:

a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

b. Port and dock facilities.

c. Rail equipment.

d. Material handling equipment.

(2) A research and development company in the physical, engineering, and life sciences that is included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company in the research and development of tangible personal property.

c. Would be considered mill machinery or mill machinery parts or accessories under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars ($80.00) per article."

SECTION 13.(b) This section becomes effective July 1, 2007.

SECTION 14. G.S. 105-187.52 reads as rewritten:

"**§ 105-187.52. Administration.**

(a) Administration. – The privilege taxes imposed by this Article are in addition to the State use tax. Except as otherwise provided in this Article, the collection and administration of these taxes is the same as the State use tax imposed by Article 5 of this Chapter.

(b) Credit. – A credit is allowed against the tax imposed by this Article for the amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax paid to another state. The credit allowed by this subsection does not apply to tax paid to another state that does not grant a similar credit for the privilege tax paid in North Carolina.

(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this Article."

SECTION 15. G.S. 105-258(a) reads as rewritten:

"(a) Secretary May Examine Data and Summon Persons. The Secretary of Revenue, for the purpose of ascertaining the correctness of any return, making a return where none has been made, or determining the liability of any person for ~~any tax imposed by this Subchapter,~~a tax, or collecting any such tax, shall have the power to examine, personally, or by an agent designated by him, any books, papers, records, or other data which may be relevant or material to such inquiry, and the Secretary may summon the person liable for the tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may administer oaths to such person or persons. If any person so summoned refuses to obey such summons or to give testimony when summoned, the Secretary may apply to the Superior Court of Wake County for an order requiring such person or persons to comply with the summons of the Secretary, and the failure to comply with such court order shall be punished as for contempt."

SECTION 16.(a) G.S. 105-449.52 reads as rewritten:

"**§ 105-449.52. Civil penalties applicable to motor carriers.**

(a) Penalty. – A motor carrier who does any of the following is subject to a civil penalty:

(1) Operates in this State or causes to be operated in this State a motor vehicle that either fails to carry the registration card required by this Article or fails to display an identification marker in accordance with this Article. The amount of the penalty is one hundred dollars ($100.00).

(2) Is unable to account for identification markers the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars ($100.00) for each identification marker the carrier is unable to account for.

(3) Displays an identification marker on a motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars ($1,000) for each identification marker unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the identification marker and the motor carrier displaying the unlawfully obtained identification marker are jointly and severally liable for the penalty under this subdivision.

~~A~~

(a1) Payment. – A penalty imposed under this section is payable to the ~~Department of Revenue, the Department of Crime Control and Public Safety, or the Division of Motor Vehicles.~~ agency that assessed the penalty. When a motor vehicle is found to be operating without a registration card or an identification marker or with an

identification marker the Secretary did not issue for the vehicle, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty.

(b) Hearing. – The procedure set out in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

SECTION 16.(b) G.S. 105-449.115(f) reads as rewritten:

"(f) Sanctions Against Transporter. – The following acts are grounds for a civil ~~penalty payable to the Department of Crime Control and Public Safety or the Department of Revenue:~~penalty:

(1) Transporting motor fuel in a railroad tank car or transport truck without a shipping document or with a false or an incomplete shipping document.

(2) Delivering motor fuel to a destination state other than that shown on the shipping document.

The penalty ~~imposed under this subsection~~ is payable to the agency that assessed the penalty and is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars ($5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed."

SECTION 16.(c) G.S. 105-449.115A(c) reads as rewritten:

"(c) Sanctions. – Transporting motor fuel in a tank wagon without an invoice, bill of sale, or shipping document containing the information required by this section is grounds for a civil ~~penalty payable to the Department of Crime Control and Public Safety or the Department of Revenue:~~penalty. The penalty ~~imposed under this subsection~~ is payable to the agency that assessed the penalty and is payable by the person in whose name the tank wagon is registered. The amount of the penalty is one thousand dollars ($1,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed."

SECTION 16.(d) G.S. 105-449.117(b) reads as rewritten:

"(b) Civil Penalty. – The civil penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue~~ agency that assessed the penalty and is payable by the person in whose name the highway vehicle is registered. The amount of the penalty depends on the amount of fuel in the supply tank of the highway vehicle. The penalty is the greater of one thousand dollars ($1,000) or five times the amount of motor fuel tax payable on the fuel in the supply tank. A penalty imposed under this section is in addition to any motor fuel tax assessed."

SECTION 16.(e) G.S. 105-449.118 reads as rewritten:

"**§ 105-449.118. Civil penalty for buying or selling non-tax-paid motor fuel.**

A person who dispenses non-tax-paid motor fuel into the supply tank of a highway vehicle or who allows non-tax-paid motor fuel to be dispensed into the supply tank of a

highway vehicle is subject to a civil penalty of two hundred fifty dollars ($250.00) per occurrence.

The penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue.~~ agency that assessed the penalty. Failure to pay a penalty imposed under this section is grounds under G.S. 20-88.01(b) to withhold or revoke the registration plate of the motor vehicle into which the motor fuel was dispensed."

SECTION 16.(f) G.S. 105-449.118A reads as rewritten:

"**§ 105-449.118A. Civil penalty for refusing to allow the taking of a motor fuel sample.**

A person who refuses to allow the taking of a motor fuel sample is subject to a civil penalty of one thousand dollars ($1,000). The penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue.~~ agency that assessed the penalty. If the refusal is for a sample to be taken from a vehicle, the penalty is payable by the person in whose name the vehicle is registered. If the refusal is for a sample to be taken from any other storage tank or container, the penalty is payable by the owner of the container."

SECTION 17.(a) G.S. 105-449.72(a) reads as rewritten:

"(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:

(1) For an applicant for a license as any of the following, the amount is two million dollars ($2,000,000):
   a. A refiner.
   b. A terminal operator.
   c. A supplier that is a position holder or a person that receives motor fuel pursuant to a two-party exchange.
   d. A bonded importer.
   e. A permissive supplier.

(2) For an applicant for a license as any of the following, the amount is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. The amount may not be less than two thousand dollars ($2,000) and may not be more than five hundred thousand dollars ($500,000):
   ~~a. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange.~~
   b. An occasional importer.
   c. A tank wagon importer.
   d. A distributor.

e. Repealed by Session Laws 1997-60, s. 5, effective October 5, 1997.

(3) For an applicant for a license ~~as a blender,~~ as any of the following, a bond is required only if the applicant's average expected annual tax liability under this Article, as determined by the Secretary, is at least two thousand dollars ($2,000). When a bond is required, the bond amount is the same as under subdivision (2) of this subsection.

a. A blender.

b. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange."

SECTION 17.(b) This section becomes effective October 1, 2007.

SECTION 18.(a) G.S. 105-449.115(g) reads as rewritten:

"(g) Penalty Defense. – Compliance with the conditions set out in this subsection is a defense to a civil penalty imposed under subsection (f) of this section as a result of the delivery of fuel to a state other than the destination state printed on the shipping document for the fuel. The Secretary must waive a penalty imposed against a person under that subsection if the person establishes a defense under this subsection. The conditions for the defense are:

(1) The person notified the Secretary of the diversion ~~within seven days after the diversion occurred~~ and received a confirmation number for the ~~diversion.~~diversion before the imposition of the penalty.

(2) Tax was timely paid on the diverted ~~fuel.~~fuel, unless the person is a motor fuel transporter."

SECTION 18.(b) This section is effective when it becomes law and applies to penalties assessed on or after that date and to refund requests that have not been finally determined as of that date.

SECTION 19. G.S. 115D-31.3(j) reads as rewritten:

"(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is ~~located:~~located meets all of the following:

(1) Is designated as a Tier 1 or Tier 2 county in accordance with~~G.S. 105-129.3:~~ G.S. 143B-437.08.

(2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar ~~year: and~~year.

(3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

SECTION 20. G.S. 119-17 is repealed.

SECTION 21.(a) Subsection (a) of Section 12 of Part V of Chapter 908 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(b) Section 39 of Part IX of Chapter 908 of the 1983 Session Laws reads as rewritten:

"**Sec. 39.** Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both."

SECTION 21.(c) Subsection (a) of Section 26 of Part VII of Chapter 908 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(d) Subsection (a) of Section 4 of Chapter 988 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(e) Subsection (a) of Section 3 of Chapter 1055 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(f) Section 10 of Part IV of Chapter 570 of the 1985 Session Laws reads as rewritten:

"**Sec. 10.** Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both."

SECTION 21.(g) Subsection (a) of Section 4 of Chapter 857 of the 1985 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by Onslow County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(h) Subsection (c) of Section 1 of Chapter 892 of the 1985 Session Laws, as amended by Chapter 154 of the 1991 Session Laws, reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(i) Subsection (c) of Section 1 of Chapter 923 of the 1985 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law. "

SECTION 21.(j) Subsection (a) of Section 4 of Chapter 929 of the 1985 Session Laws as amended by S.L.1985-929 reads as rewritten:

"(a) Any tax levied under this act is due and payable to the levying jurisdiction in monthly installments on or before the ~~25th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~25th~~ 20th day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(k) Subsection (c) of Section 1 of Chapter 969 of the 1985 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly

installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(l) Subsection (c) of Section 1 of Chapter 140 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer the tax levied under this act. The tax shall be due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax is collected. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals subject to the tax. A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(m) Subsection (c) of Section 1 of Chapter 141 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(n) Subsection (c) of Section 1 of Chapter 143 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(o) Subsection (c) of Section 1 of Chapter 170 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly

installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(p) Subsection (c) of Section 5 of Chapter 172 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(q) Subsection (a) of Section 3 of Chapter 188 of the 1987 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(r) Subsection (c) of Section 1 of Title I. of Chapter 460 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The Town shall administer a tax levied under this section. A tax levied under this section is due and payable to the Town revenue collector in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the Town. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied."

SECTION 21.(s) Subsection (c) of Section 1 of Chapter 472 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(t) Subsection (c) of Section 1 of Chapter 484 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(u) Subsection (c) of Section 1 of Chapter 538 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(v) Subsection (c) of Section 1 of Chapter 561 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(w) Subsection (c) of Section 1 of Chapter 618 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(x) Subsection (a) of Section 4 of Chapter 647 of the 1987 Session Laws reads as rewritten:

"(a) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(y) Subsection (c) of Section 1 of Chapter 950 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(z) Subsection (c) of Section 1 of Chapter 979 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(aa) Subsection (c) of Section 1 of Chapter 173 of the 1989 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(bb) Subsection (c) of Section 1 of Chapter 422 of the 1989 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(cc) Subsection (e) of Section 8 of Chapter 821 of the 1989 Session Laws reads as rewritten:

"(e) Administration. Mecklenburg County and the City of Charlotte shall determine by agreement which of them will administer and collect each of the taxes levied pursuant to this Part. In the event an agreement cannot be reached, then any tax levied pursuant to this Part shall be administered and collected by Mecklenburg County. The local administrative authority may promulgate additional rules and regulations necessary for the implementation of this Part.

The taxes levied pursuant to this Part are due and payable to the local administrative authority as agent for the taxing entity in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return to the local administrative authority. The local administrative authority shall design, print, and furnish to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

A return filed with the local administrative authority under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(dd) Subsection (c) of Section 1 of Chapter 163 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ee) Subsection (c) of Section 1 of Chapter 230 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly

installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ff) Subsection (c) of Section 1 of Chapter 392 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(gg) Subsection (c) of Section 5 of Chapter 577 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(hh) Section 9 of Chapter 594 of the 1991 Session Laws, as amended by Section 5 of Chapter 458 of the 1995 Session Laws, reads as rewritten:

"Sec. 9. Administration. – The county shall administer and collect the taxes levied pursuant to this act. Wake County may contract with the City of Raleigh to perform these functions.

The taxes levied pursuant to this act are due and payable to the county in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return to the county. The county shall design, print, and furnish on request to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Returns filed with the county pursuant to this act are not public records and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 21.(ii) Subsection (c) of Section 1 of Chapter 453 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(jj) Subsection (c) of Section 1 of Chapter 549 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(kk) Subsection (c) of Section 1 of Part 1 of Chapter 642 of the 1993 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ll) Subsection (c) of Section 1 of Chapter 648 of the 1993 Session Laws reads as rewritten:

"(c) Administration. The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(mm) Subsection (c) of Section 1 of Chapter 695 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the town under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(nn) Subsection (c) of Section 1 of Chapter 530 of the 1995 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 22.(a) Section 9 of S.L. 2005-294 is repealed.

SECTION 22.(b) Section 13 of S.L. 2005-294, as amended by Section 31.5 of S.L. 2006-259, reads as rewritten:

"**SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006. Sections 1, 2, 3, 5, 6, 7, ~~9.~~ 9.1, 10, and 11 of this act become effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. Sections 12 and 13 of this act are effective when they become law. Nothing in this act shall require the General Assembly to appropriate funds to implement it for the biennium ending June 30, 2007."

SECTION 22.(c) G.S. 105-330.10 reads as rewritten:

"**§ 105-330.10. Disposition of interest.**

~~Sixty percent (60%) of the first month's~~The interest collected on unpaid ~~taxes~~ registration fees pursuant to G.S. 105-330.4 shall be transferred on a monthly basis to the ~~Combined Motor Vehicle and Registration Account created within the Treasurer's Office.~~North Carolina Highway Fund for technology improvements within the Division of Motor Vehicles. ~~The funds in this account shall be used to develop and implement an integrated computer system within the Division of Motor Vehicles that would allow for the combined assessment, billing, and collection of property taxes on motor vehicles and the issuance of registration plates. The Treasurer shall report to the Revenue Laws~~

~~Study Committee semi-annually with the first report due by April 30, 2006. The report shall contain a detailed description of the amount of moneys transferred to the Account and distributed from the Account.~~"

SECTION 22.(d) Subsection (c) of this section becomes effective January 1, 2010. The remainder of this section is effective when it becomes law.

SECTION 23. The introductory language of Section 6 of S.L. 2006-128 reads as rewritten:

"**SECTION 6.** G.S. ~~153A-215(g)~~153A-155(g) reads as rewritten:"

SECTION 24. Section 33 of S.L. 2006-162 reads as rewritten:

"**SECTION 33.** ~~Section 4~~Sections 4(a) and 4(b) of this act ~~is~~ are effective for taxable years beginning on or after January 1, 2006. Section 13 of this act becomes effective July 1, 2007, and applies to motor fuel transported on or after that date. Sections 14, 15, and 17 of this act become effective January 1, 2007, and apply to motor fuel purchased on or after that date. An exempt card or code will not be valid for sales of motor fuel at the terminal rack on or after January 1, 2007. Section 26 of this act is effective when it becomes law and applies to the estates of decedents dying on or after January 1, 2005. Section 32 of this act becomes effective January 1, 2007. The remainder of this act is effective when it becomes law."

SECTION 25. Sec. 8.4 of Chapter 692 of the 1989 Session Laws is repealed.

SECTION 26.(a) G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges ~~with respect to which credits were taken.~~assessed for the taxable year.

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

SECTION 26.(b) G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges ~~with respect to which credits were taken.~~assessed for the taxable year.

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

SECTION 27. G.S. 105-164.13(38) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

...

(38) Food and other items lawfully purchased under the Food Stamp Program, ~~7 U.S.C. § 51,~~ 7 U.S.C. § 2011, and supplemental foods lawfully purchased with a food instrument issued under the Special

Supplemental Food Program, 42 U.S.C. § 1786, and supplemental foods purchased for direct distribution by the Special Supplemental Food Program."

SECTION 28. G.S. 105-164.44I is amended by adding a new subsection to read:

"(c1) Revised Certification. – If a county or city determines that the amount of cable franchise tax it imposed during the first six months of the 2006-2007 fiscal year differs from the amount certified to the Secretary under subsection (c) of this section, the county or city may submit a new certification to the Secretary revising the amount. For distributions for quarters beginning on or after October 1, 2007, the Secretary must determine the proportionate share of a county or city based upon certifications submitted on or before October 1, 2007. For distributions for quarters beginning on or after April 1, 2008, the Secretary must determine the proportionate share of a county or city based upon certifications submitted on or before April 1, 2008. Certifications submitted after April 1, 2008, may not be used to adjust a county's or city's base amount under subsection (c) of this section."

SECTION 29. G.S. 105-187.9 reads as rewritten:

"**§ 105-187.9. Disposition of tax proceeds.**

(a) ~~Distribution. – Taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. Taxes collected under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund.~~

~~(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~

~~(1) The sum of one hundred seventy million dollars ($170,000,000).~~

~~(2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars ($1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars ($2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available.~~

(a) Highway Trust Fund. – All taxes collected under this Article must be credited to the Highway Trust Fund unless subsection (b) of this section requires a different disposition.

(b) General Fund. – The following taxes collected under this Article must be credited to the General Fund:

(1) Taxes collected at the rate of eight percent (8%).

(2) Forty two million five hundred thousand dollars ($42,500,000) of the amount collected each quarter at the rate of three percent (3%).

(3) For the 2006-07 fiscal year, the sum of two million four hundred eighty-six thousand six hundred two dollars ($2,485,602). For each subsequent fiscal year, a sum equal to the amount credited under this subdivision the previous fiscal year plus or minus the percentage of this amount that equals the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

SECTION 30. G.S. 105-187.11 is repealed.

SECTION 31. G.S. 105-241(b)(2) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

...

(2) ~~Semimonthly~~ Prepayment taxes. – A taxpayer that is required to ~~pay tax on a semimonthly schedule~~ prepay tax must pay the tax by electronic funds transfer."

SECTION 32. G.S. 105-248.1 is repealed.

SECTION 33. G.S. 105-259(b)(3) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(3) ~~Review by~~ To exchange the following types of information with a tax official of another jurisdiction if the laws of the other jurisdiction allow it to provide similar tax information to a representative of this State:

a. ~~to~~ Information to aid the jurisdiction in collecting a tax imposed by this State or the other ~~jurisdiction if the laws of the other jurisdiction allow it to provide similar tax information to a representative of this State.~~jurisdiction.

b. Information needed for statistical reports and revenue estimates."

SECTION 34. G.S. 105-259(b)(7) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(7) To exchange information with the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, the Division of Motor Vehicles of the Department of Transportation, ~~or~~ the International Fuel Tax Association, Inc., or the Joint Operations for

Fuel Tax Compliance when the information is needed to fulfill a duty imposed on the Department of Revenue, the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, or the Division of Motor Vehicles of the Department of Transportation."

SECTION 35. G.S. 105-259(b)(13) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(13) To furnish the following to the Fiscal Research Division of the General Assembly, upon ~~request, a~~ request:

a. A sample, suitable in character, composition, and size for statistical analyses, of tax returns or other tax information from which taxpayers' names and identification numbers have been removed.

b. An analysis of the fiscal impact of proposed legislation."

SECTION 36. G.S. 105-259 (b)(27) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(27) To provide a report required under this Chapter. ~~105-129.85~~"

SECTION 37. G.S. 105-275(41) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(41) Objects of art held by the North Carolina State Art Society, Incorporated."

SECTION 38.(a) G.S. 105-449.81(3a) is repealed.

SECTION 38.(b) This section becomes effective January 1, 2008.

SECTION 39. G.S. 142-95 is repealed.

SECTION 40. Article 3 of Chapter 159D of the General Statutes is repealed.

SECTION 41. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 540:
Revenue Laws & Motor Fuels Tax Tech. Changes

x

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 22, 2007
Introduced by:	Sen. Hartsell	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S540-CSRBx-40		Committee Counsel

SUMMARY: ***The proposed committee substitute for Senate Bill 540 makes several technical, clarifying, and administrative changes to the revenue laws and related statutes. The provisions contained in Sections 1 through 24 of the bill were contained in the bill as introduced. The remaining sections have been added in this proposed committee substitute.***

BILL ANALYSIS: This bill makes the following technical, clarifying, and administrative changes:

Section	Explanation
1	Deletes reference to a repealed statute.
2	Clarifies the term "arts organization" in the area of exemptions from the gross receipts tax on amusements.
3	Clarifies the duration of an arts festival and a community festival, for purposes of the exemption from the gross receipts tax on amusements. Under current law the festival may not last more than seven days. This provision would clarify to say seven consecutive days.
4	Clarifies that the allocation of tax proceeds from the excise tax on fortified wine to the NC Wine and Grape Growers Council occurs before the revenues are distributed to counties and cities in which the retail sale of alcoholic beverages are authorized to be sold.
5	Substitutes the defined term "apportionable" for the term "business."
6-7	Clarifies that for the purposes of granting credits for the creation of new jobs, urban progress and agrarian growth zones should be treated separately from other eligible establishments.
7	Section 7 also substitutes the defined term "business property" for term "machinery and equipment."
8	Substitutes the appropriate reference "out of," for the prior reference "to."
9	Alters the documentation process for the credit for recycling oyster shells to reflect the current Department of Revenue practice. DENR maintains the information for the Department so that this general requirement is not necessary.
10	Adds ancillary services to items for which the sales tax exemption for State agencies does not apply, in order to conform to the changes made in S.L. 2006-33. S.L. 2006-33 separated ancillary services from telecommunications services to conform to the Streamlined Sales Tax Agreement. The change did not alter the taxation of these services.
11	Clarifies the dollar threshold for filing monthly sales tax returns.

12	Clarifies the payment of use tax on purchases of boats and airplanes would not be made on the use tax line of the income tax return. The payment of use tax on these items is due by the 20th day of the month following the purchase. Boats and aircraft are registered and the Department examines information on registration to verify that use tax has been paid
13	Clarifies that the 1% privilege tax on the purchase of equipment by a research and development company applies to equipment that would be considered mill machinery *parts and accessories* as well as mill machinery itself. The tax was intended to correspond to the property used by manufacturers for research and development. This section becomes effective July 1, 2007; that is the date that the 1% privilege tax begins to apply to equipment purchased by a research and development company. Prior to this date, the equipment was subject to the State and local sales tax.
14	Exempts State agencies from the privilege tax imposed on mill machinery. The Department has interpreted the sales tax exemption for State agencies to also apply to this tax since the tax was established when these products were exempted from the sales tax in January 2006 to conform with the Streamlined Sales Tax Agreement. Under the Agreement, the State must have uniform rates. Rather than increase the tax rate on these items, they were exempt from sales tax and subject to this new privilege tax. The Department of Correction industries constitute manufacturing plants and thus purchase equipment subject to this tax.
15	Provides that the Secretary of Revenue's authority to summon records also applies to the motor fuel tax statutes. The section makes this change by using the defined term 'tax'. G.S. 105-228.90 defines 'tax' includes all of the State levied taxes.
16	Provides that a civil penalty imposed under the motor fuel statutes is payable to the agency that assessed the penalty. In addition to the Department of Revenue, G.S. 105-269.3 provides that the State Highway Patrol, law enforcement officers, and other appropriate personnel in the Department of Crime Control and Public Safety may enforce the motor fuel tax laws. The reorganization of the Division of Motor Vehicles in 2003 moved the State Highway Patrol from DMV to the Department of Crime Control and Public Safety. This substantive change in 2003 necessitated technical, conforming changes to the tax statutes. The wording proposed by this section would eliminate the need for similar conforming changes in the future.
17	Provides that a fuel alcohol provider and a biodiesel provider need only post a bond to receive a license as a supplier[1] if its annual motor fuel tax liability is at least $2,000. Under current law, to be licensed as a supplier, a fuel alcohol provider or a biodiesel provider must post a bond in an amount that is two times the applicant's average expected monthly tax liability. The amount may not be less than $2,000 and may not be more than $5,000. Under this section, if a fuel alcohol provider or biodiesel provider must post a bond, then the amount would be the same as the current law bond requirement. This section would become effective October 1, 2007.
18	Modifies the defense to imposition of a penalty for failure to obtain a diversion number for motor fuel delivered to a state other than the destination state printed on the

[1] A supplier is defined as any of the following: a position holder or a person who receives motor fuel pursuant to a two-party exchange, a fuel alcohol provider, a biodiesel provider, or a refiner. (G.S. 105-449.60)

	shipping document. Under current law, the defense is that the person notified the Secretary of the diversion within seven days after the diversion occurred and timely paid the tax on the diverted fuel.[2] This section removes the seven-day time period by providing that the notification must have occurred prior to the imposition of the penalty. It also removes the requirement that the tax be timely paid if the person assessed with the penalty is the motor fuel transporter because it is not the motor fuel transporter's responsibility to pay the tax. This section is effective when it becomes law and applies to penalties assessed on or after that date and to refund requests that have not been finally determined as of that date.
19	Substitutes the correct statutory reference.
20	Repeals an unnecessary statute. Article 3 of Chapter 119 directs the Commissioner of Agriculture to inspect alternative fuel, motor fuel, and kerosene to protect the public. This statute says that various fuels are subject to inspection. It does not appear to be a necessary statute because the provisions of Article 3 govern what fuel is inspected and what standards the fuel must meet. The terms 'alternative fuel', 'motor fuel', and 'kerosene' are defined terms in Article 3.
21	Conforms the date a local occupancy tax return and tax is due to the date that the sales and use tax is due.
22	Rewrites G.S. 105-330.10 to incorporate changes made in S.L. 2006-30.
23	Corrects a statutory reference.
24	Conforms the effective date for a 2006 change to the confidentiality provisions to administrative practices.
25	Repeals the sunset of the highway use tax provisions contained in the 1989 session law. When the highway use tax was enacted, it was believed the highway projects could be completed in 13 years. It has been 18 years. The 1989 session law would repeal the highway use tax, the Transportation Oversight Committee, and various motor vehicle fees when contracts for all projects specified in Article 14 of Chapter 136 have been let and sufficient revenue has been accumulated to pay the contracts. The various fees have been amended several times since 1989. Based upon this sunset language, the fees would revert to their pre-1989 amounts at some undetermined point in the future. At this point, the sunset creates a 'trap for the unwary'.
26	Makes a change in the reporting requirements for the State Ports Tax credit. Based upon conversations with the Tax Research Division, the change will better enable it to report information that the General Assembly will be able to use to determine the credit's effectiveness. The report language was added in S.L. 2005-429.
27	Corrects a statutory reference.
28	Allows local governments to correct errors in their certification of cable television revenues submitted to the Department of Revenue. The certification of the amount of cable franchise tax imposed had to be made by March 15, 2007. Many local governments are in the process of auditing their cable franchise taxes. As a result of those audits, many are discovering errors in their certifications. This provision would allow local governments to submit a new certification on or before April 1, 2008. This

[2] The General Assembly established this defense in 2005. (S.L. 2005-435.)

	provision has been requested by the League of Municipalities and agreed upon by the Department of Revenue.
29	Revises the accounting for the General Fund "hold harmless" amount that is part of the 3% highway use tax, but makes no change in the amount the General Fund receives. It rewrites the statute to require the hold harmless amount to be credited directly to the General Fund rather than first credited to the Highway Trust Fund and then transferred from the Highway Trust Fund to the General Fund. This transfer continues to be a source of needless confusion and controversy. To resolve the confusion and controversy, the provision ends the transfer while preserving the hold harmless. The General Fund "hold harmless" amount is the amount of sales tax revenue attributable to the sales tax on motor vehicles that existed prior to the establishment of the Highway Trust Fund and the enactment of the highway use tax. The 3% highway use tax became effective October 1, 1989. Before that, motor vehicles were subject to sales tax at the rate of 2% with a $300 cap and the sales tax revenue on motor vehicles was credited to the General Fund. At the time, the General Fund received $170 million in sales tax revenue from sales of motor vehicles. The highway use tax replaced the sales tax on motor vehicles. To prevent a loss of revenue in the General Fund, the law enacting the highway use tax required $170 million to be transferred each year from the Highway Trust Fund to the General Fund.
30	Repeals an obsolete statute. The statute was enacted to facilitate a transition from the sales tax imposed on the gross receipts of motor vehicle leases prior to 1989 and the highway use tax.
31	Conforms the provisions for making an electronic funds transfer to the changes made in S.L. 2006-66. Last session, the General Assembly replaced the semimonthly sales tax payment with a single monthly payment and a prepayment of the next month's liability due on the same day as the monthly payment. The change was made at the request of several large retailers in the Streamlined Sales Tax Project.
32	Repeals an obsolete statute. These reimbursements were repealed in 2001 as part of the agreement on the third one-half cent local option sales tax.
33-35	Makes two changes to the tax secrecy provisions at the request of the Tax Research Division of the Department of Revenue. Section 33 would allow the Division to share information with other governmental units outside this State for the purpose of statistical reports and revenue estimates. Section 34 would allow the Department of Revenue to share information with the Joint Operations for Fuel Tax Compliance to better enable the Department to enforce motor fuel tax laws and identify motor fuel tax evasion. The compliance effort consists of a group that includes representatives of the IRS, the federal highway administration, and three pilot states: North Carolina, Texas, and California. Other states will be joining this group after the pilot phase is completed. Section 35 would allow the Division to provide information needed by the Fiscal Research Division of the General Assembly to determine the fiscal impact of proposed legislation. Sometimes, if the fiscal affects of legislation apply only to a limited number of taxpayers, the Division is unable to share the information with Fiscal Research because to do so may, by virtue of the small taxpayer pool, indicate the tax liability of a particular group of taxpayers. The Division would continue to be required to remove any identifying information from the data shared.

36	Removes an unnecessary citation that is in the statute due to redlining errors.
37	Inserts the correct corporate name of the North Carolina *State* Art Society, Incorporated.
38	Repeals a conflicting subdivision. This subdivision imposes the excise tax on motor fuel that is fuel alcohol or biodiesel when it is sold for use. However, these fuels are included in the definitions of gasoline and diesel and should be taxed at the same point in the distribution chain as gasoline and diesel. Current law conflicts as to the point at which these fuels should be taxed. The repeal of this subdivision clarifies that they will be taxed at the terminal rack or at importation. This section becomes effective January 1, 2008.
39	Repeals the statute that authorizes real estate certificates of participation. RECOP indebtedness is a form of special indebtedness that is intended to be structured so that the principal and a portion of the interest is not paid in installments over the term of the debt. That portion of the interest compounds and is payable, along with the principal, only at maturity. The provision was enacted in 2004. The 2004 legislation directed the State Treasurer to conduct a study of RECOP indebtedness and to report to the Joint Legislative Commission on Governmental Operations by February 1, 2005. The Treasurer's Office reported that it did not recommend the State using this form of indebtedness.
40	Repeals the Article creating the Life Sciences Revenue Bond Authority. The Authority was created in 2003. The purpose of the Authority was to determine the best way to establish a credit enhancement program for construction of infrastructure for life sciences manufacturing facilities. The Authority is not functioning. Proponents in the life sciences area agree that the Authority is not needed at this time.
41	Except as otherwise provided, the provisions of the bill are effective when they become law.

S0540e1-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 2044

Committee Substitute Favorable 6/25/07

Third Edition Engrossed 6/27/07

Short Title: 2007 Continuing Budget Authority. (Public)

Sponsors:

Referred to:

May 10, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 2007; APPROPRIATING FUNDS FOR INCREASES IN THE AVERAGE DAILY MEMBERSHIP IN THE PUBLIC SCHOOLS; EXTENDING THE PROVISION THAT PERMITS RETIRED TEACHERS TO RETURN TO THE CLASSROOM WITHOUT A LOSS OF RETIREMENT BENEFITS; DELAYING THE EFFECTIVE DATE OF CHANGES TO THE MEDICAID ESTATE RECOVERY PLAN; AND EXTENDING THE SUNSET ON THE ADDITIONAL ONE-QUARTER CENT STATE SALES AND USE TAX FROM JULY 1, 2007, UNTIL AUGUST 1, 2007.

The General Assembly of North Carolina enacts:

PART I. BUDGET CONTINUATION

SECTION 1. The Director of the Budget may continue to allot funds for expenditure by State departments, institutions, and agencies at a level not to exceed the level of recurring expenditures authorized in S.L. 2006-66, as amended. The Director of the Budget may continue to allot funds from the Escheat Fund and Escheat Fund income for expenditure by the Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Department of Administration, Division of Veterans Affairs, for need-based student financial aid programs to aid worthy and needy students as provided by Article IX, section 10 of the State Constitution at a level not to exceed the level of recurring expenditures authorized in S.L. 2006-66, as amended.

The Director of the Budget shall not allocate funds for any of the purposes set out in the budget reductions contained in House Bill 1473, fifth edition, and House Bill 1473, eighth edition, that are not in controversy.

Vacant positions subject to proposed budget reductions in both House Bill 1473, fifth edition, and House Bill 1473, eighth edition, shall not be filled.

To the extent necessary to implement this authorization, there is appropriated from the appropriate State funds and cash balances, federal receipts, and departmental receipts for the 2007-2008 fiscal year funds necessary to carry out this section.

The appropriations and the authorizations to allocate and spend funds which are set out in this section shall remain in effect until the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1, 2007.

Except as otherwise provided by this act, the limitations and directions for the 2006-2007 fiscal year set out in S.L. 2005-276, as amended, and in S.L. 2006-66, as amended, remain in effect. Session laws that applied to appropriations to particular agencies or for particular purposes apply to the funds appropriated and authorized for expenditure under this section.

PART II. FEDERAL BLOCK GRANTS

SECTION 2. The Director of the Budget shall continue to allocate federal block grant funds at the levels provided in Sections 5.1 and 5.2 of S.L. 2006-52 and as otherwise provided by law, and appropriations from federal block grants are hereby made.

PART III. NO AUTOMATIC STEP INCREASE FOR STATE AND PUBLIC SCHOOL EMPLOYEES

SECTION 3. State employees subject to G.S. 7A-102(c), 7A-171.1, or 20-187.3 shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly.

Public school employees paid on the teacher salary schedule or the school-based administrator salary schedule shall not move up on salary schedules or receive automatic step increases until authorized by the General Assembly.

PART IV. SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 4.(a) The State's employer contribution rates budgeted for retirement and related benefits for the 2007-2008 fiscal year shall remain the same as they are on June 30, 2007.

SECTION 4.(b) The State's employer contribution rates established by this section are effective until the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law and are subject to revision in that act. If the Current Operations and Capital Improvements Appropriations Act of 2007 modifies these rates, the Director of the Budget shall further modify the rates set in that act for the remainder of the 2007-2008 fiscal year so as to compensate for the different amount contributed between July 1, 2007, and the date the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law so that the effective rates for

the entire year reflect the rates set in the Current Operations and Capital Improvements Appropriations Act of 2007.

PART V. FUNDS SHALL NOT REVERT

SECTION 5.(a) If the provisions of either House Bill 1473, fifth edition, or House Bill 1473, eighth edition, or both, direct that funds shall not revert, the funds shall not revert on June 30, 2007. Unless these funds are encumbered on or before June 30, 2007, these funds shall not be expended after June 30, 2007, except as provided by a law enacted after June 30, 2007.

SECTION 5.(b) This section becomes effective June 30, 2007.

PART VI. STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30

SECTION 6.(a) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2006-2007 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2007.

SECTION 6.(b) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the 2006-2007 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2007.

SECTION 6.(c) This section becomes effective June 30, 2007.

PART VII. RETIRED TEACHERS RETURN TO WORK

SECTION 7.(a) Subsection (d) of Section 28.24 of S.L. 1998-212, as rewritten by Section 28.10 of S.L. 2002-126, subsection (a) of Section 31.18A of S.L. 2004-124, and Section 7A.1 of S.L. 2005-144, reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(b) The introductory language of Section 67 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (b) of Section 31.18A of S.L. 2004-124, and Section 7A.2 of S.L. 2005-144, reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through ~~June 30, 2007,~~ August 1, 2007, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

SECTION 7.(c) Subsection (b) of Section 67.1 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (c) of Section 31.18A of S.L. 2004-124, and Section 7A.3 of S.L. 2005-144, reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(d) Subsection (c) of Section 32.25 of S.L. 2001-424, as rewritten by Section 28.10 of S.L. 2002-126, subsection (d) of Section 31.18A of S.L. 2004-124, and Section 7A.4 of S.L. 2005-144, reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(e) Section 57(c) of S.L. 2004-199, as amended by Section 29.28(d) of S.L. 2005-276, reads as rewritten:

"**SECTION 57.(c)** This section expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(f) Section 25 of S.L. 2006-226 reads as rewritten:

"**SECTION 25.(b)** This section becomes effective ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(g) Notwithstanding any other provision of law, effective July 1, 2007, each local school administrative unit shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit shall report monthly to the Retirement Systems Division on payments made pursuant to this section.

Notwithstanding any other provision of law, effective July 1, 2007, any portion of the payment made by a local school administrative unit to a reemployed teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution rate, that exceeds the State-supported salary level for that position shall be paid from local funds.

SECTION 7.(h) If the Internal Revenue Service determines that the provisions of G.S. 135-3(8)c. relating to the computation of postretirement earnings of retired teachers jeopardize the status of the Teachers' and State Employees' Retirement System of North Carolina under the Internal Revenue Code, then the final two paragraphs of G.S. 135-3(8)c. are repealed.

SECTION 7.(i) This section is effective when it becomes law.

PART VIII. PUBLIC SCHOOLS

SECTION 8. Effective July 1, 2007, there is appropriated from the General Fund to the Department of Public Instruction the sum of one hundred sixty-two million four hundred thousand dollars ($162,400,000) for the 2007-2008 fiscal year to fully fund increases in average daily membership in public schools, subject to adjustment by the General Assembly.

PART IX. EXTEND SUNSET ON ADDITIONAL ONE-QUARTER CENT STATE SALES AND USE TAX RATE

SECTION 9.(a) Section 24.1(j) of S.L. 2006-66 reads as rewritten:

"**SECTION 24.1.(j)** Subsection (b) of this section becomes effective December 1, 2006, and applies to sales made on or after that date. Subsections (d), (f), and (h) of this section become effective January 1, 2007, and apply to taxes collected on or after that date. Subsection (c) of this section becomes effective ~~July 1, 2007,~~ August 1, 2007, and applies to sales made on or after that date. Subsections (e), (g), and (i) of this section become effective ~~July 1, 2007,~~ August 1, 2007, and apply to taxes collected on or after that date. The remainder of this section is effective when it becomes law."

SECTION 9.(b) A retailer is not liable for an over-collection or under-collection of sales tax if the retailer has made a good faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this

section in the rate of tax imposed under G.S. 105-164.4(a), over-collected or under-collected the amount of sales tax that is due. This subsection applies only to the period beginning July 1, 2007, and ending August 1, 2007.

PART X. DELAY EFFECTIVE DATE OF CHANGES TO MEDICAID ESTATE RECOVERY PLAN

SECTION 10. Section 10.21C(c) of S.L. 2005-276, as amended by Section 16 of S.L. 2005-345, and as further amended by Section 10.9B of S.L. 2006-66, reads as rewritten:

"**SECTION 10.21C.(c)** This section becomes effective ~~July 1, 2007,~~ August 1, 2007, and applies to recipients of medical assistance on ~~or~~ and after that date."

PART XI. EFFECTIVE DATE

SECTION 11. Section 10 of this act becomes effective June 30, 2007. Sections 1, 2, 3, and 4 of this act become effective July 1, 2007, and expire at 11:59 P.M. on July 31, 2007. The remainder of this act is effective when it becomes law.

BILL ANALYSIS

House Bill 2044
2007 Continuing Budget Authority
June 28, 2007

SUMMARY: **Continues budget authority and maintains the status quo for 31 days pending adoption of 2007 Appropriations Act.**

Section 1. -- Authorizes the Director of the Budget to continue to allot funds at a level not to exceed the level of recurring expenditures authorized in SL 2006-66, as amended. Provides that Director of the Budget must not allocate funds for purposes set out in budget reductions contained in H1473, 5th edition, or H1473, 8th edition that are not in controversy. Freezes hiring for vacant positions subject to proposed reductions.

Section 2. -- Authorizes continued appropriation and allocation of federal block grants.

Section 3. -- Suspends certain automatic statutory salary increases until authorized by General Assembly.

Section 4. -- Maintains the State's employer contribution rates for retirement and related benefits, for 2007-2008, at June 30, 2007 levels, unless modified by the 2007 Budget Act.

Section 5. -- Provides that, if either H1473, 5th edition, or H1473, 8th edition or both, direct that funds not revert, the funds do not revert on June 30, 2007, and that unless those funds are encumbered on or before June 30, 2007, they must not be expended after June 30, 2007, except pursuant to a law enacted after that date.

Section 6. -- Provides that, for 2007-2008, funds will not be reserved to the Repairs and Renovations Reserve or Savings Reserve Account and that the State Controller must not transfer funds from the unreserved credit balance to those accounts on June 30, 2007.

Section 7. –Extends until October 31, 2009, the sunset on provisions allowing retired teachers to return to work. (H956, 3rd edition, as passed by the House of Representatives.)

Section 8. – Appropriates funds to fully fund increases in the average daily membership in the public schools.

Section 9. – Temporarily extends the sunset on the additional quarter-cent state sales tax until August 1, 2007, from the current July 1, 2007 sunset date.

Section 10. – Delays the effective date of changes to the Medicaid Estate Recovery Plan.

Section 11. – Sets effective dates. The continuing budget authority expires July 31, 2007 at 11:59 P.M.

SENATE FINANCE COMMITTEE
Thursday, June 28, 2007 at 12:40 p.m.
Senate Floor

MINUTES

The Senate Finance Committee met at 12:40 p.m. on Thursday, June 28, 2007, on the Senate Floor. Thirty-four members of the committee were present. Senator David Hoyle presided.

S.B. 2044 – 2007 Continuing Budget Authority.

Senator Garrou was recognized to explain the bill. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill is attached.

The meeting adjourned at 12:42 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, June 28, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **2044** 2007 Continuing Budget Authority.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 2044

Committee Substitute Favorable 6/25/07
Third Edition Engrossed 6/27/07

Short Title: 2007 Continuing Budget Authority. (Public)

Sponsors:

Referred to:

May 10, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 2007; APPROPRIATING FUNDS FOR INCREASES IN THE AVERAGE DAILY MEMBERSHIP IN THE PUBLIC SCHOOLS; EXTENDING THE PROVISION THAT PERMITS RETIRED TEACHERS TO RETURN TO THE CLASSROOM WITHOUT A LOSS OF RETIREMENT BENEFITS; DELAYING THE EFFECTIVE DATE OF CHANGES TO THE MEDICAID ESTATE RECOVERY PLAN; AND EXTENDING THE SUNSET ON THE ADDITIONAL ONE-QUARTER CENT STATE SALES AND USE TAX FROM JULY 1, 2007, UNTIL AUGUST 1, 2007.

The General Assembly of North Carolina enacts:

PART I. BUDGET CONTINUATION

SECTION 1. The Director of the Budget may continue to allot funds for expenditure by State departments, institutions, and agencies at a level not to exceed the level of recurring expenditures authorized in S.L. 2006-66, as amended. The Director of the Budget may continue to allot funds from the Escheat Fund and Escheat Fund income for expenditure by the Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Department of Administration, Division of Veterans Affairs, for need-based student financial aid programs to aid worthy and needy students as provided by Article IX, section 10 of the State Constitution at a level not to exceed the level of recurring expenditures authorized in S.L. 2006-66, as amended.

The Director of the Budget shall not allocate funds for any of the purposes set out in the budget reductions contained in House Bill 1473, fifth edition, and House Bill 1473, eighth edition, that are not in controversy.

Vacant positions subject to proposed budget reductions in both House Bill 1473, fifth edition, and House Bill 1473, eighth edition, shall not be filled.

To the extent necessary to implement this authorization, there is appropriated from the appropriate State funds and cash balances, federal receipts, and departmental receipts for the 2007-2008 fiscal year funds necessary to carry out this section.

The appropriations and the authorizations to allocate and spend funds which are set out in this section shall remain in effect until the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1, 2007.

Except as otherwise provided by this act, the limitations and directions for the 2006-2007 fiscal year set out in S.L. 2005-276, as amended, and in S.L. 2006-66, as amended, remain in effect. Session laws that applied to appropriations to particular agencies or for particular purposes apply to the funds appropriated and authorized for expenditure under this section.

PART II. FEDERAL BLOCK GRANTS

SECTION 2. The Director of the Budget shall continue to allocate federal block grant funds at the levels provided in Sections 5.1 and 5.2 of S.L. 2006-52 and as otherwise provided by law, and appropriations from federal block grants are hereby made.

PART III. NO AUTOMATIC STEP INCREASE FOR STATE AND PUBLIC SCHOOL EMPLOYEES

SECTION 3. State employees subject to G.S. 7A-102(c), 7A-171.1, or 20-187.3 shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly.

Public school employees paid on the teacher salary schedule or the school-based administrator salary schedule shall not move up on salary schedules or receive automatic step increases until authorized by the General Assembly.

PART IV. SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 4.(a) The State's employer contribution rates budgeted for retirement and related benefits for the 2007-2008 fiscal year shall remain the same as they are on June 30, 2007.

SECTION 4.(b) The State's employer contribution rates established by this section are effective until the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law and are subject to revision in that act. If the Current Operations and Capital Improvements Appropriations Act of 2007 modifies these rates, the Director of the Budget shall further modify the rates set in that act for the remainder of the 2007-2008 fiscal year so as to compensate for the different amount contributed between July 1, 2007, and the date the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law so that the effective rates for

the entire year reflect the rates set in the Current Operations and Capital Improvements Appropriations Act of 2007.

PART V. FUNDS SHALL NOT REVERT

SECTION 5.(a) If the provisions of either House Bill 1473, fifth edition, or House Bill 1473, eighth edition, or both, direct that funds shall not revert, the funds shall not revert on June 30, 2007. Unless these funds are encumbered on or before June 30, 2007, these funds shall not be expended after June 30, 2007, except as provided by a law enacted after June 30, 2007.

SECTION 5.(b) This section becomes effective June 30, 2007.

PART VI. STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30

SECTION 6.(a) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2006-2007 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2007.

SECTION 6.(b) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the 2006-2007 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2007.

SECTION 6.(c) This section becomes effective June 30, 2007.

PART VII. RETIRED TEACHERS RETURN TO WORK

SECTION 7.(a) Subsection (d) of Section 28.24 of S.L. 1998-212, as rewritten by Section 28.10 of S.L. 2002-126, subsection (a) of Section 31.18A of S.L. 2004-124, and Section 7A.1 of S.L. 2005-144, reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(b) The introductory language of Section 67 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (b) of Section 31.18A of S.L. 2004-124, and Section 7A.2 of S.L. 2005-144, reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through ~~June 30, 2007,~~ August 1, 2007, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

SECTION 7.(c) Subsection (b) of Section 67.1 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (c) of Section 31.18A of S.L. 2004-124, and Section 7A.3 of S.L. 2005-144, reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(d) Subsection (c) of Section 32.25 of S.L. 2001-424, as rewritten by Section 28.10 of S.L. 2002-126, subsection (d) of Section 31.18A of S.L. 2004-124, and Section 7A.4 of S.L. 2005-144, reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(e) Section 57(c) of S.L. 2004-199, as amended by Section 29.28(d) of S.L. 2005-276, reads as rewritten:

"**SECTION 57.(c)** This section expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(f) Section 25 of S.L. 2006-226 reads as rewritten:

"**SECTION 25.(b)** This section becomes effective ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(g) Notwithstanding any other provision of law, effective July 1, 2007, each local school administrative unit shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit shall report monthly to the Retirement Systems Division on payments made pursuant to this section.

Notwithstanding any other provision of law, effective July 1, 2007, any portion of the payment made by a local school administrative unit to a reemployed teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution rate, that exceeds the State-supported salary level for that position shall be paid from local funds.

SECTION 7.(h) If the Internal Revenue Service determines that the provisions of G.S. 135-3(8)c. relating to the computation of postretirement earnings of retired teachers jeopardize the status of the Teachers' and State Employees' Retirement System of North Carolina under the Internal Revenue Code, then the final two paragraphs of G.S. 135-3(8)c. are repealed.

SECTION 7.(i) This section is effective when it becomes law.

PART VIII. PUBLIC SCHOOLS

SECTION 8. Effective July 1, 2007, there is appropriated from the General Fund to the Department of Public Instruction the sum of one hundred sixty-two million four hundred thousand dollars ($162,400,000) for the 2007-2008 fiscal year to fully fund increases in average daily membership in public schools, subject to adjustment by the General Assembly.

PART IX. EXTEND SUNSET ON ADDITIONAL ONE-QUARTER CENT STATE SALES AND USE TAX RATE

SECTION 9.(a) Section 24.1(j) of S.L. 2006-66 reads as rewritten:

"**SECTION 24.1.(j)** Subsection (b) of this section becomes effective December 1, 2006, and applies to sales made on or after that date. Subsections (d), (f), and (h) of this section become effective January 1, 2007, and apply to taxes collected on or after that date. Subsection (c) of this section becomes effective ~~July 1, 2007,~~ August 1, 2007, and applies to sales made on or after that date. Subsections (e), (g), and (i) of this section become effective ~~July 1, 2007,~~ August 1, 2007, and apply to taxes collected on or after that date. The remainder of this section is effective when it becomes law."

SECTION 9.(b) A retailer is not liable for an over-collection or under-collection of sales tax if the retailer has made a good faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this

section in the rate of tax imposed under G.S. 105-164.4(a), over-collected or under-collected the amount of sales tax that is due. This subsection applies only to the period beginning July 1, 2007, and ending August 1, 2007.

PART X. DELAY EFFECTIVE DATE OF CHANGES TO MEDICAID ESTATE RECOVERY PLAN

SECTION 10. Section 10.21C(c) of S.L. 2005-276, as amended by Section 16 of S.L. 2005-345, and as further amended by Section 10.9B of S.L. 2006-66, reads as rewritten:

"**SECTION 10.21C.(c)** This section becomes effective ~~July 1, 2007,~~ August 1, 2007, and applies to recipients of medical assistance on ~~or~~ and after that date."

PART XI. EFFECTIVE DATE

SECTION 11. Section 10 of this act becomes effective June 30, 2007. Sections 1, 2, 3, and 4 of this act become effective July 1, 2007, and expire at 11:59 P.M. on July 31, 2007. The remainder of this act is effective when it becomes law.

BILL ANALYSIS

House Bill 2044
2007 Continuing Budget Authority
June 28, 2007

SUMMARY: **Continues budget authority and maintains the status quo for 31 days pending adoption of 2007 Appropriations Act.**

Section 1. -- Authorizes the Director of the Budget to continue to allot funds at a level not to exceed the level of recurring expenditures authorized in SL 2006-66, as amended. Provides that Director of the Budget must not allocate funds for purposes set out in budget reductions contained in H1473, 5th edition, or H1473, 8th edition that are not in controversy. Freezes hiring for vacant positions subject to proposed reductions.

Section 2. -- Authorizes continued appropriation and allocation of federal block grants.

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Section 4. -- Maintains the State's employer contribution rates for retirement and related benefits, for 2007-2008, at June 30, 2007 levels, unless modified by the 2007 Budget Act.

Section 5. -- Provides that, if either H1473, 5th edition, or H1473, 8th edition or both, direct that funds not revert, the funds do not revert on June 30, 2007, and that unless those funds are encumbered on or before June 30, 2007, they must not be expended after June 30, 2007, except pursuant to a law enacted after that date.

Section 6. -- Provides that, for 2007-2008, funds will not be reserved to the Repairs and Renovations Reserve or Savings Reserve Account and that the State Controller must not transfer funds from the unreserved credit balance to those accounts on June 30, 2007.

Section 7. –Extends until October 31, 2009, the sunset on provisions allowing retired teachers to return to work. (H956, 3rd edition, as passed by the House of Representatives.)

Section 8. – Appropriates funds to fully fund increases in the average daily membership in the public schools.

Section 9. – Temporarily extends the sunset on the additional quarter-cent state sales tax until August 1, 2007, from the current July 1, 2007 sunset date.

Section 10. – Delays the effective date of changes to the Medicaid Estate Recovery Plan.

Section 11. – Sets effective dates. The continuing budget authority expires July 31, 2007 at 11:59 P.M.

SENATE FINANCE COMMITTEE
Monday, July 2, 2007 at 5:30 p.m.
Senate Floor

MINUTES

The Senate Finance Committee met at 5:30 p.m. on Monday, July 2, 2007, on the Senate Floor. Twenty-three members of the committee were present. Senator John Kerr presided.

S.B. 1527 – Amend Insurance Laws/Producers and Bail Bonds.

Senator Clodfelter was recognized to explain the bill and answer questions. Senator Hartsell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 5:40 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Monday, July 02, 2007

Senator KERR,
submits the following with recommendations as to passage:

FAVORABLE

S.B.(CS #1) **1527** Amend Insurance Laws/Producers and Bail Bonds.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 2, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Daniel Blum	Kennedy Covington
Boyd Cable	City of Charlotte
Murphy Sullivan	Charlotte Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

July 2, 2007 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sheria Reid	The Daily Bulletin (JDG)
Drew Moretz	Raleigh Chamber
Russ Williams	DOI
Barbara Morales Burke	NCDOT
Frank W. Folger	Helms Mullis Wicker
Cam Cavel	BPMHL
Tracy Kimbrell	Parker Poe
Ted Bone	Bone & Asso.
Andy Romenit	NCLM
David Barnes	Poyner + Spruill
Peyton Mayo	G

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 1527

Commerce, Small Business and Entrepreneurship Committee Substitute Adopted 6/26/07

Short Title: Amend Insurance Laws/Producers and Bail Bonds. (Public)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS RELATING TO LICENSING OF INSURANCE PRODUCERS AND BAIL BONDSMEN; TO MAKE CHANGES IN THE FEE STRUCTURES FOR AGENTS AND ADJUSTERS; TO AUTHORIZE THE OUTSOURCING OF CERTAIN FUNCTIONS RELATING TO THE ADMINISTRATION OF CONTINUING EDUCATION AND ADMINISTRATIVE PROGRAMS; AND TO MAKE OTHER SUBSTANTIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-26 reads as rewritten:

"**§ 58-33-26. General license requirements.**

(a) No person shall act as or hold himself or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

(b) No agent, broker, or limited representative shall make application for, procure, negotiate for, or place for others, any policies for any kinds of insurance as to which that person is not then qualified and duly licensed.

(c) Effective for new licenses issued before January 1, 2008, an~~An~~ agent or broker may be licensed for the following kinds of insurance:

(1) Life and health insurance, meaning:

a. Life-insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

b. Variable life and variable annuity products-insurance coverage provided under variable life insurance contracts and variable annuities.

c. Accident and health or sickness-insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(2) Property and liability insurance, meaning:

a. Coverage for the direct or consequential loss or damage to property of every kind.

b. Coverage against legal liability, including that for death, injury, or disability or damage to real or personal property.

(3) Personal lines, meaning property and liability insurance coverage sold to individuals and families for primarily noncommercial purposes.

(4) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.

These lines of authority shall remain applicable for holders of these licenses until the Commissioner provides applicable replacement licenses under the new lines that will go into effect for new licenses on January 1, 2008. Replacement licenses shall grant authority comparable to the licenses being replaced.

(c1) Effective for licenses issued on or after January 1, 2008, an agent or broker may be licensed for the following kinds of insurance:

(1) Accident and health or sickness – Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(2) Casualty – Insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property.

(3) Limited line insurance.

(4) Life – Insurance coverage on human lives, including benefits in the event of death or dismemberment by accident and benefits for disability income.

(5) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.

(6) Personal lines – Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Property – Insurance coverage for the direct or consequential loss or damage to property of every kind.

(8) Variable life and variable annuity products – Insurance coverage provided under variable life insurance contracts and variable annuities.

(9) Any other kind of insurance permitted under State laws or administrative rules.

(d) ~~A property and liability insurance license does not authorize an agent to sell accident and health insurance. An agent must hold a life and health insurance license to sell accident and health insurance.~~A person holding a license or licenses for the kind or

kinds of insurance specified in subsection (c1) of this section may sell, solicit, or negotiate only the kind or kinds of insurance for which that person is licensed.

(e) A ~~life and health insurance~~ variable life and variable annuity products license authorizes a resident agent to ~~sell~~ sell, solicit, or negotiate variable contracts if the agent satisfies the Commissioner that the agent has met the National Association of Securities Dealers requirements of the Secretary of State of North Carolina.

(f) ~~A life and health insurance~~ An accident and health or sickness license authorizes a resident agent to ~~sell~~ sell, solicit, or negotiate Medicare supplement and long-term care insurance policies as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee takes and passes a supplemental written examination for the insurance as provided in G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-125(c).

(g) ~~A limited representative may receive qualification for one or more licenses without examination for the following kinds of insurance:~~

~~(1) Dental services.~~

~~(2) Limited line credit insurance.~~

~~(3) Limited lines insurance.~~

~~(4) Motor club.~~

~~(5) Prearrangement insurance, as defined in G.S. 58-60-35(a)(2), when offered or sold by a preneed sales licensee licensed under Article 13D of Chapter 90 of the General Statutes.~~

~~(6) Travel accident and baggage.~~

~~(7) Vehicle service agreements and mechanical breakdown insurance.~~

The Commissioner may issue one or more licenses without examination to individuals for limited lines insurance per qualifications and application procedures defined in the administrative rules.

(h) No licensed agent, broker, or limited representative shall ~~solicit~~ sell, solicit, or negotiate anywhere in the boundaries of this State, or receive or transmit an application or premium of insurance, for a company not licensed to do business in this State, except as provided in G.S. 58-28-5 and Article 21 of this Chapter.

(i) No agent shall place a policy of insurance with any insurer unless the agent has a current appointment as agent for the insurer in accordance with G.S. 58-33-40 or has a valid temporary license issued in accordance with G.S. 58-33-66.

(j) A business entity that ~~sells, negotiates, or solicits~~ sells, solicits, or negotiates insurance shall be licensed in accordance with G.S. 58-33-31(b). Every member of the partnership and every officer, director, stockholder, and employee of the business entity personally engaged in this State in ~~soliciting or negotiating~~ selling, soliciting, or negotiating policies of insurance shall qualify as an individual licensee. A business entity license shall expire on April 1 of each year unless the business entity pays the renewal fee.

(k) The license shall state the name and ~~social security number, or other~~ an identifying number of the licensee, date of issue, kind or kinds of insurance covered by the license, and any other information as the Commissioner deems to be proper.

(l) A license issued to an agent authorizes him to act until his license is otherwise suspended or revoked. Upon the suspension or revocation of a license, the licensee or any person having possession of such license shall return it to the Commissioner.

(m) A license of a broker, limited representative, adjuster, or motor vehicle damage appraiser shall be renewed on April 1 each year, and renewal fees shall be paid. The Commissioner is not required to print licenses for the purpose of renewing licenses. The Commissioner may establish for licenses "staggered" license renewal dates that will apportion renewals throughout each calendar year. If the system of staggered licensing is adopted, the Commissioner may extend the licensure period for some licensees. License renewal fees prescribed by G.S. 58-33-125 shall be prorated to the extent they are commensurate with extensions.

(n) A license as an insurance producer is not required of the following:

(1) An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this State, except for indirect receipt of proceeds of commissions in the form of salary, benefits, or distributions, and:

a. The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or

b. The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

c. The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass-marketed property and casualty insurance; where no commission is paid to the person for the service.

(3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its

subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts.

(4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this State, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this State.

(6) A person who is not a resident of this State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

(8) Licensed insurers authorized to write the kinds of insurance described in G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without the involvement of a licensed agent.

(9) A person indirectly receiving proceeds of commissions as part of the transfer of insurance business or in the form of retirement or similar benefits.

(o) Nothing in this Article requires an insurer to obtain an insurance producer license. In this subsection, "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(p) An individual shall not simultaneously hold an agent's and an adjuster's license in this State. An individual who holds a property and liability insurance license may apply for an adjuster license without having to take the adjuster examination in G.S. 58-33-30(e) if the individual applies for the adjuster license within 60 days after surrendering the property and liability insurance license. An individual who holds an adjuster license may apply for a property and liability insurance license without having to take the property and liability insurance agent examination in G.S. 58-33-30(e) if the

individual applies for the property and liability insurance license within 60 days after surrendering the adjuster license."

SECTION 2. G.S. 58-33-10(2) reads as rewritten:

"(2) "Adjuster" means any individual who, for salary, fee, commission, or other compensation of any nature, investigates or reports to his principal relative to claims arising under insurance contracts other than life or annuity. An attorney at law who adjusts insurance losses from time to time incidental to the practice of his profession or an adjuster of marine losses is not deemed to be an adjuster for purposes of this Article. ~~An individual may not simultaneously hold an agent's and an adjuster's license in this State.~~"

SECTION 3. G.S. 58-33-30(d) reads as rewritten:

"(d) Education and Training. –

(1) Each applicant must have had special education, training, or experience of sufficient duration and extent reasonably to satisfy the Commissioner that the applicant possesses the competence necessary to fulfill the responsibilities of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser.

(2) All individual applicants for licensing as ~~life and health agents or as property and liability~~ agents under G.S. 58-33-26(c1)(1), (2), (4), (6), or (7) shall furnish evidence satisfactory to the Commissioner of successful completion of at least ~~40~~ 20 hours of ~~instruction,~~ instruction for each license, which shall in all cases include the general principles of insurance and any other topics relevant to the license that the Commissioner establishes by ~~regulation; and which shall, in the case of life and health insurance applicants, include the principles of life, accident, and health insurance and, in the case of property and liability insurance applicants, shall include instruction in property and liability insurance.~~ administrative rules. Any applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a property or liability or life or health insurance company admitted to do business in this State or a professional insurance association shall be deemed to have satisfied the educational requirements of this subdivision. ~~The requirement in this subdivision for completion of 40 hours of instruction applies only to applicants for life and health or property and liability insurance licenses.~~

(3) Each resident applicant for a Medicare supplement and long-term care insurance license shall furnish evidence satisfactory to the Commissioner of successful completion of 10 hours of instruction, which shall in all cases include the principles of Medicare supplement and long-term care insurance and federal and North Carolina law relating to such insurance. A resident applicant who submits

satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a licensed life or health insurer or a professional insurance association satisfies the educational requirements of this subdivision."

SECTION 4. G.S. 58-33-32(k) reads as rewritten:

"(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. As used in this subsection, "administrative action" includes enforcement action taken against the producer by the National Association of Securities Dealers. This report shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action."

SECTION 5. G.S. 58-33-46(a)(2) reads as rewritten:

"(2) Violating any insurance ~~laws, or~~ law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state's insurance ~~regulator.~~ regulator, or violating any rule of the National Association of Securities Dealers."

SECTION 6. G.S. 58-33-46(a)(6) reads as rewritten:

"(6) Having been convicted of a ~~felony or of~~ felony, a misdemeanor involving ~~dishonesty or~~dishonesty, a breach of ~~trust.~~ trust, or a misdemeanor involving moral turpitude."

SECTION 7. G.S. 58-33-125 reads as rewritten:

"**§ 58-33-125. Fees.**

(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster	$75.00
Adjuster, crop hail only	20.00
Agent appointment cancellation (paid by insurer)	10.00
Agent appointment, individual	20.00
~~Agent appointment, nonindividual~~	~~50.00~~
Agent appointment, Medicare supplement and long-term care, individual	10.00
Agent appointment, Medicare supplement and long-term care, nonindividual	20.00
Agent, overseas military	20.00
Broker, nonresident	50.00
Broker, resident	50.00
Business entity	100.00
Limited representative	20.00
Limited representative cancellation (paid by insurer)	10.00
Motor vehicle damage appraiser	75.00
~~Recertification, continuing education~~	~~5.00~~

Surplus lines licensee, corporate ..... ~~50.00~~ 100.00
Surplus lines licensee, individual 50.00

These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer shall be paid to the Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner. ~~The recertification fee in this subsection shall be paid by persons subject to G.S. 58-33-130 at the time they renew their licenses or appointments under G.S. 58-33-130(c).~~

(b) Whenever a temporary license ~~may be~~ is issued ~~pursuant to~~ under this Article, the fee shall be at the same rate as provided in subsection (a) of this section; and any amounts so paid for a temporary license may be credited against the fee required for an appointment by the sponsoring company.

(c) Any person not registered who is required by law or administrative rule to secure a license shall, upon application for registration, pay to the Commissioner a fee of ~~thirty dollars ($30.00). In the event~~ fifty dollars ($50.00). If additional licensing for other kinds of insurance is requested, a fee of ~~thirty dollars ($30.00)~~ fifty dollars ($50.00) shall be paid to the Commissioner upon application for registration for each additional kind of insurance.

In addition to the fees prescribed by this subsection, any person applying for a supplemental license to sell Medicare supplement and long-term care insurance policies shall pay an additional fee of ~~thirty dollars ($30.00)~~ fifty dollars ($50.00) upon application for registration for those kinds of insurance.

(d) The requirement for an examination, prelicensing education, continuing education, or a registration fee does not apply to agents for domestic farmers' mutual assessment fire insurance companies or associations who solicit and sell only those kinds of insurance specified in G.S. 58-7-75(5)d for such companies or associations.

(e) ~~In the event a license issued under this Article is lost, stolen, or destroyed, the Commissioner may issue a duplicate license upon a written request from the licensee and payment of a fee of five dollars ($5.00).~~ A resident licensee may obtain a duplicate photo-bearing license at times and places within this State that the Commissioner considers necessary and reasonable to serve the convenience of both the Commissioner and the licensee. The Commissioner may contract directly with persons for processing of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for duplicating a photo-bearing license in an amount that offsets the costs to the Department of duplicating the license, including costs associated with any contract entered into pursuant to this subsection.

~~(f) Whenever a printed record of an agent's file is requested, the fee shall be ten dollars ($10.00) for each copy whether or not the agent is currently licensed, previously licensed, or no record of that agent exists.~~

(g) All fees prescribed by this section are nonrefundable."

SECTION 8. G.S. 58-33-130 reads as rewritten:

"§ 58-33-130. Continuing education program for licensees.

(a) The Commissioner may adopt rules to provide for a program of continuing education requirements for the purpose of enhancing the professional competence and professional responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria for:

(1) The content of continuing education courses;
(2) Accreditation of continuing education sponsors and programs;
(3) Accreditation of videotape or other audiovisual programs;
(4) Computation of credit;
(5) Special cases and exemptions;
(6) General compliance procedures; and
(7) Sanctions for noncompliance.

The Commissioner may contract directly with persons for the administration of the program provided for by this section, and those contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee to course providers to offset the cost of the program, including costs associated with contracts authorized by this subsection. The fee authorized by this subsection shall be in addition to the fees specified in G.S. 58-33-133. As used in this section and in G.S. 58-33-132, "administrator" means any person with whom the Commissioner has contracted under this subsection.

(b) The Commissioner may adopt rules to provide for the continuing professional education of all agents and ~~brokers, including fraternal field marketers, but excluding limited representatives.~~ brokers who are licensed to sell, solicit, and negotiate the kinds of insurance specified in G.S. 58-33-26(c1)(1), (2), (4), (6), (7), or (8). In adopting the rules, the Commissioner may use the same criteria as specified in subsection (a) of this ~~section and shall provide that agents holding more than one license under G.S. 58-33-25(c) are required to complete no more than 18 credit hours per year.~~section.

(c) The license of any person who fails to comply with the continuing education requirements under this section shall ~~lapse. The Commissioner may, for good cause shown, grant extensions of time to licensees to comply with these requirements.~~ lapse except that the Commissioner or administrator may either grant an extension of time for good cause shown or charge an administrative fee of seventy-five dollars ($75.00), or both, in lieu of having the person's license lapse.

(d) ~~Annual~~ Biennial continuing professional education hour requirements shall be determined by the Commissioner, but shall not be more than ~~12~~ 24 credit hours. The Commissioner may by rule establish a staggered system in which the credit hour compliance period is based on the month and year of birth of each individual licensee.

~~(e) No more than seventy-five percent (75%) of the requirement relating to life or health insurance agents or brokers may be met by taking courses offered by licensed life or health insurance companies with which those agents or brokers have appointments.~~

(f) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 678, s. 18, effective July 5, 1994.

~~(g) The Commissioner shall permit any licensee to carry over to a subsequent calendar year up to seventy-five percent (75%) of the required annual hours of continuing professional education.~~

(h) Any licensee who, after obtaining an extension under subsection (c) of this section, offers evidence satisfactory to the Commissioner or administrator that the licensee has satisfactorily completed the required continuing professional education courses is in compliance with this section.

(i) The Commissioner is authorized to approve continuing professional education courses.

(j) Repealed by Session Laws 2002-144, s. 3, as amended by Session Laws 2003-284, s. 22.2, and as amended by Session Laws 2004-124, s. 21.1, effective July 1, 2002.

(k) Repealed by Session Laws 1993, c. 409, s. 4, effective July 1, 1993."

SECTION 9. G.S. 58-33-132 reads as rewritten:

"**§ 58-33-132. Qualifications of instructors.**

(a) The Commissioner may adopt rules to establish requisite qualifications for and issuance, renewal, summary suspension, and termination of provider, presenter, and instructor authority for prelicensing and continuing insurance education courses. During any suspension, the instructor shall not engage in any instruction of prelicensing or continuing insurance education courses prior to an administrative review. No person shall provide, present, or instruct any course unless that person has been qualified and possesses a license from the ~~Commissioner.~~ Commissioner or administrator.

(b) The Commissioner or administrator may summarily suspend or terminate the authority of an instructor, course provider, or presenter if the course presentation:

(1) Is determined to be inaccurate; or

(2) Receives an evaluation of poor from any Department monitor and a majority of attendees responding to Department questionnaires about the presentation."

SECTION 10. G.S. 58-33-133 reads as rewritten:

"**§ 58-33-133. Continuing education course provider fees.**

(a) Each course provider shall ~~submit~~ pay to the Commissioner a fee of one dollar ($1.00) per approved credit hour per individual who successfully completes a course under G.S. 58-33-130.

(b) At the time a course provider submits an application to the Commissioner for approval of a course under G.S. 58-33-130, the provider shall pay to the Commissioner a filing fee of one hundred dollars ($100.00) per course up to a two thousand five hundred dollars ($2,500) per calendar year maximum.

(b1) Licensees who are required to comply with G.S. 58-33-130 shall pay to the Commissioner a fee of one dollar ($1.00) per credit hour earned. These fees also apply to national designation courses and other courses approved by the Commissioner from other State or federal programs.

(c) Fees collected by the Commissioner under this section and under G.S. 58-33-130 shall be credited to the Insurance Regulatory Fund created under ~~G.S. 58-6-25.~~ G.S. 58-6-25 for the purpose of offsetting the cost of administering the program authorized by G.S. 58-33-130."

SECTION 11. G.S. 58-71-40(d) reads as rewritten:

"(d) When a license is issued under this section, the Commissioner shall issue a picture identification card, of design, size, and content approved by the Commissioner, to the licensee. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license terminates or is terminated shall surrender the identification card to the Commissioner within 10 working days after the termination. The Commissioner may contract directly with persons for the processing and issuance of picture identification cards required by this section and may charge a reasonable fee in addition to the license fee charged under G.S. 58-71-55 in an amount that offsets the cost of the service, including the costs associated with the contract authorized by this subsection. Contracts entered into pursuant to this subsection shall not be subject to Article 3 of Chapter 143 of the General Statutes."

SECTION 12. G.S. 58-71-115 reads as rewritten:

"**§ 58-71-115. Insurers to annually report surety bondsmen; notices of appointments and terminations; information confidential.**

(a) Before July 1 of each year, every insurer shall furnish the Commissioner a list of all surety bondsmen appointed by the insurer to write bail bonds on the insurer's behalf. An insurer who appoints a surety bondsman in the State on or after July 1 of each year ~~must~~ shall notify the Commissioner of the appointment. All appointments are subject to the issuance of the proper license to the appointee under this Article.

(b) An insurer terminating the appointment of a surety bondsman shall file a written notice of the termination with the Commissioner, together with a statement that the insurer has given or mailed notice of the termination to the surety ~~bondsman and to the clerk of superior court of any county in the State in which the insurer has been obligated on bail bonds through the surety bondsman within the past three years.~~ bondsman. The notice to the Commissioner shall state the reasons, if any, for the termination. Information furnished in the notice to the Commissioner shall be privileged and shall not be used as evidence in or basis for any action against the insurer or any of its representatives."

SECTION 13. G.S. 58-71-141 reads as rewritten:

"**§ 58-71-141. Appointment of bail bondsmen; affidavit required.**

(a) ~~Prior to~~ Before receiving an appointment, a surety bondsman shall submit to the Commissioner an affidavit, signed under oath, by the surety bondsman and by any former insurer, stating that the surety bondsman does not owe any premium or unsatisfied judgment to any insurer and that the bondsman agrees to discharge all outstanding forfeitures and judgments on bonds previously written. The affidavit shall be in a form prescribed by the ~~Commissioner.~~ Commissioner and shall be submitted by the surety bondsman to the former insurer. If the surety bondsman does not satisfy or discharge all forfeitures or judgments, the former insurer shall submit a notice, with supporting documents, to the appointing insurer, the surety bondsman, and the Commissioner, which states, under oath, that the surety bondsman has failed to satisfy, in a timely manner, the forfeitures and judgments on bonds written by the surety bondsman and that the former insurer has satisfied the forfeiture or judgment from its own funds. The former insurer shall submit the notice and supporting documents to the

appointing insurer, the surety bondsman, and the Commissioner within 30 days after the former insurer receives the affidavit from the surety bondsman. Upon receipt of the ~~notification~~ notice and supporting documents, the appointing insurer shall immediately cancel the surety bondsman's appointment. The surety bondsman may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the surety bondsman have been discharged. The appointing insurer or surety bondsman may, within 10 days ~~of the receipt of~~ after receiving the notice and supporting documents from the former insurer, appeal to the Commissioner.

(b) The Commissioner shall adopt rules, including rules regarding the ~~process of~~ procedures for appeals and stays of the requirements of this section, to implement this section.

(c) As used in this section, "former insurer" means the insurer with whom the surety bondsman had a prior appointment and who is responsible for any outstanding bonds written by the surety bondsman."

SECTION 14. G.S. 58-71-165 reads as rewritten:

"§ 58-71-165. Monthly report required.

(a) Each professional bail bondsman ~~and surety bondsman~~ shall file with the Commissioner a written report in form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance.

(b) Each insurer that appoints surety bondsmen in this State shall file with the Commissioner a written report in a form adopted by the Commissioner regarding all bail bonds on which the insurer is liable as of the last day of each calendar quarter showing the total dollar amount for which the insurer is liable. The report shall be filed on or before the fifteenth day following the end of each calendar quarter.

(c) The ~~report~~ reports required by subsections (a) and (b) of this section shall be filed on or before the fifteenth day of each month.

(d) Any person who knowingly and willfully falsifies a report required by this section is guilty of a Class I felony."

SECTION 15. G.S. 58-2-69 reads as rewritten:

"§ 58-2-69. Notification of criminal convictions and changes of address; service of ~~notice.~~ notice; contracts for online services, administrative services, or regulatory data systems.

(a) As used in this section:

(1) "License" includes any license, certificate, registration, or permit issued under this Chapter.

(2) "Licensee" means any person who holds a license.

(b) Every applicant for a license shall inform the Commissioner of the applicant's residential address. Every licensee shall give written notification to the Commissioner of any change of the licensee's residential address within 10 business days after the licensee moves into the licensee's new residence. This requirement applies if the change of residential address is by governmental action and there has been no actual change of

residence location; in which case the licensee ~~must~~ shall notify the Commissioner within 10 business days after the effective date of the change. A violation of this subsection is not a ground for revocation, suspension, or nonrenewal of the license or for the imposition of any other penalty by the ~~Commissioner.~~ Commissioner, though a licensee who violates this subsection shall pay an administrative fee of seventy-five dollars ($75.00) to the Commissioner.

(c) If a licensee is convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction, the licensee shall notify the Commissioner in writing of the conviction within 10 days after the date of the conviction. As used in this subsection, "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere.

(d) Notwithstanding any other provision of law, whenever the Commissioner is authorized or required to give any notice under this Chapter to a licensee, the notice may be given personally or by sending the notice by first-class mail to the licensee at the address that the licensee has provided to the Commissioner under subsection (b) of this section.

(e) The giving of notice by mail under subsection (d) of this section is complete upon the expiration of four days after the deposit of the notice in the post office. Proof of the giving of notice by mail may be made by the certificate of any employee of the Department.

(f) Notification by licensees under subsection (b) of this section may be accomplished by submitting written notification directly to the Commissioner or by using any online services approved by the Commissioner for this purpose.

(g) The Commissioner may contract with the NAIC or other persons for the provision of online services to licensees, for the provision of administrative services to licensees, or for the provision of regulatory data systems to the Commissioner. The NAIC or other person with whom the Commissioner contracts may charge licensees a reasonable fee for the costs associated with the licensees' use of online services and administrative services. The fee shall be agreed to by the Commissioner and the other contracting party and shall be stated in the contract. Contracts for the provision of online services, contracts for the provision of administrative services, and contracts for the provision of regulatory data systems shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General Statutes."

SECTION 16. This act becomes effective January 1, 2008, and applies to fees or charges due, and actions occurring, on or after that date.

SENATE BILL 1527:
Amend Insurance Laws/Producers and Bail Bonds

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 2, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Trina Griffin
Version:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 1527 makes various changes to the licensing laws for insurance agents, brokers, and adjusters, including fee changes for licensing and continuing education requirements. The bill also amends several statutes dealing with the licensure of bail bondsmen and authorizes the outsourcing by the Department of Insurance of continuing education requirements.***

BILL ANALYSIS:

Section 1 of Senate Bill 1527 amends G.S. 58-33-26 to include the following:

- Provides that current lines of authority for different kinds of insurance remain applicable for license holders until the Commissioner provides replacement licenses under new lines to go into effect for new licenses on January 1, 2008.
- Provides that for licenses issued on or after January 1, 2008, an agent or broker may be licensed for the following new kinds or categories of insurance: accident and health, casualty, limited line, life, Medicare supplement insurance and long-term care insurance, personal (property and casualty sold to individuals and families for noncommercial purposes), property, variable life and annuity products, and any other kind of insurance permitted under State law or administrative rules.
- Clarifies that a person holding a license for the type of insurance listed under subsection (c) may sell, solicit or negotiate only the kind or kinds of insurance for which the person is licensed.
- Changes the word "sell" to "sell, solicit, or negotiate" throughout the statute.
- Deletes existing language specifying the types of limited lines (dental, motor club, travel accident and baggage, etc.) for which an individual may qualify for licensure without examination and, instead, authorizes the Commissioner to issue licenses without examination for limited lines per qualifications and application procedures as defined in the administrative rules.
- Provides that business entity licenses (a business that sells, solicits or negotiates insurance) expire on April 1 of each year.
- Adds a new subsection (p) providing that a person may not simultaneously hold an agent's and an adjuster's license. A person holding a property and liability insurance license may apply for an adjuster's license without taking an examination if the person applies for the adjuster license within 60 days of surrendering the insurance license. Likewise, a person holding an adjuster's license may apply for a property and casualty license without taking an examination if the individual applies for the insurance license within 60 days of surrendering the adjuster license.

Section 2 of the bill amends the definition of an adjuster to delete language addressed by the new subsection (p) above.

Section 3 makes changes to G.S. 58-33-30(d) dealing with education and training requirements for insurance agent applicants. The bill requires individual applicants for licensing as accident and health insurance, casualty insurance, life insurance, personal lines, and property insurance agents to complete 20 hours of instruction for each license (Current law requires life and health agents and property and liability agents to complete 40 hours of instruction.)

Section 4 clarifies that, for the purposes of reporting to the Commissioner, administrative action against an insurance producer includes enforcement action by the National Association of Securities Dealers.

Sections 5 and 6 amend the provisions under which the Commissioner may suspend a license to include violation of other state laws or of rules of the National Association of Securities Dealers and a conviction of a misdemeanor involving moral turpitude.

Section 7 amends G.S.58-33-125 governing annual licensing fees, as follows:

- Creates a fee for a business entity license of $100.00. This replaces the existing fee of $50.00 for agent appointment, nonindividual which is deleted in this section.
- Deletes the recertification, continuing education fee of $5.00.
- Increases the corporate surplus lines licensee fees from $50.00 to $100.00.
- Increases the fee for persons who are not registered and are required to secure a license from $30.00 to $50.00. This fee is also increased upon application for registration for each additional kind of insurance. The fee to obtain a supplemental license to sell Medicare supplement and long-term care policies is also increased from $30.00 to $50.00.
- The fee of $5.00 for duplicate licenses is deleted and replaced by a reasonable fee for duplicate photo-bearing licenses in an amount to be determined by the Commissioner.
- The fee of $10.00 for requests of an agent's file is deleted.

Section 8 authorizes the Commissioner to contract for the administration of continuing education programs. These contracts are not subject to the Purchase and Contracts requirements of Article 3 of Chapter 143. The Commissioner is authorized to adopt rules for the continuing professional education of agents and brokers. The Commissioner may charge a fee of $75.00 in lieu of allowing a license to lapse for failure to comply with continuing education requirements.

Biennial continuing education requirements will be determined by the Commissioner, but may not exceed 24 credit hours (currently 12 hours annually).

Section 10 requires licensees to pay to the Commissioner a fee of $1.00 per credit hour earned. The bill would require that fees collected be paid into the Insurance Regulatory Fund to offset the cost of administering the continuing education program.

Section 11 authorizes the Commissioner to contract with persons for the processing and issuance of picture identification cards and may charge a reasonable fee to offset costs. These contracts are not subject to the Purchase and Contracts requirements of Article 3 of Chapter 143.

Section 12 deletes the requirement that insurers terminating a bail bondsman's appointment give notice to the clerk of any county in which the insurer has been obligated on bail bonds through the surety bondsman.

Before a surety bondsman may receive an appointment, the bondsman must submit to the Commissioner an affidavit signed by the surety bondsman and any former insurer stating that the bondman does not owe any premium or unsatisfied judgment to any insurer and agreeing to discharge any forfeitures and judgments on bonds previously written.

Section 13 clarifies that the surety bondsman shall submit the affidavit to the former insurer. This section also clarifies that if all judgments are not satisfied or forfeited, the insurer shall submit the notice and supporting documents to the appointing insurer, the surety bondsman, and the Commissioner within 30 days of receiving the affidavit from the surety bondsman.

Section 14 requires insurers to file with the Commissioner a written report in a form adopted by the Commissioner regarding all bail bonds on which the insurer is liable as of the last day of each calendar quarter. The report must be filed on or before the fifteenth day following the end of the calendar quarter.

Section 15 requires licensees who fail to notify the Commissioner of as change in residential address to pay an administrative fee of $75.00 in addition to existing penalties and requires a licensee to notify the Commissioner **in writing** of any criminal convictions other than motor vehicle infractions. The section also gives the Commissioner authority to contract with the National Association of Insurance Commissioners or other persons for the provision of online services and administrative services to licensees and regulatory data systems to the Commissioner. Licensees may be charged a reasonable fee for the costs of these services. Contracts under this section are not subject to the contract provisions of Chapter 143, including contracts for consulting services, or State Information Technology Services requirements under Article 3D of Chapter 147.

EFFECTIVE DATE: Senate Bill 1527 becomes effective January 1, 2008 and applies to fees or charges dues, and actions occurring, on or after that date.

Tim Hovis, counsel to Senate Commerce, substantially contributed to this summary.

S1527e2-SMSV

SENATE FINANCE COMMITTEE
Tuesday, July 10, 2007 at 1:30 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met at 1:30 p.m. on Tuesday, July 10, 2007, in room 544. Thirty-five members of the committee were present. Senator David Hoyle presided. Chelsea Flynt of Greenville, Eric Starling, Lauren Cloninger, and Marah Davis of Cherryville, Mary Rebecca Harakas and Lucy Brown Spencer of Gastonia, Becca Thompson and Virginia Yarboro of Goldsboro served as pages.

H.B. 1016 – State Medicaid Swap.

Senator Rand was recognized to explain the bill and motioned to adopt the proposed committee substitute for discussion. The motion carried. Sabra Faires, Senate Tax Counsel, was recognized to answer questions. Jim Blackburn, NC Association of County Commissioners General Counsel, was recognized to speak in favor of the bill. Bill Rowe, NC Justice Center General Counsel, spoke for changes to the Earned Income Tax Credit section so that it would assist more lower income citizens. Senator Rand moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

The meeting adjourned at 1:55 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Tuesday, July 10, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1016** Revise 529 Plan Deduction.

Draft Number:	50735
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 10, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCAE
[illegible]	NCLA
Rita Harris	NCSPA
Lee-Ann Rongaus	NCPA
[illegible]	CAL
Susan Palani	National
[illegible]	CBS/WCCB

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 10, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
	DHHS
Dennis Patterson	OSC
Gary Brown	Northampton County
Jim Stegall	U.C.P.S.
	Nelson Mullins
	HANC
Will McDow	Gen. Defense
	NPNC/SCC
	BCBSNC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 10, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

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Gary Salamido	GSK
Mark Fleming	BCBS
David Young	NCACC
Joanne Wilson	SSF
Sam McEwen	NCDOR
Daniel Baum	Kennedy Covington
Dan Crawford	Electricities of NC
Tracy Kimbrell	Parker Poe
Ellis Hankins	NCLM
Rebecca Troutman	NCACC
Jen Willis	Wake Co. Govt

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 10, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Robert Prichard	Young, Moore
Jim Blackburn	NC Association of County Commissioners
Dan Plunkett	P.E.T.A.
Fred Rodriguez	Predictor Vote
Carol Evans	Quixote
Jeff Mixon	Civitas
Dave Jones	Smith Anderson
Nathan Batts	NCBA
Becki Gray	John Locke Foundation
Chad Adams	
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 10, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
BRIAN LEWIS	Covenant w NC's Children
Mary Bethea	AARP. NC
Bill Rowe	NC Justice Ctr
Rahn Johnson	SBE
FRANK W. FOLGER	HELMS MULLISS WICKER
Paul Shen	NCFB
Bell	AARP

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 10, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Saur	DBHD
DAVID BARNES	Parker Poe LLP
Dana Sisk	SOA
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Alex Miller	CNCC
	NCPC
Julia Leggett	The Arc of NC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 10, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NCRMA
Andy Munnster	REBIC
Lisa Martin	NCHBA
Alastair Macaulay	NCMBA
Boyd Cauble	City of Charlotte
Julia B. Hoke	State Education Assistance Authority
Richard L. Conrad	Forsyth Co. Commissioner
Dan Fogg	NCACC
Joyce Bush	
Jay Hein	NCPMA
George Mills	TIAA

VISITOR REGISTRATION SHEET

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Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Pete Rodda	Forsyth County, NC
Bill O'Donnell	NCSSA
Katherine Joyce	NCASA
Martha L. McCorkell	Carolinas HealthCare System
Sarah Preston	ACLU-NC
Christine Wunsche	105-Daily Bulletin
Dick Carlton	atty
Kathy Gill	NC Zoo Society
Marge Anders Limbert	Land for Tomorrow
Tom Cores	TNC
Jen Richards	TNC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1016*
Committee Substitute Favorable 4/23/07
Third Edition Engrossed 4/26/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H1016-CSMCx-34 [v.2]

7/9/2007 9:59:54 PM

Short Title: State Medicaid Swap. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE COUNTY SHARE OF THE NONFEDERAL SHARE OF MEDICAID COSTS, TO MAKE CORRESPONDING CHANGES TO STATE AND LOCAL REVENUE STREAMS, TO PROVIDE A NONREFUNDABLE EARNED INCOME TAX CREDIT, AND TO TAX ANNUITIES IN THE SAME MANNER AS OTHER INSURANCE PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Effective October 1, 2007, twenty-five percent (25%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(b) Effective July 1, 2008, fifty percent (50%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(c) Effective July 1, 2009, G.S. 108A-54 reads as rewritten:

"**§ 108A-54. Authorization of Medical Assistance Program.**

The Department is authorized ~~and empowered~~ to establish a ~~Medical Assistance~~ Medicaid Program in accordance with Title XIX of the federal Social Security Act. ~~from federal, State and county appropriations and to adopt rules and regulations under which payments are to be made in accordance with the provisions of this Part.~~ The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. A county is responsible for the county's cost of administering the Program in that county. ~~The nonfederal share may be divided between the State and the counties, in a manner consistent with the provisions of the federal Social Security Act, except that the share required from the counties may not exceed the share required from the state. If a portion of the nonfederal share is required from the counties, the boards of county~~

~~commissioners of the several counties shall levy, impose and collect the taxes required for the special purpose of medical assistance as provided in this Part, in an amount sufficient to cover each county's share of such assistance.~~"

SECTION 1.(d) Subsection (a) of this section becomes effective October 1, 2007, and applies to Medicaid costs incurred on or after that date. Subsection (b) of this section becomes effective July 1, 2008, and applies to Medicaid costs incurred on or after that date. Subsection (c) of this section becomes effective July 1, 2009, and applies to Medicaid costs incurred on or after that date.

SECTION 2.(a) ADM Funding Adjustment. – Notwithstanding G.S. 115C-546.2(a), the amount that would otherwise be allocated to counties under that subsection for fiscal year 2007-2008 from the Public School Building Capital Fund is reduced as follows:

(1) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 1(a) of this act exceeds the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by sixty percent (60%) of the amount the county would receive based on its average daily membership.

(2) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 1(a) of this act does not exceed the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by an amount equal to sixty percent (60%) of the county's Medicaid payments that are assumed by the State for fiscal year 2007-2008.

SECTION 2.(b) Restriction. – In fiscal year 2007-2008, a county must use a portion of the revenue that is available to it, as a result of the assumption by the State of part of the county's Medicaid payments, for the purposes set out in G.S. 115C-546.2(b). The portion that must be used for these purposes is an amount equal to the difference between what the county would receive under G.S. 115C-546.2(a) based on its per average daily membership and the adjusted amount it receives under subsection (a) of this section.

SECTION 2.(c) This section is effective when it becomes law and applies to allocations from the Public School Building Capital Fund for fiscal year 2007-2008.

SECTION 3.(a) Notwithstanding the provisions of Article 44 of Chapter 105 of the General Statutes that authorize one-half percent (1/2%) local sales and use taxes, the tax rate for a tax imposed under that Article for the period October 1, 2008, through September 30, 2009, is one-quarter percent (1/4%) rather than one-half percent (1/2%). A resolution enacted by a county under Article 44 before October 1, 2008, to levy one-half percent (1/2%) local sales and use tax is considered to be a resolution authorizing the levy of one-fourth percent (1/4%) local sales and use taxes under that Article, as amended by this section.

SECTION 3.(b) G.S. 105-520 reads as rewritten:

"**§ 105-520. Distribution of taxes.**

(a) Point of Origin. – The Secretary must, on a monthly basis, allocate to each taxing county ~~one-half of~~ the net proceeds of the tax collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate ~~one-half of~~ the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

(b) ~~Per Capita. – The Secretary must, on a monthly basis, allocate the remaining net proceeds of the tax collected under this Article among the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).~~

(c) Distribution Between Counties and Cities. – The Secretary must divide and distribute the funds allocated under this section each month between each taxing county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this subsection for a month if it is not entitled to a distribution under G.S. 105-501 for the same month."

SECTION 3.(c) G.S. 105-521 reads as rewritten:

"**§ 105-521. Transitional local government ~~hold harmless.~~hold harmless for repealed reimbursements.**

(a) Definitions. – The following definitions apply in this section:

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.

(2) Local sales tax share. – A local government's percentage share of the two-cent (2¢)sales taxes distributed during the most recent fiscal year for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(3a) Replacement revenue. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before August 15, ~~2003,~~ 2008, and every August 15 through August 15, 2012, the Secretary must multiply each local government's local sales tax share by the estimated amount of replacement revenue that all local governments ~~would be~~ are expected to receive during the current fiscal ~~year under G.S. 105-520 if every county levied the tax under this Article for the~~ year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

On or before ~~May 1, 2003, and every May 1~~ May 1 of each fiscal year through May 1, 2012, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount of replacement revenue that all local governments would be expected to receive during the upcoming ~~fiscal year under G.S. 105-520 if every county levied the tax under this Article for the~~ fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 through January 31, 2013, the amount distributed under this section for the current fiscal year."

SECTION 3.(d) G.S. 105-472 is amended by adding a new subsection to read:

"(b1) County Reduction for City Hold Harmless. – The Secretary must reduce each county's monthly allocation under subsection (b) of this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section."

SECTION 3.(e) Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding a new paragraph at that end of that section to read:

"The Secretary of Revenue must reduce the amount distributable to Mecklenburg County under this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section."

SECTION 3.(f) Article 44 of Chapter 105 of the General Statutes is amended by adding two new sections to read:

"§ 105-522. City hold harmless for repealed local taxes.

(a) Definitions. – The following definitions apply in this section:

(1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

(2) Hold harmless amount. – Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(b) Requirement. – A county is required to hold the eligible municipalities in the county harmless from the repeal of the local sales and use taxes formerly imposed under this Article. The Secretary must add an eligible municipality's hold harmless amount to the amount distributed to the municipality under this Subchapter. To obtain the revenue for the hold harmless distribution, the Secretary must reduce each county's monthly allocation under G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the municipalities in that county.

"§ 105-523. County hold harmless for repealed local taxes.

(a) Definitions. – The following definitions apply in this section:

(1) Hold harmless threshold. – The amount of a county's Medicaid service costs assumed by the State under G.S. 108A-54 for the fiscal year.

(2) Repealed sales tax amount. – Fifty percent (50%) of the amount of sales and use tax revenue distributed to a county under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(b) Requirement. – If a county's repealed sales tax amount for a fiscal year exceeds the county's hold harmless threshold for that fiscal year, the State is required to hold the county harmless for the difference by paying the amount of the difference to the county. The Secretary must withhold from sales and use tax collections under Article 5 of this Chapter the amount needed to make the hold harmless payments required by this section.

(c) Method. – The Secretary must estimate a county's repealed sales tax amount and hold harmless threshold for a fiscal year to determine if the county is eligible for a hold harmless payment. The Secretary must send to an eligible county with the distribution made under G.S. 105-472 for March of that year an amount equal to ninety percent (90%) of its estimated hold harmless payment. At the end of each fiscal year, the Secretary must determine the difference between a county's repealed sales tax amount and its hold harmless threshold for that year. The Secretary must send by August 15 the remainder of the county's hold harmless payment for the fiscal year that ended on June 30. The Secretary of the Department of Human Resources must give the Secretary of Revenue the data needed to determine a county's hold harmless threshold.

(d) Sunset. – This section expires July 1, 2017."

SECTION 3.(g) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four ~~percent (4%).~~ and one-quarter percent (4.25%)."

SECTION 3.(h) G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

(1) ~~Nineteen and forty-two one-hundredths percent (19.42%)~~ Eighteen and seventy one-hundredths percent (18.70%) minus two million six hundred twenty thousand nine hundred forty-eight dollars ($2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."

(2) ~~Eight percent (8%)~~ Seven and seven-tenths percent (7.7%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 3.(i) G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars ($2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) ~~Twenty-five percent (25%)~~ Twenty-three and six-tenths percent (23.6%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) Thirty-seven and ~~five-tenths percent (37.5%)~~ one-tenth percent (37.1%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 3.(j) This section becomes effective October 1, 2008. Subsections (a) and (g) of this section apply to sales occurring on or after that date. The remaining subsections apply to distributions for months beginning on or after that date.

SECTION 4.(a) G.S. 105-515, 105-516, 105-517, 105-518, 105-519, and 105-520 are repealed.

SECTION 4.(b) G.S. 105-501 reads as rewritten:

"**§ 105-501. Distribution of additional taxes.**

(a) Method. – The Secretary ~~shall,~~ must, on a monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes ~~levied~~ collected in that county under this ~~Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among~~ Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

The Secretary must divide and distribute the funds allocated to a taxing county each month under this section between the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. ~~The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.~~

(b) Deductions. – In determining the net proceeds of the tax to be distributed, the Secretary ~~shall~~ must deduct from the collections to be allocated an amount equal to one-twelfth of the costs during the preceding fiscal year of:

(1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.

(1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.

(2) The Property Tax Commission.

(3) The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.

(4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission."

SECTION 4.(c) G.S. 105-522(a), as enacted by section 3(f) of this act, reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

(1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

(2) Hold harmless amount. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is

subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B."

SECTION 4.(d) G.S. 105-523(a), as enacted by section 3(f) of this act, reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

(1) Hold harmless threshold. – The amount of a county's Medicaid service costs assumed by the State under G.S. 108A-54 for the fiscal year.

(2) Repealed sales tax amount. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed to a county under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B."

SECTION 4.(e) The title of Article 44 of Chapter 105 of the General Statutes reads as rewritten:

"Article 44.

"~~Third One-Half Cent (1/2¢) Local Government Sales and Use Tax.~~ Local Government Hold Harmless Provisions."

SECTION 4.(f) G.S. 105-164.4(a), as amended by section 3(g) of this act, reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and ~~one-quarter percent (4.25%).~~one-half percent (4.5%)."

SECTION 4.(g) G.S. 105-164.44F(a), as amended by section 3(h) of this act, reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

(1) ~~Eighteen and seven one-tenths percent (18.70%)~~ Eighteen and thirty-four one-hundredths percent (18.34%) minus two million six hundred twenty thousand nine hundred forty-eight dollars ($2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which

the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."

(2) Seven and ~~seven one-tenths percent (7.7%)~~ fifty-six one-hundredths percent (7.56%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 4.(h) G.S. 105-164.44I(a), as amended by section 3(i) of this act, reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars ($2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) Twenty-three and ~~six one-tenths percent (23.6%)~~ sixty-one one-hundredths percent (23.61%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) ~~Thirty-seven and one-tenths percent (37.1%)~~ Thirty-five and forty-two one-hundredths percent (35.42%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 4.(i) This section becomes effective October 1, 2009. Subsections (a) and (f) of this section apply to sales occurring on or after that date. Subsections (b), (c), (d), (g), and (h) of this section apply to distributions for months beginning on or after that date.

SECTION 5.(a) G.S. 105-228.5(b1) reads as rewritten:

"(b1) Calculation of Tax Base. – In determining the amount of gross premiums from business in this State, all gross premiums received in this State, credited to policies written or procured in this State, or derived from business written in this State shall be deemed to be for contracts covering persons, property, or risks resident or located in this State unless one of the following applies:

(1) The premiums are properly reported and properly allocated as being received from business done in some other nation, territory, state, or states.

(2) The premiums are from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

Gross premiums from business done in this State in the case of life insurance contracts, including supplemental contracts providing for disability benefits, accidental death benefits, or other special ~~benefits that are not annuities,~~ benefits, means all

premiums collected in the calendar year, other than for contracts of reinsurance, for policies the premiums on which are paid by or credited to persons, firms, or corporations resident in this State, or in the case of group policies, for contracts of insurance covering persons resident within this State. The only deductions allowed shall be for premiums refunded on policies rescinded for fraud or other breach of ~~contract and~~ contract; premiums that were paid in advance on life insurance contracts and subsequently refunded to the insured, premium payer, beneficiary or ~~estate.~~ estate; and in the case of group annuity contracts, premiums returned because of a change in the composition of the group covered. Gross premiums shall be deemed to have been collected for the amounts as provided in the policy contracts for the time in force during the year, whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend, or by any other means except waiver of premiums by companies under a contract for waiver of premium in case of disability.

Gross premiums from business done in this State for all other health care plans and contracts of insurance, including contracts of insurance required to be carried by the Workers' Compensation Act, means all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether the premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for the premiums, and with no deduction for dividends whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums, deposits, fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies."

SECTION 5.(b) G.S. 105-228.5(c) reads as rewritten:

"(c) Exclusions. ~~Every insurer, in computing the premium tax, shall exclude all of the following from the gross amount of premiums, and the gross amount of excluded~~ The following premiums ~~is~~ are exempt from the tax imposed by this section:

(1) ~~All premiums~~ Premiums received ~~on or after July 1, 1973,~~ from policies or contracts issued in connection with the funding of a pension, annuity, or profit-sharing plan qualified or exempt under section 401, 403, 404, 408, ~~457~~ 457, or 501 of the ~~Code as defined in G.S. 105-228.90.~~ Code.

~~(2) Premiums or considerations received from annuities, as defined in G.S. 58-7-15.~~

(3) Funds or considerations received in connection with funding agreements, as defined in G.S. 58-7-16.

(4) The following premiums, to the extent federal law prohibits their taxation under this Article:

a. Federal Employees Health Benefits Plan premiums.

b. Medicaid or Medicare premiums."

SECTION 5.(c) Subsections (a) and (b) of this subsection becomes effective for taxable years beginning on or after January 1, 2009.

SECTION 6.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.31. Earned income tax credit.**

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to twelve percent (12%) of the amount of credit the individual qualified for under section 32 of the Code.

(b) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2014."

SECTION 6.(b) G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.

(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.

(3) G.S. 105-151.18. Credit for the disabled.

(4) G.S. 105-151.24. Credit for children.

(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.

(6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.

(7) G.S. 105-151.28. Credit for long-term care insurance.

(8) G.S. 105-151.30. Credit for recycling oyster shells.

(9) G.S. 105-151.31. Earned income tax credit."

SECTION 6.(c) This section is effective for taxable years beginning on or after January 1, 2008.

SECTION 7. This act does not affect the rights or liabilities of the State, a county, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 8. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 1016
Proposed Senate Committee Substitute: State Medicaid Swap

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 10, 2007
Introduced by:	Reps. Dickson, Wainwright, Carney, Barnhart	**Summary by:**	Cindy Avrette
Version:	PCS to Third Edition		Dan Ettefagh
	H1016-CSMC		Committee Counsel

SUMMARY: ***In the proposed committee substitute, the State would assume the counties' share of the nonfederal share of Medicaid costs over a three-year period. To provide the financial resources to assume these costs, the bill phases out one-half cent of local sales tax and makes a corresponding change in the State sales tax rate. The PCS also treats annuities the same as other insurance products under the gross premiums tax and includes a 12% non-refundable earned income tax credit.***

BILL ANALYSIS: The proposed committee substitute for House Bill 1016 would do the following:

MEDICAID SWAP

- Effective October 1, 2007, the State would assume 25% of the counties' share of the nonfederal share of Medicaid costs.
    - It would adjust the ADM funding formula for the Public School Building Capital Fund for fiscal year 2007-2008 only.
    - It provides that a county must use a portion of the funds available to it, as a result of the assumption by the State of part of the county's Medicaid payments, for public school capital outlay purposes. The amount it must use for these purposes is the difference between what it would receive from the Fund based on its ADM and the adjusted amount it actually received.
- Effective July 1, 2008, the State would assume 50% of the counties' share of the nonfederal share of Medicaid costs.
    - It would repeal the per capita portion (¼%) of the local third ½% sales tax, effective October 1, 2008.
    - It would adjust the State sales tax rate by ¼%, effective October 1, 2008, to reflect the conversion of the local sales tax to a State sales tax.
    - It would provide that counties must hold the municipalities in the county harmless from repeal of this ¼% local tax. The Secretary of Revenue is directed to reduce each county's allocation of local sales tax revenue by the hold harmless amount and to redistribute that amount to the respective municipalities.
    - It would provide that the State would hold a county harmless if its repealed sales tax amount for a fiscal year exceeds the amount of its Medicaid service costs assumed by the State for that fiscal year. This hold harmless provision would last 10 years, until July 1, 2017.
    - It would make conforming changes to the transitional hold harmless for repealed reimbursement amounts and to the sales tax distribution to local governments of the State sales tax collected on telecommunications services and video programming services.

- Effective July 1, 2009, the State would assume the entire nonfederal share of Medicaid costs.
    - It would repeal the remaining ¼% of the third ½% local sales tax rate, effective October 1, 2009.
    - It would adjust the State sales tax rate by ¼%, effective October 1, 2009, to reflect the conversion of the local sales tax to a State sales tax.
    - It would change the allocation of the second one-half cent local sales tax from per capita to point of collection. Beginning July 1, 2009, 1½% of the 2% local tax would be allocated on a point of collection basis and ½% would be allocated on a per capita basis.
    - It would make conforming changes in the hold harmless provisions to recognize the further reduction of the local sales tax rate and to the sales tax distribution to local governments for the State sales tax collected on telecommunications services and video programming services.

EXPAND GROSS PREMIUMS TAX TO INCLUDE ANNUITIES:

- Prior to 1995, the 1.9% gross premiums tax included the taxation of annuities. Effective for taxable years beginning on or after January 1, 2009, section 5 of this bill would expand the tax base to include annuities.[1] The tax would not apply to qualified plans. The taxation of annuities under this section differs from the taxation of annuities prior to 1995 in that it taxes annuities on the "front end" as opposed to the "back end". Under the 1994 law, the tax was paid when the annuity payments began rather than when money was deposited with the insurance company to fund the annuity. When payments on an annuity began, the tax was calculated as 1.9% of the present value of the stream of income to be received under the annuity. The insurer deducted the amount of the tax from the initial payments to be made under the annuity.

NONREFUNDABLE EARNED INCOME TAX CREDIT:

- Section 6 of the bill would establish a nonrefundable State earned income tax credit. The credit would be equal to 12% of an individual's federal earned income tax credit. It would become effective for taxable years beginning on or after January 1, 2008, and expire for taxable years beginning on or after January 1, 2014. The Internal Revenue Code provides a refundable earned income tax credit for individuals who work and whose adjusted gross income does not exceed a specified amount.[2] The credit is intended to offset some of the increases in living expenses and social security taxes and provide an incentive for low-income families to work instead of collect welfare. If the credit allowed exceeds the amount of tax imposed, the excess is refundable to the taxpayer.

  To be eligible for the credit, an individual must meet the following requirements:
    - Have a valid social security number.
    - Have earned income from employment or self-employment.[3]
    - Be a U.S. citizen, a resident alien all year, or a nonresident alien married to a U.S. citizen or resident alien and filing a joint return.
    - Can not be a qualifying child of another person.
    - Have a qualifying child OR meet the following requirements:

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[1] The increase in the gross premiums tax base will also mean an increase in revenues derived from the insurance regulatory fee, unless the rate is reduced.

[2] Congress enacted the credit in 1975.

[3] Earned income includes wages, salaries, tips, and net earnings from self-employment. It does not include interest and dividends, social security benefits, pensions or annuities, alimony, child support, or unemployment compensation, etc.

- Age 25 but under age 65 at the end of the year.
- Live in the U.S. for more than half the year.

The amount of the federal credit varies depending upon whether the taxpayer has children and the amount of earned income the taxpayer has. The credit is phased out as the taxpayer's earned income rises. To qualify for the credit in 2006, an individual's earned income may not exceed $38,348 for an individual who is married filing jointly with two or more qualifying children.[4] The maximum federal credit amount allowed in 2006 is $4,536 for an individual with two or more qualifying children; for North Carolina, the maximum credit amount would be approximately $544. The maximum federal credit amount in 2006 for an individual with no children is $412; for North Carolina the maximum credit amount would be approximately $49. The earned income amounts and the credit amounts are indexed to inflation.

In the 2005 tax year, more than 22 million individuals received $41.4 billion in the federal earned income tax credit. However, the IRS estimates that 20 to 25% of people who qualify for the credit do not claim it. As of 2006, 20 states offer an earned income tax credit. In most instances, the credit is refundable. North Carolina has three other refundable tax credits: credit for qualifying expenses of a production company, credit for low-income housing, and credit for reinvestment by major recycling facilities.

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[4] The income limit is $12,120 ($14,120 MFJ) if no qualifying children; the income limit is $32,001 ($34,001 if MFJ) if one qualifying child. A person's investment income must be $2,800 or less for the year to qualify.

Senate Medicaid Swap County Summary - 3 Year Phase In

6/28/2007

County	County Summary After State Hold Harmless				
	2007-08	2008-09	2009-10	2010-11	2011-12
Alamance	499,779	2,342,358	2,298,335	287,922	699,001
Alexander	123,119	570,966	-	-	-
Alleghany	95,146	344,615	408,700	276,497	338,720
Anson	420,594	1,504,946	2,334,350	2,209,375	2,477,168
Ashe	200,509	731,806	966,785	687,301	824,377
Avery	106,492	386,788	418,640	133,091	203,545
Beaufort	520,679	1,940,674	3,085,263	2,618,760	2,980,905
Bertie	327,702	1,177,462	1,828,374	1,748,311	1,957,477
Bladen	373,404	1,437,219	1,919,727	1,638,948	1,916,968
Brunswick	423,258	1,576,127	1,858,699	421,719	748,275
Buncombe	1,285,931	4,955,377	8,491,466	5,548,282	6,585,035
Burke	434,962	2,055,762	1,704,056	501,310	853,714
Cabarrus	446,327	1,705,486	1,433,352	-	-
Caldwell	384,252	1,821,322	1,548,467	487,808	822,299
Camden	23,635	96,992	-	-	-
Carteret	213,078	877,949	1,145,593	60,728	241,895
Caswell	178,869	693,207	570,518	312,410	428,448
Catawba	509,941	2,333,186	2,941,072	798,847	1,238,951
Chatham	161,433	630,501	-	-	-
Cherokee	217,841	844,978	1,501,697	1,262,102	1,459,429
Chowan	154,472	585,946	815,344	655,320	754,127
Clay	59,208	236,123	285,529	171,981	219,763
Cleveland	719,922	3,146,962	3,971,150	2,912,025	3,530,271
Columbus	700,170	2,834,816	4,997,029	4,931,903	5,553,107
Craven	388,777	1,834,349	1,783,747	405,569	717,582
Cumberland	1,123,355	5,365,050	5,256,182	839,644	1,825,402
Currituck	56,048	208,431	437,120	112,691	159,391
Dare	82,020	62,605	980,193	71,593	114,663
Davidson	580,884	2,905,939	1,870,128	-	438,622
Davie	107,731	444,556	-	-	-
Duplin	335,459	1,492,583	1,524,833	912,244	1,167,294
Durham	1,158,283	4,324,254	5,805,115	1,746,357	2,488,861
Edgecombe	642,593	2,410,825	3,912,512	3,733,214	4,226,730
Forysth	1,215,241	5,991,595	9,966,712	5,720,172	6,847,587
Franklin	274,446	1,243,227	1,014,591	355,476	568,982
Gaston	1,257,943	5,538,374	7,019,803	4,718,744	5,824,033
Gates	56,665	291,723	221,887	91,941	136,534
Graham	96,010	355,987	544,737	485,852	561,184
Granville	204,269	978,803	316,547	-	-
Greene	140,592	599,320	547,544	331,786	431,162
Guilford	1,403,636	6,360,583	10,177,033	4,206,256	5,497,848
Halifax	792,836	2,879,909	4,663,478	4,348,854	4,932,362
Harnett	391,289	1,954,279	968,399	-	-

Haywood	347,121	1,363,127	1,835,604	1,103,399	1,381,363
Henderson	392,703	1,611,066	1,243,357	-	70,243
Hertford	343,740	1,208,287	2,001,258	1,858,091	2,085,384
Hoke	204,337	1,005,497	702,892	220,592	373,612
Hyde	64,927	214,668	336,034	285,380	327,473
Iredell	449,065	2,005,594	2,939,349	959,303	1,362,556
Jackson	171,042	565,835	497,607	-	50,375
Johnston	556,613	2,786,079	2,760,468	847,953	1,377,210
Jones	87,450	327,604	350,841	259,776	319,765
Lee	205,301	1,066,999	1,557,676	945,915	1,164,008
Lenoir	520,376	2,244,053	3,722,894	3,350,682	3,797,414
Lincoln	250,187	1,222,252	979,984	38,374	267,615
Macon	172,108	686,678	1,257,438	869,085	1,037,530
Madison	169,217	619,026	632,472	419,579	534,113
Martin	320,236	1,214,732	1,908,053	1,727,019	1,949,097
McDowell	248,870	1,007,200	716,670	67,966	239,282
Mecklenburg	2,340,444	10,634,969	24,624,760	14,917,730	17,385,578
Mitchell	131,264	506,793	745,319	585,512	686,788
Montgomery	205,024	858,158	1,013,239	728,500	876,505
Moore	266,924	1,088,807	636,868	-	-
Nash	386,371	1,955,961	2,562,928	1,305,429	1,693,806
New Hanover	758,769	3,048,788	6,732,684	4,087,209	4,750,889
Northhampton	243,004	913,830	1,111,859	927,129	1,084,529
Onslow	411,183	1,348,312	-	-	-
Orange	304,682	791,123	-	-	-
Pamlico	96,820	384,563	401,777	246,675	312,751
Pasquotank	279,797	1,142,951	1,873,442	1,454,817	1,666,737
Pender	193,711	953,500	742,760	126,647	291,983
Perquimans	72,972	290,330	171,313	589	45,404
Person	203,471	935,554	991,709	528,419	690,793
Pitt	1,019,921	4,011,041	6,147,955	4,281,915	5,034,269
Polk	76,953	312,496	25,953	-	-
Randolph	496,909	2,379,481	1,102,317	-	-
Richmond	468,955	1,850,281	2,447,654	1,953,186	2,291,881
Robeson	1,706,237	6,679,484	10,407,574	9,647,617	10,983,158
Rockingham	498,861	2,234,693	2,021,692	826,065	1,239,547
Rowan	532,130	2,806,283	3,104,028	1,692,594	2,257,913
Rutherford	433,239	1,865,888	2,357,838	1,684,121	2,036,954
Sampson	478,639	2,121,146	2,790,369	2,195,487	2,598,769
Scotland	384,115	1,624,138	2,585,694	2,344,089	2,676,674
Stanly	235,598	1,193,582	1,132,941	349,995	578,699
Stokes	172,154	823,130	20,397	-	-
Surry	392,202	1,784,433	2,176,896	1,225,500	1,577,119
Swain	92,535	366,224	382,023	221,101	300,594
Transylvania	158,623	598,915	586,235	119,310	232,905
Tyrrell	46,295	171,447	224,514	186,821	218,893
Union	380,205	1,268,562	-	-	-
Vance	421,635	1,793,828	2,758,766	2,372,556	2,743,907
Wake	1,711,176	5,529,394	7,544,049	-	-
Warren	208,066	794,453	973,225	805,279	951,399
Washington	209,124	747,063	1,151,296	1,075,693	1,219,298
Watauga	99,912	265,214	280,968	-	-

Wayne	652,057	3,045,514	3,903,273	2,631,864	3,212,349
Wilkes	459,565	1,869,287	2,169,162	1,356,392	1,720,532
Wilson	515,713	2,312,692	3,475,857	2,686,224	3,132,101
Yadkin	151,750	775,126	423,050	-	37,149
Yancey	143,591	542,476	630,296	415,004	518,816
Total	**41,432,688**	**173,842,565**	**227,409,981**	**131,677,616**	**161,157,438**

Medicaid Swap Proposal - FY 2007-08

Last Updated 6/27/2008

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Alamance	1,249,448	1,249,448	-	1,372,620	749,669	622,951	499,779
Cities					-		
Total	1,249,448				-		
Alexander	307,797	307,797	-	354,840	184,678	170,162	123,119
Cities					-		
Total	307,797				-		
Alleghany	150,786	150,786	-	92,733	55,640	37,093	95,146
Cities					-		
Total	150,786				-		
Anson	579,467	579,467	-	264,788	158,873	105,915	420,594
Cities					-		
Total	579,467				-		
Ashe	321,493	321,493	-	201,640	120,984	80,656	200,509
Cities					-		
Total	321,493				-		
Avery	196,380	196,380	-	149,812	89,887	59,925	106,492
Cities					-		
Total	196,380				-		
Beaufort	797,774	797,774	-	461,824	277,094	184,730	520,679
Cities					-		
Total	797,774				-		
Bertie	448,226	448,226	-	200,874	120,524	80,349	327,702
Cities					-		
Total	448,226				-		
Bladen	581,722	581,722	-	347,197	208,318	138,879	373,404
Cities					-		
Total	581,722				-		
Brunswick	856,187	856,187	-	721,548	432,929	288,619	423,258
Cities					-		
Total	856,187				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Buncombe	2,403,936	2,403,936	-	1,863,342	1,118,005	745,337	1,285,931
Cities					-		
Total	2,403,936				-		
Burke	978,572	978,572	-	906,017	543,610	362,407	434,962
Cities					-		
Total	978,572				-		
Cabarrus	1,115,818	1,115,818	-	1,756,820	669,491	1,087,329	446,327
Cities					-		
Total	1,115,818				-		
Caldwell	869,143	869,143	-	808,151	484,891	323,260	384,252
Cities					-		
Total	869,143				-		
Camden	59,088	59,088	-	108,621	35,453	73,169	23,635
					-		
Total	59,088				-		
Carteret	532,694	532,694	-	536,261	319,616	216,645	213,078
Cities					-		
Total	532,694				-		
Caswell	302,451	302,451	-	205,969	123,582	82,388	178,869
Cities					-		
Total	302,451				-		
Catawba	1,274,852	1,274,852	-	1,516,880	764,911	751,969	509,941
Cities					-		
Total	1,274,852				-		
Chatham	403,582	403,582	-	493,619	242,149	251,470	161,433
Cities					-		
Total	403,582				-		
Cherokee	357,683	357,683	-	233,070	139,842	93,228	217,841
Cities					-		
Total	357,683				-		
Chowan	245,681	245,681	-	152,014	91,208	60,806	154,472
Cities					-		
Total	245,681				-		
Clay	107,904	107,904	-	81,160	48,696	32,464	59,208
Cities					-		
Total	107,904				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Cleveland	1,358,264	1,358,264	-	1,063,902	638,341	425,561	719,922
Cities					-		
Total	1,358,264				-		
Columbus	1,059,541	1,059,541	-	598,952	359,371	239,581	700,170
Cities					-		
Total	1,059,541				-		
Craven	932,874	932,874	-	906,827	544,096	362,731	388,777
Cities					-		
Total	932,874				-		
Cumberland	2,808,388	2,808,388	-	3,226,655	1,685,033	1,541,622	1,123,355
Cities					-		
Total	2,808,388				-		
Currituck	140,121	140,121	-	247,436	84,073	163,364	56,048
					-		
Total	140,121				-		
Dare	205,049	205,049	-	305,161	123,029	182,132	82,020
Cities					-		
Total	205,049				-		
Davidson	1,452,210	1,452,210	-	1,585,474	871,326	714,147	580,884
Cities					-		
Total	1,452,210				-		
Davie	269,328	269,328	-	394,654	161,597	233,058	107,731
Cities					-		
Total	269,328				-		
Duplin	666,763	666,763	-	552,174	331,304	220,870	335,459
Cities					-		
Total	666,763				-		
Durham	2,372,706	2,372,706	-	2,024,039	1,214,423	809,615	1,158,283
Cities					-		
Total	2,372,706				-		
Edgecombe	925,731	925,731	-	471,897	283,138	188,759	642,593
Cities					-		
Total	925,731				-		
Forysth	3,038,102	3,038,102	-	3,148,227	1,822,861	1,325,365	1,215,241
Cities					-		
Total	3,038,102				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Franklin	580,521	580,521	-	510,124	306,074	204,050	274,446
Cities					-		
Total	580,521				-		
Gaston	2,472,572	2,472,572	-	2,024,381	1,214,629	809,753	1,257,943
Cities					-		
Total	2,472,572				-		
Gates	131,314	131,314	-	124,415	74,649	49,766	56,665
Cities					-		
Total	131,314				-		
Graham	141,493	141,493	-	75,804	45,483	30,322	96,010
Cities					-		
Total	141,493				-		
Granville	510,671	510,671	-	540,783	306,403	234,380	204,269
Cities					-		
Total	510,671				-		
Greene	260,257	260,257	-	199,442	119,665	79,777	140,592
Cities					-		
Total	260,257				-		
Guilford	3,509,090	3,509,090	-	4,288,383	2,105,454	2,182,929	1,403,636
Cities					-		
Total	3,509,090				-		
Halifax	1,128,142	1,128,142	-	558,844	335,306	223,537	792,836
Cities					-		
Total	1,128,142				-		
Harnett	978,222	978,222	-	1,069,828	586,933	482,894	391,289
Cities					-		
Total	978,222				-		
Haywood	640,551	640,551	-	489,050	293,430	195,620	347,121
Cities					-		
Total	640,551				-		
Henderson	869,493	869,493	-	794,650	476,790	317,860	392,703
Cities					-		
Total	869,493				-		
Hertford	475,098	475,098	-	218,931	131,359	87,573	343,740
Cities					-		
Total	475,098				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Hoke	457,327	457,327	-	421,650	252,990	168,660	204,337
Cities					-		
Total	457,327				-		
Hyde	88,520	88,520	-	39,321	23,593	15,728	64,927
					-		
Total	88,520				-		
Iredell	1,122,664	1,122,664	-	1,567,715	673,598	894,117	449,065
Cities					-		
Total	1,122,664				-		
Jackson	313,189	313,189	-	236,911	142,146	94,764	171,042
Cities					-		
Total	313,189				-		
Johnston	1,391,532	1,391,532	-	1,670,373	834,919	835,453	556,613
Cities					-		
Total	1,391,532				-		
Jones	137,605	137,605	-	83,592	50,155	33,437	87,450
Cities					-		
Total	137,605				-		
Lee	513,252	513,252	-	575,571	307,951	267,620	205,301
Cities					-		
Total	513,252				-		
Lenoir	903,493	903,493	-	638,528	383,117	255,411	520,376
Cities					-		
Total	903,493				-		
Lincoln	625,468	625,468	-	766,647	375,281	391,366	250,187
Cities					-		
Total	625,468				-		
Macon	329,410	329,410	-	262,169	157,302	104,868	172,108
Cities					-		
Total	329,410				-		
Madison	266,822	266,822	-	162,676	97,606	65,070	169,217
Cities					-		
Total	266,822				-		
Martin	482,746	482,746	-	270,850	162,510	108,340	320,236
Cities					-		
Total	482,746				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
McDowell	490,862	490,862	-	403,320	241,992	161,328	248,870
Cities					-		
Total	490,862				-		
Mecklenburg	5,851,111	5,851,111	-	7,669,270	3,510,667	4,158,604	2,340,444
Cities					-		
Total	5,851,111				-		
Mitchell	216,521	216,521	-	142,095	85,257	56,838	131,264
Cities					-		
Total	216,521				-		
Montgomery	372,441	372,441	-	279,028	167,417	111,611	205,024
Cities					-		
Total	372,441				-		
Moore	667,309	667,309	-	762,194	400,385	361,808	266,924
Cities					-		
Total	667,309				-		
Nash	965,927	965,927	-	1,175,724	579,556	596,168	386,371
Cities					-		
Total	965,927				-		
New Hanover	1,648,026	1,648,026	-	1,482,094	889,256	592,838	758,769
Cities					-		
Total	1,648,026				-		
Northhampton	371,324	371,324	-	213,868	128,321	85,547	243,004
Cities					-		
Total	371,324				-		
Onslow	1,027,957	1,027,957	-	1,400,233	616,774	783,459	411,183
Cities					-		
Total	1,027,957				-		
Orange	761,706	761,706	-	1,104,647	457,024	647,624	304,682
Cities					-		
Total	761,706				-		
Pamlico	169,752	169,752	-	121,552	72,931	48,621	96,820
Cities					-		
Total	169,752				-		
Pasquotank	503,634	503,634	-	373,063	223,838	149,225	279,797
Cities					-		
Total	503,634				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Pender	464,830	464,830	-	451,866	271,120	180,747	193,711
Cities					-		
Total	464,830				-		
Perquimans	138,120	138,120	-	108,580	65,148	43,432	72,972
Cities					-		
Total	138,120				-		
Person	432,755	432,755	-	382,140	229,284	152,856	203,471
Cities					-		
Total	432,755				-		
Pitt	1,833,758	1,833,758	-	1,356,395	813,837	542,558	1,019,921
Cities					-		
Total	1,833,758				-		
Polk	168,668	168,668	-	152,858	91,715	61,143	76,953
Cities					-		
Total	168,668				-		
Randolph	1,242,273	1,242,273	-	1,428,650	745,364	683,286	496,909
Cities					-		
Total	1,242,273				-		
Richmond	778,071	778,071	-	515,193	309,116	206,077	468,955
Cities					-		
Total	778,071				-		
Robeson	2,608,997	2,608,997	-	1,504,601	902,761	601,841	1,706,237
Cities					-		
Total	2,608,997				-		
Rockingham	1,045,817	1,045,817	-	911,594	546,957	364,638	498,861
Cities					-		
Total	1,045,817				-		
Rowan	1,308,822	1,308,822	-	1,294,487	776,692	517,795	532,130
Cities					-		
Total	1,308,822				-		
Rutherford	819,784	819,784	-	644,242	386,545	257,697	433,239
Cities					-		
Total	819,784				-		
Sampson	894,021	894,021	-	692,303	415,382	276,921	478,639
Cities					-		
Total	894,021				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Scotland	645,295	645,295	-	435,300	261,180	174,120	384,115
Cities					-		
Total	645,295				-		
Stanly	588,994	588,994	-	610,886	353,397	257,490	235,598
Cities					-		
Total	588,994				-		
Stokes	430,385	430,385	-	456,849	258,231	198,618	172,154
Cities					-		
Total	430,385				-		
Surry	841,367	841,367	-	748,608	449,165	299,443	392,202
Cities					-		
Total	841,367				-		
Swain	165,155	165,155	-	121,033	72,620	48,413	92,535
Cities					-		
Total	165,155				-		
Transylvania	308,201	308,201	-	249,296	149,578	99,719	158,623
Cities					-		
Total	308,201				-		
Tyrrell	69,623	69,623	-	38,881	23,328	15,552	46,295
Cities					-		
Total	69,623				-		
Union	950,511	950,511	-	1,920,003	570,307	1,349,696	380,205
Cities					-		
Total	950,511				-		
Vance	735,508	735,508	-	523,122	313,873	209,249	421,635
Cities					-		
Total	735,508				-		
Wake	4,277,939	4,277,939	-	7,580,092	2,566,763	5,013,329	1,711,176
Cities					-		
Total	4,277,939				-		
Warren	323,954	323,954	-	193,146	115,888	77,258	208,066
Cities					-		
Total	323,954				-		
Washington	288,720	288,720	-	132,660	79,596	53,064	209,124
Cities					-		
Total	288,720				-		

County	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Total County Impact	FY 2007-08				
			Counties in the Before Hold Harmless	Corporate ADM	ADM Adjustment (Negative to Counties)	New ADM Payment to County	New County Net
Watauga	249,780	249,780	-	283,392	149,868	133,524	99,912
Cities					-		
Total	249,780				-		
Wayne	1,370,585	1,370,585	-	1,197,547	718,528	479,019	652,057
Cities					-		
Total	1,370,585				-		
Wilkes	840,309	840,309	-	634,573	380,744	253,829	459,565
Cities					-		
Total	840,309				-		
Wilson	1,007,803	1,007,803	-	820,150	492,090	328,060	515,713
Cities					-		
Total	1,007,803				-		
Yadkin	379,375	379,375	-	380,638	227,625	153,013	151,750
Cities					-		
Total	379,375				-		
Yancey	238,384	238,384	-	157,989	94,793	63,196	143,591
Cities					-		
Total	238,384				-		
	86,193,587	**86,193,587**	-	86,000,000	**44,760,899**		**41,432,688**

Medicaid Swap Proposal - FY 2008-09

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Alamance	(1,882,920)	3,933,822	887,283	2,938,184	(595,826)	2,342,358	-	-	2,342,358
Cities	(1,126,808)		530,982	(595,826)					
Total	(3,009,728)	3,933,822	1,418,265	2,342,358					
Alexander	(720,163)	972,242	339,360	591,439	(20,473)	570,966	-	-	570,966
Cities	(38,718)		18,245	(20,473)					
Total	(758,881)	972,242	357,605	570,966					
Alleghany	(209,241)	473,801	98,600	363,160	(18,546)	344,615	-	-	344,615
Cities	(35,073)		16,527	(18,546)					
Total	(244,314)	473,801	115,127	344,615					
Anson	(394,453)	1,798,570	185,877	1,589,994	(85,048)	1,504,946	-	-	1,504,946
Cities	(160,840)		75,792	(85,048)					
Total	(555,293)	1,798,570	261,669	1,504,946					
Ashe	(476,943)	1,010,997	224,748	758,803	(26,997)	731,806	-	-	731,806
Cities	(51,055)		24,059	(26,997)					
Total	(527,998)	1,010,997	248,807	731,806					
Avery	(377,788)	617,684	178,024	417,920	(31,132)	386,788	-	-	386,788
Cities	(58,876)		27,744	(31,132)					
Total	(436,664)	617,684	205,768	386,788					
Beaufort	(806,831)	2,497,236	380,201	2,070,605	(129,932)	1,940,674	-	-	1,940,674
Cities	(245,723)		115,791	(129,932)					
Total	(1,052,554)	2,497,236	495,992	1,940,674					
Bertie	(332,126)	1,397,033	156,507	1,221,414	(43,952)	1,177,462	-	-	1,177,462
Cities	(83,120)		39,169	(43,952)					
Total	(415,247)	1,397,033	195,675	1,177,462					
Bladen	(636,004)	1,830,074	299,702	1,493,772	(56,553)	1,437,219	-	-	1,437,219
Cities	(106,951)		50,398	(56,553)					
Total	(742,954)	1,830,074	350,100	1,437,219					
Brunswick	(1,533,876)	2,706,307	722,804	1,895,235	(319,108)	1,576,127	-	-	1,576,127
Cities	(603,487)		284,379	(319,108)					
Total	(2,137,363)	2,706,307	1,007,183	1,576,127					
Buncombe	(3,666,318)	7,561,393	1,727,668	5,622,743	(667,366)	4,955,377	-	-	4,955,377
Cities	(1,262,102)		594,737	(667,366)					
Total	(4,928,421)	7,561,393	2,322,405	4,955,377					
Burke	(1,458,185)	3,084,026	687,136	2,312,977	(257,216)	2,055,762	-	-	2,055,762
Cities	(486,438)		229,223	(257,216)					
Total	(1,944,623)	3,084,026	916,359	2,055,762					
Cabarrus	(2,161,267)	3,528,507	1,018,447	2,385,687	(680,201)	1,705,486	-	-	1,705,486
Cities	(1,286,377)		606,175	(680,201)					
Total	(3,447,644)	3,528,507	1,624,622	1,705,486					

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Caldwell	(1,162,072)	2,742,491	547,600	2,128,019	(306,697)	1,821,322	-	-	1,821,322
Cities	(580,016)		273,319	(306,697)					
Total	(1,742,089)	2,742,491	820,919	1,821,322					
Camden	(166,360)	184,958	78,393	96,992	-	96,992	-	-	96,992
	-		-	-					
Total	(166,360)	184,958	78,393	96,992					
Carteret	(1,066,119)	1,682,479	502,384	1,118,744	(240,795)	877,949	-	-	877,949
Cities	(455,384)		214,589	(240,795)					
Total	(1,521,503)	1,682,479	716,973	877,949					
Caswell	(470,877)	951,213	221,890	702,226	(9,019)	693,207	-	-	693,207
Cities	(17,057)		8,038	(9,019)					
Total	(487,934)	951,213	229,928	693,207					
Catawba	(2,158,728)	4,014,340	1,017,251	2,872,863	(539,677)	2,333,186	-	-	2,333,186
Cities	(1,020,621)		480,944	(539,677)					
Total	(3,179,348)	4,014,340	1,498,194	2,333,186					
Chatham	(1,015,333)	1,269,673	478,452	732,793	(102,292)	630,501	-	-	630,501
Cities	(193,451)		91,159	(102,292)					
Total	(1,208,784)	1,269,673	569,612	630,501					
Cherokee	(479,486)	1,132,586	225,947	879,047	(34,068)	844,978	-	-	844,978
Cities	(64,429)		30,361	(34,068)					
Total	(543,915)	1,132,586	256,307	844,978					
Chowan	(289,105)	766,469	136,234	613,598	(27,651)	585,946	-	-	585,946
Cities	(52,293)		24,642	(27,651)					
Total	(341,398)	766,469	160,876	585,946					
Clay	(195,913)	341,354	92,319	237,760	(1,637)	236,123	-	-	236,123
Cities	(3,097)		1,459	(1,637)					
Total	(199,009)	341,354	93,779	236,123					
Cleveland	(1,773,456)	4,282,304	835,700	3,344,548	(197,586)	3,146,962	-	-	3,146,962
Cities	(373,669)		176,083	(197,586)					
Total	(2,147,126)	4,282,304	1,011,783	3,146,962					
Columbus	(755,605)	3,341,841	356,061	2,942,298	(107,482)	2,834,816	-	-	2,834,816
Cities	(203,266)		95,784	(107,482)					
Total	(958,871)	3,341,841	451,846	2,834,816					
Craven	(1,485,752)	2,933,177	700,126	2,147,551	(313,202)	1,834,349	-	-	1,834,349
Cities	(592,319)		279,117	(313,202)					
Total	(2,078,071)	2,933,177	979,243	1,834,349					
Cumberland	(4,412,240)	8,850,321	2,079,166	6,517,247	(1,152,197)	5,365,050	-	-	5,365,050
Cities	(2,179,001)		1,026,804	(1,152,197)					
Total	(6,591,241)	8,850,321	3,105,970	5,365,050					
Currituck	(439,782)	440,976	207,237	208,431	-	208,431	-	-	208,431
	-		-	-					
Total	(439,782)	440,976	207,237	208,431					
Dare	(811,175)	643,601	382,247	214,674	(152,070)	62,605	-	-	62,605
Cities	(287,589)		135,520	(152,070)					

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(1,098,764)	643,601	517,767	62,605					

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Davidson	(2,434,147)	4,613,703	1,147,036	3,326,591	(420,652)	2,905,939	-	-	2,905,939
Cities	(795,525)		374,873	(420,652)					
Total	(3,229,672)	4,613,703	1,521,909	2,905,939					
Davie	(645,573)	847,281	304,212	505,919	(61,363)	444,556	-	-	444,556
Cities	(116,049)		54,685	(61,363)					
Total	(761,622)	847,281	358,897	444,556					
Duplin	(901,606)	2,092,425	424,861	1,615,680	(123,098)	1,492,583	-	-	1,492,583
Cities	(232,799)		109,701	(123,098)					
Total	(1,134,405)	2,092,425	534,562	1,492,583					
Durham	(3,153,656)	7,420,278	1,486,088	5,752,709	(1,428,456)	4,324,254	-	-	4,324,254
Cities	(2,701,454)		1,272,998	(1,428,456)					
Total	(5,855,110)	7,420,278	2,759,086	4,324,254					
Edgecombe	(749,126)	2,916,274	353,008	2,520,157	(109,332)	2,410,825	-	-	2,410,825
Cities	(206,765)		97,433	(109,332)					
Total	(955,891)	2,916,274	450,442	2,410,825					
Forysth	(4,419,914)	9,510,406	2,082,783	7,173,274	(1,181,679)	5,991,595	-	-	5,991,595
Cities	(2,234,757)		1,053,078	(1,181,679)					
Total	(6,654,671)	9,510,406	3,135,860	5,991,595					
Franklin	(1,017,272)	1,827,374	479,366	1,289,468	(46,241)	1,243,227	-	-	1,243,227
Cities	(87,450)		41,209	(46,241)					
Total	(1,104,722)	1,827,374	520,575	1,243,227					
Gaston	(3,208,686)	7,797,212	1,512,019	6,100,545	(562,171)	5,538,374	-	-	5,538,374
Cities	(1,063,161)		500,990	(562,171)					
Total	(4,271,847)	7,797,212	2,013,009	5,538,374					
Gates	(219,926)	411,014	103,635	294,723	(3,001)	291,723	-	-	291,723
Cities	(5,674)		2,674	(3,001)					
Total	(225,601)	411,014	106,309	291,723					
Graham	(161,635)	446,643	76,167	361,175	(5,187)	355,987	-	-	355,987
Cities	(9,810)		4,623	(5,187)					
Total	(171,445)	446,643	80,789	355,987					
Granville	(964,579)	1,602,643	454,535	1,092,600	(113,797)	978,803	-	-	978,803
Cities	(215,209)		101,412	(113,797)					
Total	(1,179,787)	1,602,643	555,948	978,803					
Greene	(388,952)	816,885	183,284	611,218	(11,898)	599,320	-	-	599,320
Cities	(22,501)		10,603	(11,898)					
Total	(411,453)	816,885	193,888	599,320					
Guilford	(5,371,409)	11,064,787	2,531,153	8,224,530	(1,863,947)	6,360,583	-	-	6,360,583
Cities	(3,525,041)		1,661,094	(1,863,947)					
Total	(8,896,450)	11,064,787	4,192,247	6,360,583					
Halifax	(954,802)	3,535,060	449,928	3,030,187	(150,278)	2,879,909	-	-	2,879,909
Cities	(284,201)		133,923	(150,278)					
Total	(1,239,003)	3,535,060	583,852	2,879,909					
Harnett	(1,823,601)	3,080,281	859,330	2,116,010	(161,731)	1,954,279	-	-	1,954,279
Cities	(305,861)		144,130	(161,731)					

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(2,129,462)	3,080,281	1,003,460	1,954,279					
Haywood	(968,352)	2,022,019	456,314	1,509,981	(146,853)	1,363,127	-	-	1,363,127
Cities	(277,724)		130,871	(146,853)					
Total	(1,246,077)	2,022,019	587,185	1,363,127					
Henderson	(1,668,074)	2,752,622	786,041	1,870,589	(259,523)	1,611,066	-	-	1,611,066
Cities	(490,803)		231,280	(259,523)					
Total	(2,158,877)	2,752,622	1,017,321	1,611,066					
Hertford	(423,176)	1,483,178	199,412	1,259,414	(51,127)	1,208,287	-	-	1,208,287
Cities	(96,690)		45,563	(51,127)					
Total	(519,865)	1,483,178	244,975	1,208,287					
Hoke	(734,169)	1,430,817	345,960	1,042,608	(37,112)	1,005,497	-	-	1,005,497
Cities	(70,185)		33,073	(37,112)					
Total	(804,354)	1,430,817	379,033	1,005,497					
Hyde	(120,309)	278,284	56,693	214,668	-	214,668	-	-	214,668
	-		-	-					
Total	(120,309)	278,284	56,693	214,668					
Iredell	(2,136,391)	3,542,216	1,006,725	2,412,550	(406,956)	2,005,594	-	-	2,005,594
Cities	(769,624)		362,667	(406,956)					
Total	(2,906,015)	3,542,216	1,369,393	2,005,594					
Jackson	(758,169)	991,006	357,269	590,107	(24,272)	565,835	-	-	565,835
Cities	(45,903)		21,631	(24,272)					
Total	(804,071)	991,006	378,900	565,835					
Johnston	(2,589,302)	4,393,875	1,220,149	3,024,722	(238,643)	2,786,079	-	-	2,786,079
Cities	(451,315)		212,672	(238,643)					
Total	(3,040,617)	4,393,875	1,432,820	2,786,079					
Jones	(188,255)	433,176	88,711	333,631	(6,028)	327,604	-	-	327,604
Cities	(11,400)		5,372	(6,028)					
Total	(199,655)	433,176	94,083	327,604					
Lee	(697,009)	1,618,168	328,450	1,249,608	(182,609)	1,066,999	-	-	1,066,999
Cities	(345,345)		162,736	(182,609)					
Total	(1,042,355)	1,618,168	491,186	1,066,999					
Lenoir	(853,522)	2,835,473	402,202	2,384,154	(140,101)	2,244,053	-	-	2,244,053
Cities	(264,954)		124,854	(140,101)					
Total	(1,118,476)	2,835,473	527,056	2,244,053					
Lincoln	(1,238,683)	1,977,630	583,701	1,322,647	(100,396)	1,222,252	-	-	1,222,252
Cities	(189,865)		89,470	(100,396)					
Total	(1,428,548)	1,977,630	673,170	1,222,252					
Macon	(589,264)	1,044,571	277,677	732,984	(46,306)	686,678	-	-	686,678
Cities	(87,573)		41,267	(46,306)					
Total	(676,837)	1,044,571	318,944	686,678					
Madison	(359,153)	840,857	169,243	650,946	(31,921)	619,026	-	-	619,026
Cities	(60,367)		28,447	(31,921)					
Total	(419,521)	840,857	197,689	619,026					
Martin	(453,139)	1,507,099	213,531	1,267,491	(52,759)	1,214,732	-	-	1,214,732

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Cities	(99,776)		47,017	(52,759)					
Total	(552,915)	1,507,099	260,548	1,214,732					
McDowell	(874,532)	1,547,142	412,103	1,084,713	(77,513)	1,007,200	-	-	1,007,200
Cities	(146,590)		69,077	(77,513)					
Total	(1,021,123)	1,547,142	481,181	1,007,200					
Mecklenburg	(10,052,271)	18,437,628	4,736,901	13,122,258	(2,487,289)	10,634,969	-	-	10,634,969
Cities	(4,703,888)		2,216,599	(2,487,289)					
Total	(14,756,159)	18,437,628	6,953,500	10,634,969					
Mitchell	(291,874)	680,844	137,539	526,509	(19,716)	506,793	-	-	506,793
Cities	(37,287)		17,571	(19,716)					
Total	(329,161)	680,844	155,109	506,793					
Montgomery	(431,390)	1,160,664	203,282	932,556	(74,398)	858,158	-	-	858,158
Cities	(140,699)		66,301	(74,398)					
Total	(572,089)	1,160,664	269,584	858,158					
Moore	(1,313,085)	2,095,087	618,761	1,400,763	(311,956)	1,088,807	-	-	1,088,807
Cities	(589,963)		278,006	(311,956)					
Total	(1,903,047)	2,095,087	896,767	1,088,807					
Nash	(1,148,947)	3,047,023	541,415	2,439,491	(483,529)	1,955,961	-	-	1,955,961
Cities	(914,437)		430,907	(483,529)					
Total	(2,063,384)	3,047,023	972,322	1,955,961					
New Hanover	(2,948,172)	5,171,829	1,389,258	3,612,915	(564,127)	3,048,788	-	-	3,048,788
Cities	(1,066,861)		502,733	(564,127)					
Total	(4,015,032)	5,171,829	1,891,991	3,048,788					
Northhampton	(362,323)	1,161,752	170,737	970,165	(56,336)	913,830	-	-	913,830
Cities	(106,540)		50,205	(56,336)					
Total	(468,863)	1,161,752	220,941	913,830					
Onslow	(2,406,360)	3,242,625	1,133,942	1,970,207	(621,894)	1,348,312	-	-	1,348,312
Cities	(1,176,108)		554,214	(621,894)					
Total	(3,582,468)	3,242,625	1,688,155	1,348,312					
Orange	(1,871,909)	2,393,587	882,094	1,403,772	(612,648)	791,123	-	-	791,123
Cities	(1,158,622)		545,974	(612,648)					
Total	(3,030,531)	2,393,587	1,428,068	791,123					
Pamlico	(262,485)	532,761	123,690	393,966	(9,403)	384,563	-	-	384,563
Cities	(17,782)		8,380	(9,403)					
Total	(280,267)	532,761	132,070	384,563					
Pasquotank	(607,683)	1,571,236	286,356	1,249,910	(106,959)	1,142,951	-	-	1,142,951
Cities	(202,278)		95,319	(106,959)					
Total	(809,961)	1,571,236	381,675	1,142,951					
Pender	(845,415)	1,464,259	398,382	1,017,227	(63,727)	953,500	-	-	953,500
Cities	(120,519)		56,792	(63,727)					
Total	(965,933)	1,464,259	455,174	953,500					
Perquimans	(221,647)	433,854	104,446	316,653	(26,322)	290,330	-	-	290,330
Cities	(49,780)		23,458	(26,322)					
Total	(271,427)	433,854	127,904	290,330					

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Person	(682,327)	1,359,639	321,531	998,843	(63,289)	935,554	-	-	935,554
Cities	(119,690)		56,401	(63,289)					
Total	(802,017)	1,359,639	377,932	935,554					
Pitt	(2,006,743)	5,740,082	945,631	4,678,971	(667,930)	4,011,041	-	-	4,011,041
Cities	(1,263,169)		595,239	(667,930)					
Total	(3,269,912)	5,740,082	1,540,871	4,011,041					
Polk	(348,559)	529,825	164,250	345,517	(33,021)	312,496	-	-	312,496
Cities	(62,448)		29,427	(33,021)					
Total	(411,007)	529,825	193,677	312,496					
Randolph	(2,136,602)	3,919,224	1,006,824	2,789,447	(409,966)	2,379,481	-	-	2,379,481
Cities	(775,315)		365,349	(409,966)					
Total	(2,911,917)	3,919,224	1,372,174	2,379,481					
Richmond	(791,673)	2,430,880	373,058	2,012,264	(161,983)	1,850,281	-	-	1,850,281
Cities	(306,338)		144,355	(161,983)					
Total	(1,098,011)	2,430,880	517,412	1,850,281					
Robeson	(2,181,956)	8,187,648	1,028,196	7,033,889	(354,405)	6,679,484	-	-	6,679,484
Cities	(670,240)		315,835	(354,405)					
Total	(2,852,196)	8,187,648	1,344,031	6,679,484					
Rockingham	(1,419,265)	3,302,368	668,796	2,551,899	(317,206)	2,234,693	-	-	2,234,693
Cities	(599,890)		282,684	(317,206)					
Total	(2,019,155)	3,302,368	951,480	2,234,693					
Rowan	(1,870,125)	4,143,801	881,253	3,154,929	(348,646)	2,806,283	-	-	2,806,283
Cities	(659,349)		310,703	(348,646)					
Total	(2,529,474)	4,143,801	1,191,956	2,806,283					
Rutherford	(1,119,174)	2,576,910	527,385	1,985,121	(119,234)	1,865,888	-	-	1,865,888
Cities	(225,491)		106,258	(119,234)					
Total	(1,344,665)	2,576,910	633,642	1,865,888					
Sampson	(1,084,492)	2,809,731	511,042	2,236,281	(115,135)	2,121,146	-	-	2,121,146
Cities	(217,740)		102,605	(115,135)					
Total	(1,302,232)	2,809,731	613,647	2,121,146					
Scotland	(671,211)	2,032,856	316,292	1,677,938	(53,800)	1,624,138	-	-	1,624,138
Cities	(101,744)		47,945	(53,800)					
Total	(772,955)	2,032,856	364,237	1,624,138					
Stanly	(859,430)	1,864,472	404,987	1,410,028	(216,446)	1,193,582	-	-	1,193,582
Cities	(409,337)		192,891	(216,446)					
Total	(1,268,767)	1,864,472	597,877	1,193,582					
Stokes	(919,714)	1,357,996	433,394	871,676	(48,546)	823,130	-	-	823,130
Cities	(91,809)		43,263	(48,546)					
Total	(1,011,523)	1,357,996	476,657	823,130					
Surry	(1,355,982)	2,654,512	638,975	1,937,505	(153,072)	1,784,433	-	-	1,784,433
Cities	(289,486)		136,413	(153,072)					
Total	(1,645,468)	2,654,512	775,389	1,784,433					
Swain	(268,548)	523,441	126,547	381,440	(15,215)	366,224	-	-	366,224
Cities	(28,775)		13,560	(15,215)					

County	State Takes 1/4 cent Local Sales Tax (per capita) effective 10/1/08	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2008-09		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(297,323)	523,441	140,107	366,224					
Transylvania	(607,994)	972,902	286,503	651,411	(52,496)	598,915	-	-	598,915
Cities	(99,279)		46,783	(52,496)					
Total	(707,273)	972,902	333,286	598,915					
Tyrrell	(85,189)	218,973	40,143	173,927	(2,480)	171,447	-	-	171,447
Cities	(4,690)		2,210	(2,480)					
Total	(89,879)	218,973	42,353	171,447					
Union	(2,674,914)	3,007,432	1,260,491	1,593,010	(324,448)	1,268,562	-	-	1,268,562
Cities	(613,586)		289,138	(324,448)					
Total	(3,288,500)	3,007,432	1,549,630	1,268,562					
Vance	(788,456)	2,316,548	371,542	1,899,634	(105,805)	1,793,828	-	-	1,793,828
Cities	(200,096)		94,291	(105,805)					
Total	(988,552)	2,316,548	465,832	1,793,828					
Wake	(8,481,112)	13,437,331	3,996,528	8,952,747	(3,423,353)	5,529,394	-	-	5,529,394
Cities	(6,474,144)		3,050,791	(3,423,353)					
Total	(14,955,256)	13,437,331	7,047,319	5,529,394					
Warren	(383,981)	1,017,690	180,942	814,651	(20,198)	794,453	-	-	794,453
Cities	(38,198)		18,000	(20,198)					
Total	(422,179)	1,017,690	198,942	794,453					
Washington	(259,403)	904,426	122,238	767,261	(20,198)	747,063	-	-	747,063
Cities	(38,198)		18,000	(20,198)					
Total	(297,601)	904,426	140,238	747,063					
Watauga	(718,252)	786,735	338,460	406,943	(141,729)	265,214	-	-	265,214
Cities	(268,033)		126,304	(141,729)					
Total	(986,285)	786,735	464,764	265,214					
Wayne	(1,799,922)	4,310,104	848,171	3,358,354	(312,840)	3,045,514	-	-	3,045,514
Cities	(591,634)		278,794	(312,840)					
Total	(2,391,556)	4,310,104	1,126,966	3,045,514					
Wilkes	(1,325,023)	2,651,668	624,387	1,951,032	(81,745)	1,869,287	-	-	1,869,287
Cities	(154,594)		72,849	(81,745)					
Total	(1,479,617)	2,651,668	697,236	1,869,287					
Wilson	(1,157,965)	3,168,274	545,664	2,555,973	(243,280)	2,312,692	-	-	2,312,692
Cities	(460,085)		216,804	(243,280)					
Total	(1,618,050)	3,168,274	762,469	2,312,692					
Yadkin	(716,366)	1,199,373	337,571	820,578	(45,452)	775,126	-	-	775,126
Cities	(85,958)		40,506	(45,452)					
Total	(802,324)	1,199,373	378,077	775,126					
Yancey	(362,335)	751,358	170,742	559,765	(17,288)	542,476	-	-	542,476
Cities	(32,695)		15,407	(17,288)					
Total	(395,030)	751,358	186,149	542,476					
	(184,200,000)	**271,239,223**	**86,800,000**		**(27,469,185)**	**173,842,565**	-	-	173,842,565

Medicaid Swap Proposal - FY 2009-10

County	State Takes 1/2 cent Local Sales Tax (per capita) effective 10/1/09	Convert 1/4 Cent per capita to point of sale effective 10/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2009-10		
								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Alamance	(4,711,389)	(160,783)	8,607,510	927,149	4,662,487.59	(2,364,153)	2,298,335	-	-	2,298,335
Cities	(2,819,466)	(99,526)		554,840	(2,364,152.88)					
Total	(7,530,855)	(260,309)	8,607,510	1,481,989	2,298,334.72					
Alexander	(1,801,971)	(571,851)	2,124,654	354,608	105,440.10	(108,594)	(3,154)	(3,154)	3,154	-
Cities	(96,879)	(30,779)		19,065	(108,593.75)					
Total	(1,898,850)	(602,630)	2,124,654	373,673	(3,153.65)					
Alleghany	(523,557)	(116,873)	1,036,171	103,030	498,771.61	(90,072)	408,700	-	-	408,700
Cities	(87,759)	(19,583)		17,270	(90,071.94)					
Total	(611,316)	(136,456)	1,036,171	120,300	408,699.68					
Anson	(986,989)	(335,084)	3,922,144	194,228	2,794,300.11	(459,950)	2,334,350	-	-	2,334,350
Cities	(402,449)	(136,698)		79,198	(459,949.82)					
Total	(1,389,438)	(471,781)	3,922,144	273,426	2,334,350.29					
Ashe	(1,193,392)	(161,508)	2,206,727	234,846	1,086,672.31	(119,888)	966,785	-	-	966,785
Cities	(127,749)	(17,278)		25,140	(119,887.77)					
Total	(1,321,142)	(178,786)	2,206,727	259,986	966,784.54					
Avery	(945,290)	(45,333)	1,348,602	186,023	544,002.01	(125,362)	418,640	-	-	418,640
Cities	(147,317)	(7,035)		28,990	(125,361.67)					
Total	(1,092,607)	(52,367)	1,348,602	215,013	418,640.34					
Beaufort	(2,018,830)	(198,446)	5,459,536	397,283	3,639,543.29	(554,280)	3,085,263	-	-	3,085,263
Cities	(614,840)	(60,434)		120,994	(554,280.36)					
Total	(2,633,670)	(258,880)	5,459,536	518,277	3,085,262.93					
Bertie	(831,037)	(306,996)	3,046,742	163,539	2,072,247.72	(243,874)	1,828,374	-	-	1,828,374
Cities	(207,981)	(76,821)		40,928	(243,874.18)					
Total	(1,039,018)	(383,818)	3,046,742	204,467	1,828,373.54					
Bladen	(1,591,390)	(504,116)	4,001,788	313,168	2,219,450.45	(299,724)	1,919,727	-	-	1,919,727
Cities	(267,609)	(84,777)		52,663	(299,723.95)					
Total	(1,858,999)	(588,893)	4,001,788	365,830	1,919,726.50					
Brunswick	(3,838,022)	162,705	5,927,810	755,280	3,007,773.19	(1,149,074)	1,858,699	-	-	1,858,699
Cities	(1,510,027)	63,796		297,157	(1,149,074.48)					
Total	(5,348,049)	226,501	5,927,810	1,052,437	1,858,698.70					
Buncombe	(9,173,758)	1,392,759	16,524,387	1,805,294	10,548,681.22	(2,057,215)	8,491,466	-	-	8,491,466
Cities	(3,157,997)	479,323		621,459	(2,057,214.83)					
Total	(12,331,754)	1,872,082	16,524,387	2,426,752	8,491,466.39					
Burke	(3,648,629)	(842,293)	6,735,577	718,010	2,962,664.71	(1,258,609)	1,704,056	-	-	1,704,056
Cities	(1,217,152)	(280,979)		239,522	(1,258,609.09)					
Total	(4,865,781)	(1,123,271)	6,735,577	957,532	1,704,055.62					
Cabarrus	(5,407,860)	439,554	7,732,056	1,064,207	3,827,956.07	(2,394,604)	1,433,352	-	-	1,433,352
Cities	(3,218,735)	190,720		633,411	(2,394,604.35)					
Total	(8,626,596)	630,274	7,732,056	1,697,618	1,433,351.72					
Caldwell	(2,907,704)	(634,598)	6,001,276	572,204	3,031,176.70	(1,482,710)	1,548,467	-	-	1,548,467
Cities	(1,451,300)	(317,009)		285,600	(1,482,709.62)					
Total	(4,359,004)	(951,608)	6,001,276	857,804	1,548,467.09					

County	State Takes 1/2 cent Local Sales Tax (per capita) effective 10/1/09	Convert 1/4 Cent per capita to point of sale effective 10/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2009-10		
								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Camden	(416,261)	(72,194)	403,294	81,915	(3,245.06)	-	(3,245)	(3,245)	3,245	-
	-	-		-	-					
Total	(416,261)	(72,194)	403,294	81,915	(3,245.06)					
Carteret	(2,667,612)	366,072	3,681,136	524,956	1,904,552.62	(758,959)	1,145,593	-	-	1,145,593
Cities	(1,139,449)	156,259		224,231	(758,959.40)					
Total	(3,807,062)	522,331	3,681,136	749,187	1,145,593.22					
Caswell	(1,178,215)	(510,506)	2,080,148	231,860	623,286.63	(52,769)	570,518	-	-	570,518
Cities	(42,679)	(18,488)		8,399	(52,768.61)					
Total	(1,220,895)	(528,994)	2,080,148	240,259	570,518.02					
Catawba	(5,401,507)	386,079	8,772,241	1,062,957	4,819,769.66	(1,878,698)	2,941,072	-	-	2,941,072
Cities	(2,553,768)	172,517		502,553	(1,878,697.76)					
Total	(7,955,275)	558,596	8,772,241	1,565,510	2,941,071.90					
Chatham	(2,540,538)	(581,594)	2,780,919	499,950	158,736.71	(499,624)	(340,887)	(340,887)	340,887	-
Cities	(484,047)	(110,832)		95,255	(499,623.76)					
Total	(3,024,585)	(692,426)	2,780,919	595,205	(340,887.05)					
Cherokee	(1,199,757)	100,887	2,480,400	236,099	1,617,629.25	(115,932)	1,501,697	-	-	1,501,697
Cities	(161,212)	13,555		31,725	(115,931.77)					
Total	(1,360,968)	114,442	2,480,400	267,823	1,501,697.49					
Chowan	(723,391)	(144,127)	1,671,644	142,355	946,481.11	(131,137)	815,344	-	-	815,344
Cities	(130,847)	(26,040)		25,749	(131,137.29)					
Total	(854,237)	(170,167)	1,671,644	168,104	815,343.82					
Clay	(490,207)	(60,987)	747,442	96,467	292,715.16	(7,187)	285,529	-	-	285,529
Cities	(7,749)	(963)		1,525	(7,186.55)					
Total	(497,956)	(61,950)	747,442	97,992	285,528.61					
Cleveland	(4,437,492)	(892,902)	9,365,335	873,249	4,908,190.27	(937,041)	3,971,150	-	-	3,971,150
Cities	(934,985)	(186,051)		183,995	(937,040.70)					
Total	(5,372,476)	(1,078,952)	9,365,335	1,057,244	3,971,149.57					
Columbus	(1,890,653)	(309,855)	7,317,345	372,060	5,488,895.97	(491,867)	4,997,029	-	-	4,997,029
Cities	(508,606)	(83,349)		100,088	(491,866.96)					
Total	(2,399,259)	(393,204)	7,317,345	472,148	4,997,029.01					
Craven	(3,717,605)	(321,777)	6,410,476	731,583	3,102,676.97	(1,318,930)	1,783,747	-	-	1,783,747
Cities	(1,482,084)	(128,503)		291,658	(1,318,929.94)					
Total	(5,199,690)	(450,280)	6,410,476	1,023,241	1,783,747.02					
Cumberland	(11,040,182)	(577,094)	19,364,646	2,172,585	9,919,955.33	(4,663,774)	5,256,182	-	-	5,256,182
Cities	(5,452,235)	(284,478)		1,072,939	(4,663,773.68)					
Total	(16,492,417)	(861,572)	19,364,646	3,245,524	5,256,181.65					
Currituck	(1,100,411)	356,705	964,277	216,549	437,119.66	-	437,120	-	-	437,120
	-	-		-	-					
Total	(1,100,411)	356,705	964,277	216,549	437,119.66					
Dare	(2,029,698)	1,314,855	1,407,456	399,422	1,092,035.42	(111,842)	980,193	-	-	980,193
Cities	(719,598)	466,147		141,609	(111,842.18)					
Total	(2,749,296)	1,781,002	1,407,456	541,031	980,193.23					
Davidson	(6,090,653)	(1,319,523)	10,111,836	1,198,573	3,900,233.02	(2,030,105)	1,870,128	-	-	1,870,128
Cities	(1,990,541)	(431,280)		391,716	(2,030,105.17)					
Total	(8,081,194)	(1,750,804)	10,111,836	1,590,289	1,870,127.85					
Davie	(1,615,335)	(340,693)	1,850,422	317,880	212,273.76	(294,456)	(82,182)	(82,182)	82,182	-
Cities	(290,374)	(61,224)		57,142	(294,455.59)					

County	State Takes 1/2 cent Local Sales Tax (per capita) effective 10/1/09	Convert 1/4 Cent per capita to point of sale effective 10/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2009-10		
								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(1,905,709)	(401,917)	1,850,422	375,022	(82,181.83)					

County	State Takes 1/2 cent Local Sales Tax (per capita) effective 10/1/09	Convert 1/4 Cent per capita to point of sale effective 10/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2009-10		
								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Duplin	(2,255,972)	(610,343)	4,572,604	443,950	2,150,239.30	(625,406)	1,524,833	-	-	1,524,833
Cities	(582,503)	(157,533)		114,630	(625,405.98)					
Total	(2,838,475)	(767,876)	4,572,604	558,580	1,524,833.32					
Durham	(7,890,989)	727,793	16,223,335	1,552,859	10,612,997.46	(4,807,883)	5,805,115	-	-	5,805,115
Cities	(6,759,501)	621,423		1,330,195	(4,807,882.71)					
Total	(14,650,490)	1,349,216	16,223,335	2,883,054	5,805,114.75					
Edgecombe	(1,874,441)	(432,113)	6,385,126	368,869	4,447,441.45	(534,929)	3,912,512	-	-	3,912,512
Cities	(517,362)	(119,378)		101,811	(534,929.48)					
Total	(2,391,803)	(551,491)	6,385,126	470,680	3,912,511.96					
Forysth	(11,059,384)	1,698,713	20,784,694	2,176,364	13,600,387.05	(3,633,675)	9,966,712	-	-	9,966,712
Cities	(5,591,745)	857,676		1,100,393	(3,633,675.44)					
Total	(16,651,129)	2,556,389	20,784,694	3,276,757	9,966,711.61					
Franklin	(2,545,389)	(704,067)	3,999,431	500,904	1,250,879.28	(236,289)	1,014,591	-	-	1,014,591
Cities	(218,814)	(60,534)		43,060	(236,288.58)					
Total	(2,764,203)	(764,602)	3,999,431	543,964	1,014,590.70					
Gaston	(8,028,682)	(1,087,768)	17,053,661	1,579,955	9,517,166.87	(2,497,364)	7,019,803	-	-	7,019,803
Cities	(2,660,212)	(360,652)		523,500	(2,497,363.57)					
Total	(10,688,894)	(1,448,420)	17,053,661	2,103,456	7,019,803.30					
Gates	(550,293)	(216,388)	897,263	108,292	238,873.42	(16,987)	221,887	-	-	221,887
Cities	(14,198)	(5,582)		2,794	(16,986.66)					
Total	(564,492)	(221,970)	897,263	111,086	221,886.76					
Graham	(404,438)	(81,790)	976,060	79,589	569,420.70	(24,683)	544,737	-	-	544,737
Cities	(24,546)	(4,968)		4,830	(24,683.26)					
Total	(428,984)	(86,758)	976,060	84,419	544,737.44					
Granville	(2,413,541)	(664,406)	3,500,268	474,958	897,279.37	(580,732)	316,547	-	-	316,547
Cities	(538,489)	(148,212)		105,969	(580,732.39)					
Total	(2,952,031)	(812,618)	3,500,268	580,927	316,546.98					
Greene	(973,223)	(389,972)	1,787,003	191,520	615,326.43	(67,783)	547,544	-	-	547,544
Cities	(56,302)	(22,560)		11,080	(67,782.89)					
Total	(1,029,526)	(412,532)	1,787,003	202,599	547,543.54					
Guilford	(13,440,187)	2,352,380	24,201,181	2,644,880	15,758,253.43	(5,581,220)	10,177,033	-	-	10,177,033
Cities	(8,820,257)	1,503,308		1,735,729	(5,581,220.02)					
Total	(22,260,444)	3,855,688	24,201,181	4,380,608	10,177,033.41					
Halifax	(2,389,077)	(450,452)	7,738,126	470,144	5,368,740.18	(705,263)	4,663,478	-	-	4,663,478
Cities	(711,120)	(134,083)		139,941	(705,262.54)					
Total	(3,100,198)	(584,535)	7,738,126	610,084	4,663,477.64					
Harnett	(4,562,962)	(1,270,345)	6,731,544	897,940	1,796,177.69	(827,779)	968,399	-	-	968,399
Cities	(765,318)	(213,067)		150,606	(827,779.04)					
Total	(5,328,280)	(1,483,412)	6,731,544	1,048,546	968,398.65					
Haywood	(2,422,984)	(64,444)	4,422,832	476,816	2,412,221.12	(576,617)	1,835,604	-	-	1,835,604
Cities	(694,914)	(18,455)		136,751	(576,617.41)					
Total	(3,117,898)	(82,899)	4,422,832	613,568	1,835,603.72					
Henderson	(4,173,808)	(311,528)	5,985,091	821,359	2,321,115.07	(1,077,758)	1,243,357	-	-	1,243,357
Cities	(1,228,073)	(91,356)		241,671	(1,077,758.38)					
Total	(5,401,881)	(402,884)	5,985,091	1,063,030	1,243,356.69					
Hertford	(1,058,858)	(154,764)	3,236,205	208,372	2,230,953.88	(229,696)	2,001,258	-	-	2,001,258
Cities	(241,934)	(35,372)		47,610	(229,696.02)					

County	State Takes 1/2 cent Local Sales Tax (per capita) effective 10/1/09	Convert 1/4 Cent per capita to point of sale effective 10/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2009-10		
								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(1,300,792)	(190,136)	3,236,205	255,981	2,001,257.86					
Hoke	(1,837,017)	(733,388)	3,122,904	361,505	914,002.90	(211,111)	702,892	-	-	702,892
Cities	(175,614)	(70,056)		34,559	(211,111.07)					
Total	(2,012,631)	(803,444)	3,122,904	396,063	702,891.84					
Hyde	(301,033)	(31,746)	609,573	59,240	336,033.91	-	336,034	-	-	336,034
	-	-		-	-					
Total	(301,033)	(31,746)	609,573	59,240	336,033.91					
Iredell	(5,345,618)	759,612	7,746,890	1,051,958	4,212,842.17	(1,273,494)	2,939,349	-	-	2,939,349
Cities	(1,925,731)	273,275		378,962	(1,273,493.56)					
Total	(7,271,349)	1,032,887	7,746,890	1,430,921	2,939,348.61					
Jackson	(1,897,068)	(56,445)	2,173,450	373,322	593,258.84	(95,652)	497,607	-	-	497,607
Cities	(114,857)	(3,398)		22,603	(95,652.13)					
Total	(2,011,925)	(59,843)	2,173,450	395,924	497,606.71					
Johnston	(6,478,878)	(637,482)	9,619,862	1,274,971	3,778,473.90	(1,018,005)	2,760,468	-	-	2,760,468
Cities	(1,129,267)	(110,966)		222,227	(1,018,005.46)					
Total	(7,608,145)	(748,448)	9,619,862	1,497,198	2,760,468.45					
Jones	(471,047)	(184,231)	947,490	92,697	384,908.04	(34,067)	350,841	-	-	350,841
Cities	(28,524)	(11,157)		5,613	(34,067.13)					
Total	(499,571)	(195,388)	947,490	98,310	350,840.91					
Lee	(1,744,037)	73,972	3,542,034	343,207	2,215,175.62	(657,499)	1,557,676	-	-	1,557,676
Cities	(864,113)	36,566		170,048	(657,499.25)					
Total	(2,608,150)	110,538	3,542,034	513,255	1,557,676.37					
Lenoir	(2,135,657)	(172,462)	6,196,767	420,274	4,308,921.67	(586,027)	3,722,894	-	-	3,722,894
Cities	(662,962)	(53,529)		130,463	(586,027.33)					
Total	(2,798,619)	(225,991)	6,196,767	550,737	3,722,894.35					
Lincoln	(3,099,397)	(416,973)	4,331,921	609,927	1,425,477.51	(445,494)	979,984	-	-	979,984
Cities	(475,076)	(63,908)		93,490	(445,493.51)					
Total	(3,574,473)	(480,881)	4,331,921	703,417	979,984.00					
Macon	(1,474,440)	292,544	2,283,741	290,153	1,391,998.58	(134,561)	1,257,438	-	-	1,257,438
Cities	(219,122)	41,441		43,121	(134,560.65)					
Total	(1,693,562)	333,985	2,283,741	333,274	1,257,437.93					
Madison	(898,663)	(313,419)	1,841,680	176,847	806,444.41	(173,973)	632,472	-	-	632,472
Cities	(151,049)	(52,648)		29,725	(173,972.65)					
Total	(1,049,713)	(366,067)	1,841,680	206,572	632,471.76					
Martin	(1,133,832)	(222,835)	3,291,190	223,125	2,157,649.10	(249,596)	1,908,053	-	-	1,908,053
Cities	(249,656)	(49,069)		49,130	(249,595.92)					
Total	(1,383,488)	(271,904)	3,291,190	272,255	1,908,053.18					
McDowell	(2,188,230)	(523,112)	3,379,716	430,619	1,098,993.03	(382,323)	716,670	-	-	716,670
Cities	(366,795)	(87,709)		72,181	(382,322.93)					
Total	(2,555,024)	(610,822)	3,379,716	502,800	716,670.10					
Mecklenburg	(25,152,506)	9,495,538	40,341,768	4,949,734	29,634,533.78	(5,009,774)	24,624,760	-	-	24,624,760
Cities	(11,769,936)	4,443,969		2,316,193	(5,009,773.66)					
Total	(36,922,442)	13,939,508	40,341,768	7,265,926	24,624,760.11					
Mitchell	(730,318)	(73,873)	1,490,168	143,718	829,695.17	(84,377)	745,319	-	-	745,319
Cities	(93,298)	(9,438)		18,360	(84,376.54)					
Total	(823,616)	(83,312)	1,490,168	162,079	745,318.63					
Montgomery	(1,079,411)	(281,054)	2,535,665	212,416	1,387,616.36	(374,377)	1,013,239	-	-	1,013,239

County	State Takes 1/2 cent Local Sales Tax (per capita) effective 10/1/09	Convert 1/4 Cent per capita to point of sale effective 10/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2009-10		
								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Cities	(352,053)	(91,604)		69,280	(374,377.42)					
Total	(1,431,464)	(372,658)	2,535,665	281,696	1,013,238.95					
Moore	(3,285,564)	(80,957)	4,578,999	646,562	1,859,039.84	(1,222,172)	636,868	-	-	636,868
Cities	(1,476,187)	(36,481)		290,497	(1,222,171.54)					
Total	(4,761,751)	(117,439)	4,578,999	937,060	636,868.30					
Nash	(2,874,863)	109,185	6,673,599	565,741	4,473,661.67	(1,910,734)	2,562,928	-	-	2,562,928
Cities	(2,288,077)	(72,924)		450,268	(1,910,733.59)					
Total	(5,162,940)	36,260	6,673,599	1,016,009	2,562,928.07					
New Hanover	(7,376,832)	2,572,020	11,299,159	1,451,679	7,946,025.03	(1,213,341)	6,732,684	-	-	6,732,684
Cities	(2,669,468)	930,805		525,322	(1,213,341.44)					
Total	(10,046,300)	3,502,825	11,299,159	1,977,000	6,732,683.60					
Northhampton	(906,595)	(371,468)	2,534,873	178,408	1,435,217.85	(323,359)	1,111,859	-	-	1,111,859
Cities	(266,582)	(109,237)		52,460	(323,358.58)					
Total	(1,173,177)	(480,705)	2,534,873	230,868	1,111,859.27					
Onslow	(6,021,126)	(667,788)	7,093,880	1,184,891	1,589,856.74	(2,689,876)	(1,100,019)	(1,100,019)	1,100,019	-
Cities	(2,942,824)	(326,167)		579,115	(2,689,875.57)					
Total	(8,963,950)	(993,954)	7,093,880	1,764,006	(1,100,018.83)					
Orange	(4,683,837)	(726,004)	5,239,549	921,727	751,434.82	(2,761,222)	(2,009,787)	(2,009,787)	2,009,787	-
Cities	(2,899,072)	(432,656)		570,505	(2,761,222.16)					
Total	(7,582,909)	(1,158,659)	5,239,549	1,492,232	(2,009,787.34)					
Pamlico	(656,783)	(186,246)	1,163,914	129,248	450,133.45	(48,356)	401,777	-	-	401,777
Cities	(44,495)	(12,617)		8,756	(48,356.07)					
Total	(701,277)	(198,863)	1,163,914	138,004	401,777.38					
Pasquotank	(1,520,526)	55,136	3,428,223	299,223	2,262,055.45	(388,614)	1,873,442	-	-	1,873,442
Cities	(506,135)	17,920		99,602	(388,613.62)					
Total	(2,026,661)	73,056	3,428,223	398,824	1,873,441.83					
Pender	(2,115,373)	(455,368)	3,203,175	416,282	1,048,716.59	(305,956)	742,760	-	-	742,760
Cities	(301,558)	(63,741)		59,343	(305,956.36)					
Total	(2,416,931)	(519,109)	3,203,175	475,625	742,760.23					
Perquimans	(554,599)	(190,000)	949,484	109,139	314,024.12	(142,711)	171,313	-	-	171,313
Cities	(124,559)	(42,664)		24,512	(142,711.09)					
Total	(679,158)	(232,664)	949,484	133,651	171,313.03					
Person	(1,707,298)	(312,631)	2,971,040	335,977	1,287,087.59	(295,378)	991,709	-	-	991,709
Cities	(299,486)	(54,828)		58,936	(295,378.45)					
Total	(2,006,784)	(367,459)	2,971,040	394,913	991,709.14					
Pitt	(5,021,214)	96,791	12,562,671	988,119	8,626,367.36	(2,478,412)	6,147,955	-	-	6,147,955
Cities	(3,160,666)	60,270		621,984	(2,478,412.32)					
Total	(8,181,881)	157,061	12,562,671	1,610,103	6,147,955.04					
Polk	(872,153)	(257,421)	1,155,482	171,630	197,537.48	(171,585)	25,953	-	-	25,953
Cities	(156,256)	(46,078)		30,749	(171,584.66)					
Total	(1,028,409)	(303,499)	1,155,482	202,380	25,952.83					
Randolph	(5,346,144)	(1,187,541)	8,572,075	1,052,062	3,090,450.97	(1,988,134)	1,102,317	-	-	1,102,317
Cities	(1,939,972)	(429,927)		381,765	(1,988,133.53)					
Total	(7,286,116)	(1,617,468)	8,572,075	1,433,827	1,102,317.45					
Richmond	(1,980,901)	(473,063)	5,310,465	389,819	3,246,320.04	(798,666)	2,447,654	-	-	2,447,654
Cities	(766,511)	(182,996)		150,841	(798,665.83)					
Total	(2,747,412)	(656,058)	5,310,465	540,660	2,447,654.22					

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								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Robeson	(5,459,627)	(1,337,205)	17,887,088	1,074,394	12,164,649.66	(1,757,075)	10,407,574	-	-	10,407,574
Cities	(1,677,056)	(410,045)		330,026	(1,757,075.30)					
Total	(7,136,683)	(1,747,250)	17,887,088	1,404,420	10,407,574.36					
Rockingham	(3,551,244)	(803,123)	7,222,369	698,845	3,566,847.29	(1,545,155)	2,021,692	-	-	2,021,692
Cities	(1,501,028)	(339,513)		295,386	(1,545,155.33)					
Total	(5,052,272)	(1,142,636)	7,222,369	994,231	2,021,691.97					
Rowan	(4,679,372)	(661,334)	9,082,528	920,848	4,662,670.62	(1,558,643)	3,104,028	-	-	3,104,028
Cities	(1,649,805)	(233,501)		324,663	(1,558,642.93)					
Total	(6,329,177)	(894,835)	9,082,528	1,245,512	3,104,027.70					
Rutherford	(2,800,365)	(470,928)	5,626,085	551,081	2,905,873.84	(548,036)	2,357,838	-	-	2,357,838
Cities	(564,218)	(94,850)		111,032	(548,036.10)					
Total	(3,364,582)	(565,778)	5,626,085	662,112	2,357,837.73					
Sampson	(2,713,585)	(612,987)	6,143,626	534,003	3,351,058.06	(560,689)	2,790,369	-	-	2,790,369
Cities	(544,822)	(123,082)		107,215	(560,688.82)					
Total	(3,258,407)	(736,068)	6,143,626	641,218	2,790,369.24					
Scotland	(1,679,484)	(267,662)	4,447,416	330,504	2,830,774.15	(245,080)	2,585,694	-	-	2,585,694
Cities	(254,582)	(40,597)		50,099	(245,079.86)					
Total	(1,934,066)	(308,259)	4,447,416	380,603	2,585,694.29					
Stanly	(2,150,441)	(273,755)	4,086,740	423,183	2,085,726.44	(952,786)	1,132,941	-	-	1,132,941
Cities	(1,024,231)	(130,112)		201,557	(952,785.62)					
Total	(3,174,672)	(403,868)	4,086,740	624,740	1,132,940.81					
Stokes	(2,301,282)	(841,344)	2,968,269	452,867	278,510.08	(258,113)	20,397	-	-	20,397
Cities	(229,721)	(73,598)		45,207	(258,112.76)					
Total	(2,531,003)	(914,943)	2,968,269	498,073	20,397.32					
Surry	(3,392,901)	(266,259)	5,807,397	667,685	2,815,922.76	(639,027)	2,176,896	-	-	2,176,896
Cities	(724,343)	(57,227)		142,543	(639,027.12)					
Total	(4,117,243)	(323,486)	5,807,397	810,228	2,176,895.64					
Swain	(671,953)	(153,682)	1,149,721	132,233	456,318.49	(74,296)	382,023	-	-	382,023
Cities	(72,000)	(16,464)		14,169	(74,295.62)					
Total	(743,953)	(170,147)	1,149,721	146,402	382,022.87					
Transylvania	(1,521,305)	(102,746)	2,127,213	299,376	802,537.87	(216,303)	586,235	-	-	586,235
Cities	(248,413)	(16,775)		48,885	(216,302.65)					
Total	(1,769,718)	(119,521)	2,127,213	348,261	586,235.23					
Tyrrell	(213,157)	(71,200)	480,271	41,947	237,861.46	(13,347)	224,514	-	-	224,514
Cities	(11,736)	(3,921)		2,310	(13,347.35)					
Total	(224,893)	(75,121)	480,271	44,256	224,514.11					
Union	(6,693,093)	(689,037)	6,593,455	1,317,126	528,450.78	(1,391,017)	(862,566)	(862,566)	862,566	-
Cities	(1,535,298)	(157,848)		302,130	(1,391,016.53)					
Total	(8,228,391)	(846,886)	6,593,455	1,619,256	(862,565.75)					
Vance	(1,972,852)	(260,370)	5,071,890	388,235	3,226,903.10	(468,137)	2,758,766	-	-	2,758,766
Cities	(500,674)	(65,991)		98,527	(468,137.43)					
Total	(2,473,526)	(326,361)	5,071,890	486,762	2,758,765.67					
Wake	(21,221,196)	4,660,094	29,389,191	4,176,096	17,004,184.10	(9,460,135)	7,544,049	-	-	7,544,049
Cities	(16,199,420)	3,551,419		3,187,866	(9,460,134.81)					
Total	(37,420,617)	8,211,514	29,389,191	7,363,962	7,544,049.29					
Warren	(960,786)	(370,502)	2,229,066	189,072	1,086,850.27	(113,625)	973,225	-	-	973,225
Cities	(95,578)	(36,855)		18,809	(113,625.07)					

County	State Takes 1/2 cent Local Sales Tax (per capita) effective 10/1/09	Convert 1/4 Cent per capita to point of sale effective 10/1/09	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	Remaining Quarterly Distributions from Sale Tax	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2009-10		
								Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(1,056,364)	(407,358)	2,229,066	207,881	973,225.20					
Washington	(649,070)	(192,046)	1,978,308	127,730	1,264,921.44	(113,625)	1,151,296	-	-	1,151,296
Cities	(95,578)	(36,855)		18,809	(113,625.07)					
Total	(744,648)	(228,902)	1,978,308	146,539	1,151,296.38					
Watauga	(1,797,190)	395,521	1,721,600	353,667	673,598.45	(392,631)	280,968	-	-	280,968
Cities	(670,665)	146,055		131,979	(392,630.79)					
Total	(2,467,855)	541,576	1,721,600	485,646	280,967.66					
Wayne	(4,503,712)	(544,355)	9,433,185	886,281	5,271,398.94	(1,368,126)	3,903,273	-	-	3,903,273
Cities	(1,480,371)	(179,075)		291,321	(1,368,125.75)					
Total	(5,984,083)	(723,430)	9,433,185	1,177,601	3,903,273.19					
Wilkes	(3,315,435)	(585,350)	5,796,495	652,441	2,548,150.33	(378,988)	2,169,162	-	-	2,169,162
Cities	(386,821)	(68,289)		76,122	(378,987.89)					
Total	(3,702,257)	(653,639)	5,796,495	728,563	2,169,162.44					
Wilson	(2,897,427)	(137,281)	6,919,811	570,181	4,455,283.87	(979,427)	3,475,857	-	-	3,475,857
Cities	(1,151,210)	(54,762)		226,545	(979,427.13)					
Total	(4,048,638)	(192,043)	6,919,811	796,727	3,475,856.74					
Yadkin	(1,792,471)	(523,908)	2,622,300	352,738	658,658.69	(235,609)	423,050	-	-	423,050
Cities	(215,082)	(62,852)		42,326	(235,608.68)					
Total	(2,007,553)	(586,761)	2,622,300	395,064	423,050.01					
Yancey	(906,624)	(202,823)	1,645,337	178,414	714,303.70	(84,008)	630,296	-	-	630,296
Cities	(81,809)	(18,298)		16,099	(84,008.19)					
Total	(988,433)	(221,121)	1,645,337	194,513	630,295.51					
	(460,900,000)		593,199,190	90,700,000		(88,847,213)	223,008,141	(4,401,840)	4,401,840	227,409,981

Medicaid Swap Proposal - FY 2010-11

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Alamance	(5,759,160)	(166,907)	9,763,796	3,837,729	(3,549,807)	287,922	-	-	287,922
Cities	(3,446,490)	(103,317)		(3,549,807)					
Total	(9,205,650)	(270,224)	9,763,796	287,922					
Alexander	(2,202,713)	(593,632)	2,416,421	(379,924)	(150,376)	(530,300)	(530,300)	530,300	-
Cities	(118,424)	(31,952)		(150,376)					
Total	(2,321,137)	(625,584)	2,416,421	(530,300)					
Alleghany	(639,992)	(121,324)	1,165,417	404,101	(127,605)	276,497	-	-	276,497
Cities	(107,275)	(20,329)		(127,605)					
Total	(747,267)	(141,653)	1,165,417	276,497					
Anson	(1,206,486)	(347,846)	4,397,562	2,843,230	(633,855)	2,209,375	-	-	2,209,375
Cities	(491,951)	(141,905)		(633,855)					
Total	(1,698,436)	(489,751)	4,397,562	2,209,375					
Ashe	(1,458,792)	(167,660)	2,487,849	861,397	(174,096)	687,301	-	-	687,301
Cities	(156,159)	(17,936)		(174,096)					
Total	(1,614,952)	(185,596)	2,487,849	687,301					
Avery	(1,155,514)	(47,059)	1,523,047	320,474	(187,382)	133,091	-	-	133,091
Cities	(180,079)	(7,303)		(187,382)					
Total	(1,335,593)	(54,362)	1,523,047	133,091					
Beaufort	(2,467,799)	(206,004)	6,106,875	3,433,071	(814,311)	2,618,760	-	-	2,618,760
Cities	(751,575)	(62,736)		(814,311)					
Total	(3,219,375)	(268,740)	6,106,875	2,618,760					
Bertie	(1,015,852)	(318,689)	3,416,834	2,082,293	(333,982)	1,748,311	-	-	1,748,311
Cities	(254,234)	(79,747)		(333,982)					
Total	(1,270,087)	(398,437)	3,416,834	1,748,311					
Bladen	(1,945,301)	(523,316)	4,522,694	2,054,077	(415,129)	1,638,948	-	-	1,638,948
Cities	(327,123)	(88,006)		(415,129)					
Total	(2,272,424)	(611,323)	4,522,694	1,638,948					
Brunswick	(4,691,563)	168,902	6,723,998	2,201,337	(1,779,618)	421,719	-	-	421,719
Cities	(1,845,844)	66,226		(1,779,618)					
Total	(6,537,407)	235,128	6,723,998	421,719					
Buncombe	(11,213,919)	1,445,806	18,679,121	8,911,009	(3,362,727)	5,548,282	-	-	5,548,282
Cities	(3,860,307)	497,580		(3,362,727)					
Total	(15,074,225)	1,943,386	18,679,121	5,548,282					
Burke	(4,460,051)	(874,374)	7,615,252	2,280,826	(1,779,517)	501,310	-	-	501,310
Cities	(1,487,836)	(291,681)		(1,779,517)					
Total	(5,947,887)	(1,166,055)	7,615,252	501,310					
Cabarrus	(6,610,520)	456,296	8,816,059	2,661,835	(3,736,569)	(1,074,734)	(1,074,734)	1,074,734	-
Cities	(3,934,553)	197,984		(3,736,569)					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(10,545,073)	654,280	8,816,059	(1,074,734)					
Caldwell	(3,554,352)	(658,769)	6,804,068	2,590,948	(2,103,140)	487,808	-	-	487,808
Cities	(1,774,056)	(329,084)		(2,103,140)					
Total	(5,328,408)	(987,853)	6,804,068	487,808					
Camden	(508,833)	(74,944)	455,432	(128,344)	-	(128,344)	(128,344)	128,344	-
	-	-		-					
Total	(508,833)	(74,944)	455,432	(128,344)					
Carteret	(3,260,865)	380,015	4,172,220	1,291,370	(1,230,642)	60,728	-	-	60,728
Cities	(1,392,853)	162,211		(1,230,642)					
Total	(4,653,718)	542,226	4,172,220	60,728					
Caswell	(1,440,240)	(529,950)	2,353,963	383,773	(71,363)	312,410	-	-	312,410
Cities	(52,171)	(19,192)		(71,363)					
Total	(1,492,411)	(549,142)	2,353,963	312,410					
Catawba	(6,602,753)	400,784	9,943,431	3,741,462	(2,942,615)	798,847	-	-	798,847
Cities	(3,121,703)	179,088		(2,942,615)					
Total	(9,724,456)	579,872	9,943,431	798,847					
Chatham	(3,105,531)	(603,746)	3,141,986	(567,291)	(706,748)	(1,274,039)	(1,274,039)	1,274,039	-
Cities	(591,695)	(115,053)		(706,748)					
Total	(3,697,226)	(718,799)	3,141,986	(1,274,039)					
Cherokee	(1,466,572)	104,729	2,806,936	1,445,094	(182,992)	1,262,102	-	-	1,262,102
Cities	(197,064)	14,071		(182,992)					
Total	(1,663,635)	118,801	2,806,936	1,262,102					
Chowan	(884,266)	(149,617)	1,876,181	842,298	(186,977)	655,320	-	-	655,320
Cities	(159,946)	(27,032)		(186,977)					
Total	(1,044,212)	(176,649)	1,876,181	655,320					
Clay	(599,224)	(63,310)	844,987	182,452	(10,471)	171,981	-	-	171,981
Cities	(9,472)	(999)		(10,471)					
Total	(608,696)	(64,310)	844,987	171,981					
Cleveland	(5,424,350)	(926,911)	10,599,339	4,248,079	(1,336,054)	2,912,025	-	-	2,912,025
Cities	(1,142,917)	(193,137)		(1,336,054)					
Total	(6,567,267)	(1,120,048)	10,599,339	2,912,025					
Columbus	(2,311,118)	(321,657)	8,272,917	5,640,142	(708,239)	4,931,903	-	-	4,931,903
Cities	(621,715)	(86,524)		(708,239)					
Total	(2,932,833)	(408,181)	8,272,917	4,931,903					
Craven	(4,544,367)	(334,033)	7,229,054	2,350,654	(1,945,084)	405,569	-	-	405,569
Cities	(1,811,686)	(133,398)		(1,945,084)					
Total	(6,356,054)	(467,431)	7,229,054	405,569					
Cumberland	(13,495,419)	(599,074)	21,894,213	7,799,720	(6,960,076)	839,644	-	-	839,644
Cities	(6,664,762)	(295,313)		(6,960,076)					
Total	(20,160,182)	(894,388)	21,894,213	839,644					
Currituck	(1,345,132)	370,291	1,087,532	112,691	-	112,691	-	-	112,691
	-	-		-					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(1,345,132)	370,291	1,087,532	112,691					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Dare	(2,481,085)	1,364,935	1,583,471	467,322	(395,728)	71,593	-	-	71,593
Cities	(879,630)	483,902		(395,728)					
Total	(3,360,715)	1,848,837	1,583,471	71,593					
Davidson	(7,445,159)	(1,369,781)	11,552,966	2,738,026	(2,880,927)	(142,901)	(142,901)	142,901	-
Cities	(2,433,219)	(447,707)		(2,880,927)					
Total	(9,878,379)	(1,817,488)	11,552,966	(142,901)					
Davie	(1,974,571)	(353,670)	2,094,232	(234,009)	(418,506)	(652,515)	(652,515)	652,515	-
Cities	(354,950)	(63,556)		(418,506)					
Total	(2,329,522)	(417,226)	2,094,232	(652,515)					
Duplin	(2,757,680)	(633,590)	5,179,093	1,787,823	(875,580)	912,244	-	-	912,244
Cities	(712,046)	(163,533)		(875,580)					
Total	(3,469,726)	(797,123)	5,179,093	912,244					
Durham	(9,645,874)	755,514	18,254,378	9,364,018	(7,617,660)	1,746,357	-	-	1,746,357
Cities	(8,262,752)	645,092		(7,617,660)					
Total	(17,908,627)	1,400,606	18,254,378	1,746,357					
Edgecombe	(2,291,299)	(448,572)	7,229,429	4,489,558	(756,344)	3,733,214	-	-	3,733,214
Cities	(632,419)	(123,925)		(756,344)					
Total	(2,923,718)	(572,497)	7,229,429	3,733,214					
Forysth	(13,518,891)	1,763,414	23,420,605	11,665,127	(5,944,955)	5,720,172	-	-	5,720,172
Cities	(6,835,299)	890,343		(5,944,955)					
Total	(20,354,190)	2,653,757	23,420,605	5,720,172					
Franklin	(3,111,460)	(730,884)	4,528,137	685,793	(330,317)	355,476	-	-	355,476
Cities	(267,477)	(62,840)		(330,317)					
Total	(3,378,937)	(793,724)	4,528,137	355,476					
Gaston	(9,814,188)	(1,129,199)	19,288,339	8,344,951	(3,626,208)	4,718,744	-	-	4,718,744
Cities	(3,251,819)	(374,388)		(3,626,208)					
Total	(13,066,007)	(1,503,587)	19,288,339	4,718,744					
Gates	(672,674)	(224,630)	1,012,395	115,092	(23,151)	91,941	-	-	91,941
Cities	(17,356)	(5,795)		(23,151)					
Total	(690,030)	(230,425)	1,012,395	91,941					
Graham	(494,382)	(84,905)	1,100,301	521,014	(35,162)	485,852	-	-	485,852
Cities	(30,005)	(5,157)		(35,162)					
Total	(524,387)	(90,062)	1,100,301	485,852					
Granville	(2,950,291)	(689,712)	3,948,542	308,540	(812,101)	(503,562)	(503,562)	503,562	-
Cities	(658,244)	(153,857)		(812,101)					
Total	(3,608,536)	(843,569)	3,948,542	(503,562)					
Greene	(1,189,660)	(404,826)	2,018,514	424,029	(92,243)	331,786	-	-	331,786
Cities	(68,824)	(23,419)		(92,243)					
Total	(1,258,483)	(428,245)	2,018,514	331,786					
Guilford	(16,429,163)	2,441,978	27,414,677	13,427,492	(9,221,236)	4,206,256	-	-	4,206,256
Cities	(10,781,803)	1,560,567		(9,221,236)					
Total	(27,210,966)	4,002,544	27,414,677	4,206,256					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Halifax	(2,920,387)	(467,609)	8,745,306	5,357,311	(1,008,457)	4,348,854	-	-	4,348,854
Cities	(869,267)	(139,190)		(1,008,457)					
Total	(3,789,654)	(606,799)	8,745,306	4,348,854					
Harnett	(5,577,723)	(1,318,730)	7,637,952	741,499	(1,156,700)	(415,201)	(415,201)	415,201	-
Cities	(935,517)	(221,183)		(1,156,700)					
Total	(6,513,241)	(1,539,913)	7,637,952	(415,201)					
Haywood	(2,961,834)	(66,898)	5,000,745	1,972,013	(868,614)	1,103,399	-	-	1,103,399
Cities	(849,456)	(19,158)		(868,614)					
Total	(3,811,290)	(86,056)	5,000,745	1,103,399					
Henderson	(5,102,025)	(323,393)	6,779,350	1,353,932	(1,596,021)	(242,089)	(242,089)	242,089	-
Cities	(1,501,185)	(94,836)		(1,596,021)					
Total	(6,603,210)	(418,229)	6,779,350	(242,089)					
Hertford	(1,294,339)	(160,659)	3,645,546	2,190,548	(332,457)	1,858,091	-	-	1,858,091
Cities	(295,738)	(36,719)		(332,457)					
Total	(1,590,077)	(197,378)	3,645,546	1,858,091					
Hoke	(2,245,553)	(761,322)	3,514,860	507,985	(287,393)	220,592	-	-	220,592
Cities	(214,669)	(72,724)		(287,393)					
Total	(2,460,222)	(834,046)	3,514,860	220,592					
Hyde	(367,980)	(32,956)	686,315	285,380	-	285,380	-	-	285,380
	-	-		-					
Total	(367,980)	(32,956)	686,315	285,380					
Iredell	(6,534,435)	788,544	8,775,506	3,029,615	(2,070,313)	959,303	-	-	959,303
Cities	(2,353,996)	283,683		(2,070,313)					
Total	(8,888,431)	1,072,228	8,775,506	959,303					
Jackson	(2,318,959)	(58,595)	2,459,895	82,341	(143,927)	(61,586)	(61,586)	61,586	-
Cities	(140,400)	(3,527)		(143,927)					
Total	(2,459,359)	(62,123)	2,459,895	(61,586)					
Johnston	(7,919,722)	(661,762)	10,925,035	2,343,551	(1,495,598)	847,953	-	-	847,953
Cities	(1,380,406)	(115,192)		(1,495,598)					
Total	(9,300,127)	(776,955)	10,925,035	847,953					
Jones	(575,804)	(191,248)	1,073,277	306,224	(46,449)	259,776	-	-	259,776
Cities	(34,867)	(11,582)		(46,449)					
Total	(610,671)	(202,830)	1,073,277	259,776					
Lee	(2,131,895)	76,789	4,019,346	1,964,240	(1,018,325)	945,915	-	-	945,915
Cities	(1,056,284)	37,959		(1,018,325)					
Total	(3,188,179)	114,748	4,019,346	945,915					
Lenoir	(2,610,608)	(179,030)	7,006,287	4,216,648	(865,966)	3,350,682	-	-	3,350,682
Cities	(810,398)	(55,568)		(865,966)					
Total	(3,421,007)	(234,599)	7,006,287	3,350,682					
Lincoln	(3,788,675)	(432,855)	4,906,974	685,443	(647,070)	38,374	-	-	38,374
Cities	(580,728)	(66,342)		(647,070)					
Total	(4,369,403)	(499,197)	4,906,974	38,374					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Macon	(1,802,342)	303,686	2,592,574	1,093,918	(224,834)	869,085	-	-	869,085
Cities	(267,853)	43,019		(224,834)					
Total	(2,070,195)	346,706	2,592,574	869,085					
Madison	(1,098,518)	(325,356)	2,082,748	658,874	(239,295)	419,579	-	-	419,579
Cities	(184,641)	(54,653)		(239,295)					
Total	(1,283,159)	(380,010)	2,082,748	419,579					
Martin	(1,385,986)	(231,322)	3,700,443	2,083,135	(356,116)	1,727,019	-	-	1,727,019
Cities	(305,177)	(50,938)		(356,116)					
Total	(1,691,163)	(282,260)	3,700,443	1,727,019					
McDowell	(2,674,872)	(543,037)	3,825,292	607,383	(539,417)	67,966	-	-	67,966
Cities	(448,366)	(91,050)		(539,417)					
Total	(3,123,239)	(634,087)	3,825,292	67,966					
Mecklenburg	(30,746,197)	9,857,205	45,580,952	24,691,961	(9,774,231)	14,917,730	-	-	14,917,730
Cities	(14,387,463)	4,613,232		(9,774,231)					
Total	(45,133,660)	14,470,437	45,580,952	14,917,730					
Mitchell	(892,734)	(76,687)	1,678,778	709,357	(123,845)	585,512	-	-	585,512
Cities	(114,047)	(9,798)		(123,845)					
Total	(1,006,781)	(86,485)	1,678,778	585,512					
Montgomery	(1,319,462)	(291,759)	2,865,161	1,253,940	(525,440)	728,500	-	-	728,500
Cities	(430,347)	(95,093)		(525,440)					
Total	(1,749,809)	(386,852)	2,865,161	728,500					
Moore	(4,016,244)	(84,041)	5,184,230	1,083,946	(1,842,349)	(758,404)	(758,404)	758,404	-
Cities	(1,804,478)	(37,871)		(1,842,349)					
Total	(5,820,722)	(121,912)	5,184,230	(758,404)					
Nash	(3,514,207)	113,343	7,578,920	4,178,056	(2,872,627)	1,305,429	-	-	1,305,429
Cities	(2,796,925)	(75,702)		(2,872,627)					
Total	(6,311,132)	37,641	7,578,920	1,305,429					
New Hanover	(9,017,372)	2,669,983	12,731,475	6,384,085	(2,296,876)	4,087,209	-	-	4,087,209
Cities	(3,263,134)	966,258		(2,296,876)					
Total	(12,280,506)	3,636,241	12,731,475	4,087,209					
Northhampton	(1,108,214)	(385,616)	2,860,224	1,366,394	(439,265)	927,129	-	-	927,129
Cities	(325,867)	(113,398)		(439,265)					
Total	(1,434,081)	(499,014)	2,860,224	927,129					
Onslow	(7,360,170)	(693,222)	8,027,102	(26,290)	(3,935,871)	(3,962,162)	(3,962,162)	3,962,162	-
Cities	(3,597,281)	(338,590)		(3,935,871)					
Total	(10,957,451)	(1,031,812)	8,027,102	(3,962,162)					
Orange	(5,725,480)	(753,656)	5,893,443	(585,693)	(3,992,934)	(4,578,627)	(4,578,627)	4,578,627	-
Cities	(3,543,799)	(449,135)		(3,992,934)					
Total	(9,269,279)	(1,202,790)	5,893,443	(4,578,627)					
Pamlico	(802,845)	(193,339)	1,310,347	314,163	(67,488)	246,675	-	-	246,675
Cities	(54,390)	(13,098)		(67,488)					
Total	(857,235)	(206,437)	1,310,347	246,675					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Pasquotank	(1,858,677)	57,236	3,856,351	2,054,909	(600,093)	1,454,817	-	-	1,454,817
Cities	(618,695)	18,602		(600,093)					
Total	(2,477,372)	75,838	3,856,351	1,454,817					
Pender	(2,585,813)	(472,712)	3,619,962	561,438	(434,791)	126,647	-	-	126,647
Cities	(368,622)	(66,169)		(434,791)					
Total	(2,954,435)	(538,881)	3,619,962	126,647					
Perquimans	(677,937)	(197,236)	1,072,312	197,138	(196,549)	589	-	-	589
Cities	(152,259)	(44,289)		(196,549)					
Total	(830,197)	(241,526)	1,072,312	589					
Person	(2,086,986)	(324,539)	3,362,949	951,425	(423,005)	528,419	-	-	528,419
Cities	(366,089)	(56,916)		(423,005)					
Total	(2,453,075)	(381,455)	3,362,949	528,419					
Pitt	(6,137,887)	100,478	14,120,328	8,082,919	(3,801,004)	4,281,915	-	-	4,281,915
Cities	(3,863,570)	62,566		(3,801,004)					
Total	(10,001,457)	163,044	14,120,328	4,281,915					
Polk	(1,066,112)	(267,226)	1,301,956	(31,383)	(238,839)	(270,222)	(270,222)	270,222	-
Cities	(191,006)	(47,833)		(238,839)					
Total	(1,257,118)	(315,059)	1,301,956	(270,222)					
Randolph	(6,535,078)	(1,232,773)	9,735,451	1,967,601	(2,817,706)	(850,105)	(850,105)	850,105	-
Cities	(2,371,404)	(446,302)		(2,817,706)					
Total	(8,906,482)	(1,679,074)	9,735,451	(850,105)					
Richmond	(2,421,436)	(491,081)	5,992,644	3,080,128	(1,126,942)	1,953,186	-	-	1,953,186
Cities	(936,976)	(189,966)		(1,126,942)					
Total	(3,358,412)	(681,046)	5,992,644	1,953,186					
Robeson	(6,673,799)	(1,388,137)	20,185,234	12,123,298	(2,475,681)	9,647,617	-	-	9,647,617
Cities	(2,050,018)	(425,663)		(2,475,681)					
Total	(8,723,817)	(1,813,800)	20,185,234	9,647,617					
Rockingham	(4,341,009)	(833,713)	8,188,074	3,013,353	(2,187,287)	826,065	-	-	826,065
Cities	(1,834,843)	(352,444)		(2,187,287)					
Total	(6,175,852)	(1,186,157)	8,188,074	826,065					
Rowan	(5,720,023)	(686,522)	10,358,240	3,951,695	(2,259,102)	1,692,594	-	-	1,692,594
Cities	(2,016,707)	(242,395)		(2,259,102)					
Total	(7,736,729)	(928,917)	10,358,240	1,692,594					
Rutherford	(3,423,140)	(488,864)	6,384,283	2,472,279	(788,158)	1,684,121	-	-	1,684,121
Cities	(689,695)	(98,463)		(788,158)					
Total	(4,112,835)	(587,327)	6,384,283	1,684,121					
Sampson	(3,317,062)	(636,334)	6,942,638	2,989,242	(793,755)	2,195,487	-	-	2,195,487
Cities	(665,985)	(127,770)		(793,755)					
Total	(3,983,047)	(764,104)	6,942,638	2,195,487					
Scotland	(2,052,986)	(277,857)	5,028,274	2,697,431	(353,342)	2,344,089	-	-	2,344,089
Cities	(311,199)	(42,143)		(353,342)					
Total	(2,364,185)	(320,000)	5,028,274	2,344,089					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Stanly	(2,628,680)	(284,182)	4,649,935	1,737,073	(1,387,078)	349,995	-	-	349,995
Cities	(1,252,010)	(135,068)		(1,387,078)					
Total	(3,880,691)	(419,250)	4,649,935	349,995					
Stokes	(2,813,066)	(873,390)	3,361,114	(325,342)	(357,211)	(682,552)	(682,552)	682,552	-
Cities	(280,809)	(76,401)		(357,211)					
Total	(3,093,875)	(949,791)	3,361,114	(682,552)					
Surry	(4,147,451)	(276,401)	6,594,189	2,170,337	(944,837)	1,225,500	-	-	1,225,500
Cities	(885,430)	(59,407)		(944,837)					
Total	(5,032,881)	(335,807)	6,594,189	1,225,500					
Swain	(821,389)	(159,536)	1,307,130	326,205	(105,104)	221,101	-	-	221,101
Cities	(88,012)	(17,091)		(105,104)					
Total	(909,402)	(176,627)	1,307,130	221,101					
Transylvania	(1,859,629)	(106,660)	2,406,671	440,382	(321,071)	119,310	-	-	119,310
Cities	(303,657)	(17,414)		(321,071)					
Total	(2,163,287)	(124,073)	2,406,671	119,310					
Tyrrell	(260,561)	(73,912)	539,710	205,238	(18,416)	186,821	-	-	186,821
Cities	(14,346)	(4,070)		(18,416)					
Total	(274,907)	(77,982)	539,710	186,821					
Union	(8,181,577)	(715,282)	7,501,597	(1,395,262)	(2,040,595)	(3,435,856)	(3,435,856)	3,435,856	-
Cities	(1,876,734)	(163,860)		(2,040,595)					
Total	(10,058,311)	(879,142)	7,501,597	(3,435,856)					
Vance	(2,411,596)	(270,287)	5,734,963	3,053,079	(680,523)	2,372,556	-	-	2,372,556
Cities	(612,019)	(68,504)		(680,523)					
Total	(3,023,615)	(338,791)	5,734,963	2,372,556					
Wake	(25,940,599)	4,837,589	33,059,203	11,956,193	(16,115,339)	(4,159,146)	(4,159,146)	4,159,146	-
Cities	(19,802,025)	3,686,686		(16,115,339)					
Total	(45,742,624)	8,524,275	33,059,203	(4,159,146)					
Warren	(1,174,456)	(384,614)	2,519,442	960,373	(155,093)	805,279	-	-	805,279
Cities	(116,834)	(38,259)		(155,093)					
Total	(1,291,290)	(422,873)	2,519,442	805,279					
Washington	(793,417)	(199,361)	2,223,565	1,230,787	(155,093)	1,075,693	-	-	1,075,693
Cities	(116,834)	(38,259)		(155,093)					
Total	(910,251)	(237,620)	2,223,565	1,075,693					
Watauga	(2,196,869)	410,586	1,947,167	160,885	(668,197)	(507,312)	(507,312)	507,312	-
Cities	(819,815)	151,618		(668,197)					
Total	(3,016,683)	562,203	1,947,167	(507,312)					
Wayne	(5,505,297)	(565,088)	10,697,738	4,627,352	(1,995,488)	2,631,864	-	-	2,631,864
Cities	(1,809,592)	(185,896)		(1,995,488)					
Total	(7,314,890)	(750,984)	10,697,738	2,631,864					
Wilkes	(4,052,758)	(607,645)	6,560,531	1,900,128	(543,736)	1,356,392	-	-	1,356,392
Cities	(472,847)	(70,890)		(543,736)					
Total	(4,525,605)	(678,535)	6,560,531	1,356,392					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2010-11		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Wilson	(3,541,789)	(142,510)	7,834,600	4,150,301	(1,464,077)	2,686,224	-	-	2,686,224
Cities	(1,407,229)	(56,848)		(1,464,077)					
Total	(4,949,018)	(199,358)	7,834,600	2,686,224					
Yadkin	(2,191,100)	(543,863)	2,967,953	232,989	(328,161)	(95,172)	(95,172)	95,172	-
Cities	(262,915)	(65,246)		(328,161)					
Total	(2,454,015)	(609,109)	2,967,953	(95,172)					
Yancey	(1,108,249)	(210,548)	1,852,799	534,002	(118,998)	415,004	-	-	415,004
Cities	(100,003)	(18,995)		(118,998)					
Total	(1,208,252)	(229,543)	1,852,799	415,004					
	(563,400,000)		**670,737,349**		**(153,122,641)**	**107,362,788**	**(24,324,829)**	24,324,829	131,677,616

Medicaid Swap Proposal - FY 2011-12

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Alamance	(6,057,647)	(173,583)	10,662,795	4,431,566	(3,732,565)	699,001	-	-	699,001
Cities	(3,625,115)	(107,450)		(3,732,565)					
Total	(9,682,762)	(281,033)	10,662,795	699,001					
Alexander	(2,316,875)	(617,377)	2,648,737	(285,516)	(157,792)	(443,308)	(443,308)	443,308	-
Cities	(124,562)	(33,230)		(157,792)					
Total	(2,441,437)	(650,607)	2,648,737	(443,308)					
Alleghany	(673,161)	(126,177)	1,272,036	472,697	(133,978)	338,720	-	-	338,720
Cities	(112,835)	(21,142)		(133,978)					
Total	(785,997)	(147,319)	1,272,036	338,720					
Anson	(1,269,016)	(361,760)	4,772,972	3,142,196	(665,028)	2,477,168	-	-	2,477,168
Cities	(517,447)	(147,581)		(665,028)					
Total	(1,786,463)	(509,341)	4,772,972	2,477,168					
Ashe	(1,534,399)	(174,366)	2,716,048	1,007,283	(182,907)	824,377	-	-	824,377
Cities	(164,253)	(18,654)		(182,907)					
Total	(1,698,652)	(193,020)	2,716,048	824,377					
Avery	(1,215,402)	(48,942)	1,664,896	400,552	(197,007)	203,545	-	-	203,545
Cities	(189,413)	(7,595)		(197,007)					
Total	(1,404,815)	(56,536)	1,664,896	203,545					
Beaufort	(2,595,701)	(214,245)	6,646,623	3,836,678	(855,773)	2,980,905	-	-	2,980,905
Cities	(790,528)	(65,245)		(855,773)					
Total	(3,386,229)	(279,490)	6,646,623	2,980,905					
Bertie	(1,068,502)	(331,437)	3,707,763	2,307,825	(350,348)	1,957,477	-	-	1,957,477
Cities	(267,411)	(82,937)		(350,348)					
Total	(1,335,913)	(414,374)	3,707,763	1,957,477					
Bladen	(2,046,122)	(544,249)	4,942,943	2,352,572	(435,604)	1,916,968	-	-	1,916,968
Cities	(344,077)	(91,526)		(435,604)					
Total	(2,390,200)	(635,775)	4,942,943	1,916,968					
Brunswick	(4,934,718)	175,658	7,379,970	2,620,910	(1,872,635)	748,275	-	-	748,275
Cities	(1,941,511)	68,875		(1,872,635)					
Total	(6,876,229)	244,533	7,379,970	748,275					
Buncombe	(11,795,116)	1,503,638	20,419,409	10,127,932	(3,542,896)	6,585,035	-	-	6,585,035
Cities	(4,060,379)	517,483		(3,542,896)					
Total	(15,855,495)	2,021,121	20,419,409	6,585,035					
Burke	(4,691,208)	(909,349)	8,322,567	2,722,010	(1,868,296)	853,714	-	-	853,714
Cities	(1,564,948)	(303,348)		(1,868,296)					
Total	(6,256,156)	(1,212,697)	8,322,567	853,714					
Cabarrus	(6,953,131)	474,547	9,656,923	3,178,339	(3,932,571)	(754,231)	(754,231)	754,231	-
Cities	(4,138,474)	205,903		(3,932,571)					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(11,091,605)	680,451	9,656,923	(754,231)					
Caldwell	(3,738,567)	(685,120)	7,454,235	3,030,548	(2,208,249)	822,299	-	-	822,299
Cities	(1,866,002)	(342,247)		(2,208,249)					
Total	(5,604,569)	(1,027,367)	7,454,235	822,299					
Camden	(535,205)	(77,941)	496,886	(116,261)	-	(116,261)	(116,261)	116,261	-
	-	-		-					
Total	(535,205)	(77,941)	496,886	(116,261)					
Carteret	(3,429,870)	395,216	4,572,892	1,538,238	(1,296,343)	241,895	-	-	241,895
Cities	(1,465,042)	168,699		(1,296,343)					
Total	(4,894,912)	563,915	4,572,892	241,895					
Caswell	(1,514,885)	(551,148)	2,569,316	503,283	(74,835)	428,448	-	-	428,448
Cities	(54,875)	(19,960)		(74,835)					
Total	(1,569,760)	(571,108)	2,569,316	428,448					
Catawba	(6,944,962)	416,815	10,864,341	4,336,195	(3,097,244)	1,238,951	-	-	1,238,951
Cities	(3,283,495)	186,251		(3,097,244)					
Total	(10,228,457)	603,067	10,864,341	1,238,951					
Chatham	(3,266,485)	(627,896)	3,427,171	(467,210)	(742,017)	(1,209,226)	(1,209,226)	1,209,226	-
Cities	(622,361)	(119,655)		(742,017)					
Total	(3,888,846)	(747,551)	3,427,171	(1,209,226)					
Cherokee	(1,542,581)	108,918	3,085,735	1,652,072	(192,643)	1,459,429	-	-	1,459,429
Cities	(207,277)	14,634		(192,643)					
Total	(1,749,858)	123,553	3,085,735	1,459,429					
Chowan	(930,096)	(155,602)	2,036,173	950,475	(196,348)	754,127	-	-	754,127
Cities	(168,235)	(28,113)		(196,348)					
Total	(1,098,332)	(183,715)	2,036,173	754,127					
Clay	(630,281)	(65,842)	926,889	230,765	(11,002)	219,763	-	-	219,763
Cities	(9,963)	(1,039)		(11,002)					
Total	(640,244)	(66,882)	926,889	219,763					
Cleveland	(5,705,484)	(963,987)	11,602,757	4,933,286	(1,403,015)	3,530,271	-	-	3,530,271
Cities	(1,202,152)	(200,862)		(1,403,015)					
Total	(6,907,636)	(1,164,849)	11,602,757	3,530,271					
Columbus	(2,430,899)	(334,523)	9,062,452	6,297,029	(743,922)	5,553,107	-	-	5,553,107
Cities	(653,938)	(89,984)		(743,922)					
Total	(3,084,837)	(424,508)	9,062,452	5,553,107					
Craven	(4,779,893)	(347,394)	7,889,186	2,761,899	(2,044,317)	717,582	-	-	717,582
Cities	(1,905,583)	(138,734)		(2,044,317)					
Total	(6,685,476)	(486,128)	7,889,186	717,582					
Cumberland	(14,194,862)	(623,037)	23,960,612	9,142,713	(7,317,311)	1,825,402	-	-	1,825,402
Cities	(7,010,185)	(307,126)		(7,317,311)					
Total	(21,205,047)	(930,163)	23,960,612	1,825,402					
Currituck	(1,414,848)	385,103	1,189,136	159,391	-	159,391	-	-	159,391
	-	-		-					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Total	(1,414,848)	385,103	1,189,136	159,391					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Dare	(2,609,675)	1,419,533	1,726,767	536,625	(421,962)	114,663	-	-	114,663
Cities	(925,220)	503,258		(421,962)					
Total	(3,534,894)	1,922,790	1,726,767	114,663					
Davidson	(7,831,028)	(1,424,572)	12,719,167	3,463,566	(3,024,944)	438,622	-	-	438,622
Cities	(2,559,329)	(465,615)		(3,024,944)					
Total	(10,390,357)	(1,890,188)	12,719,167	438,622					
Davie	(2,076,910)	(367,816)	2,286,752	(157,974)	(439,445)	(597,419)	(597,419)	597,419	-
Cities	(373,347)	(66,098)		(439,445)					
Total	(2,450,256)	(433,915)	2,286,752	(597,419)					
Duplin	(2,900,606)	(658,933)	5,645,858	2,086,319	(919,025)	1,167,294	-	-	1,167,294
Cities	(748,950)	(170,075)		(919,025)					
Total	(3,649,556)	(829,008)	5,645,858	1,167,294					
Durham	(10,145,802)	785,734	19,869,030	10,508,962	(8,020,100)	2,488,861	-	-	2,488,861
Cities	(8,690,996)	670,896		(8,020,100)					
Total	(18,836,798)	1,456,630	19,869,030	2,488,861					
Edgecombe	(2,410,053)	(466,514)	7,897,376	5,020,808	(794,078)	4,226,730	-	-	4,226,730
Cities	(665,196)	(128,882)		(794,078)					
Total	(3,075,249)	(595,397)	7,897,376	4,226,730					
Forysth	(14,219,551)	1,833,950	25,496,790	13,111,189	(6,263,602)	6,847,587	-	-	6,847,587
Cities	(7,189,560)	925,957		(6,263,602)					
Total	(21,409,110)	2,759,907	25,496,790	6,847,587					
Franklin	(3,272,721)	(760,119)	4,948,516	915,675	(346,693)	568,982	-	-	568,982
Cities	(281,340)	(65,354)		(346,693)					
Total	(3,554,061)	(825,473)	4,948,516	568,982					
Gaston	(10,322,839)	(1,174,367)	21,130,958	9,633,752	(3,809,719)	5,824,033	-	-	5,824,033
Cities	(3,420,355)	(389,364)		(3,809,719)					
Total	(13,743,195)	(1,563,731)	21,130,958	5,824,033					
Gates	(707,537)	(233,615)	1,101,968	160,816	(24,282)	136,534	-	-	136,534
Cities	(18,256)	(6,027)		(24,282)					
Total	(725,793)	(239,642)	1,101,968	136,534					
Graham	(520,005)	(88,302)	1,206,413	598,107	(36,923)	561,184	-	-	561,184
Cities	(31,560)	(5,363)		(36,923)					
Total	(551,565)	(93,665)	1,206,413	561,184					
Granville	(3,103,200)	(717,300)	4,301,163	480,663	(852,371)	(371,708)	(371,708)	371,708	-
Cities	(692,360)	(160,011)		(852,371)					
Total	(3,795,559)	(877,311)	4,301,163	(371,708)					
Greene	(1,251,318)	(421,019)	2,200,245	527,909	(96,747)	431,162	-	-	431,162
Cities	(72,391)	(24,356)		(96,747)					
Total	(1,323,708)	(445,375)	2,200,245	431,162					
Guilford	(17,280,657)	2,539,657	29,956,463	15,215,462	(9,717,615)	5,497,848	-	-	5,497,848
Cities	(11,340,604)	1,622,989		(9,717,615)					
Total	(28,621,261)	4,162,646	29,956,463	5,497,848					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Halifax	(3,071,745)	(486,313)	9,549,497	5,991,439	(1,059,077)	4,932,362	-	-	4,932,362
Cities	(914,320)	(144,757)		(1,059,077)					
Total	(3,986,065)	(631,070)	9,549,497	4,932,362					
Harnett	(5,866,807)	(1,371,479)	8,348,524	1,110,238	(1,214,034)	(103,795)	(103,795)	103,795	-
Cities	(984,004)	(230,030)		(1,214,034)					
Total	(6,850,810)	(1,601,509)	8,348,524	(103,795)					
Haywood	(3,115,340)	(69,574)	5,479,683	2,294,769	(913,406)	1,381,363	-	-	1,381,363
Cities	(893,482)	(19,924)		(913,406)					
Total	(4,008,822)	(89,498)	5,479,683	1,381,363					
Henderson	(5,366,454)	(336,329)	7,450,644	1,747,862	(1,677,619)	70,243	-	-	70,243
Cities	(1,578,989)	(98,629)		(1,677,619)					
Total	(6,945,443)	(434,958)	7,450,644	70,243					
Hertford	(1,361,422)	(167,085)	3,963,144	2,434,637	(349,254)	2,085,384	-	-	2,085,384
Cities	(311,066)	(38,188)		(349,254)					
Total	(1,672,487)	(205,273)	3,963,144	2,085,384					
Hoke	(2,361,936)	(791,775)	3,828,751	675,040	(301,428)	373,612	-	-	373,612
Cities	(225,795)	(75,633)		(301,428)					
Total	(2,587,731)	(867,408)	3,828,751	373,612					
Hyde	(387,052)	(34,274)	748,799	327,473	-	327,473	-	-	327,473
	-	-		-					
Total	(387,052)	(34,274)	748,799	327,473					
Iredell	(6,873,103)	820,086	9,596,541	3,543,524	(2,180,969)	1,362,556	-	-	1,362,556
Cities	(2,475,999)	295,031		(2,180,969)					
Total	(9,349,102)	1,115,117	9,596,541	1,362,556					
Jackson	(2,439,146)	(60,939)	2,701,806	201,720	(151,345)	50,375	-	-	50,375
Cities	(147,677)	(3,668)		(151,345)					
Total	(2,586,823)	(64,607)	2,701,806	50,375					
Johnston	(8,330,186)	(688,233)	11,967,379	2,948,959	(1,571,750)	1,377,210	-	-	1,377,210
Cities	(1,451,950)	(119,800)		(1,571,750)					
Total	(9,782,136)	(808,033)	11,967,379	1,377,210					
Jones	(605,646)	(198,898)	1,173,028	368,484	(48,719)	319,765	-	-	319,765
Cities	(36,674)	(12,045)		(48,719)					
Total	(642,321)	(210,943)	1,173,028	319,765					
Lee	(2,242,387)	79,861	4,398,087	2,235,560	(1,071,552)	1,164,008	-	-	1,164,008
Cities	(1,111,030)	39,477		(1,071,552)					
Total	(3,353,417)	119,338	4,398,087	1,164,008					
Lenoir	(2,745,911)	(186,192)	7,639,708	4,707,605	(910,190)	3,797,414	-	-	3,797,414
Cities	(852,400)	(57,791)		(910,190)					
Total	(3,598,311)	(243,982)	7,639,708	3,797,414					
Lincoln	(3,985,036)	(450,169)	5,382,642	947,437	(679,821)	267,615	-	-	267,615
Cities	(610,826)	(68,995)		(679,821)					
Total	(4,595,862)	(519,165)	5,382,642	267,615					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Macon	(1,895,754)	315,834	2,854,446	1,274,526	(236,995)	1,037,530	-	-	1,037,530
Cities	(281,735)	44,740		(236,995)					
Total	(2,177,489)	360,574	2,854,446	1,037,530					
Madison	(1,155,452)	(338,371)	2,278,986	785,163	(251,051)	534,113	-	-	534,113
Cities	(194,211)	(56,840)		(251,051)					
Total	(1,349,663)	(395,210)	2,278,986	534,113					
Martin	(1,457,819)	(240,575)	4,021,460	2,323,067	(373,970)	1,949,097	-	-	1,949,097
Cities	(320,994)	(52,976)		(373,970)					
Total	(1,778,813)	(293,551)	4,021,460	1,949,097					
McDowell	(2,813,506)	(564,758)	4,183,843	805,578	(566,297)	239,282	-	-	239,282
Cities	(471,604)	(94,692)		(566,297)					
Total	(3,285,111)	(659,450)	4,183,843	239,282					
Mecklenburg	(32,339,716)	10,251,494	49,809,179	27,720,956	(10,335,378)	17,385,578	-	-	17,385,578
Cities	(15,133,139)	4,797,761		(10,335,378)					
Total	(47,472,856)	15,049,255	49,809,179	17,385,578					
Mitchell	(939,003)	(79,755)	1,835,693	816,936	(130,148)	686,788	-	-	686,788
Cities	(119,958)	(10,190)		(130,148)					
Total	(1,058,961)	(89,944)	1,835,693	686,788					
Montgomery	(1,387,847)	(303,429)	3,119,330	1,428,053	(551,548)	876,505	-	-	876,505
Cities	(452,651)	(98,897)		(551,548)					
Total	(1,840,498)	(402,326)	3,119,330	876,505					
Moore	(4,224,398)	(87,402)	5,655,712	1,343,911	(1,937,387)	(593,475)	(593,475)	593,475	-
Cities	(1,898,001)	(39,386)		(1,937,387)					
Total	(6,122,399)	(126,788)	5,655,712	(593,475)					
Nash	(3,696,342)	117,877	8,292,886	4,714,421	(3,020,615)	1,693,806	-	-	1,693,806
Cities	(2,941,885)	(78,730)		(3,020,615)					
Total	(6,638,226)	39,147	8,292,886	1,693,806					
New Hanover	(9,484,727)	2,776,782	13,886,182	7,178,237	(2,427,348)	4,750,889	-	-	4,750,889
Cities	(3,432,256)	1,004,908		(2,427,348)					
Total	(12,916,983)	3,781,690	13,886,182	4,750,889					
Northhampton	(1,165,650)	(401,041)	3,111,910	1,545,218	(460,690)	1,084,529	-	-	1,084,529
Cities	(342,756)	(117,934)		(460,690)					
Total	(1,508,406)	(518,975)	3,111,910	1,084,529					
Onslow	(7,741,634)	(720,951)	8,799,091	336,505	(4,135,855)	(3,799,350)	(3,799,350)	3,799,350	-
Cities	(3,783,722)	(352,133)		(4,135,855)					
Total	(11,525,356)	(1,073,085)	8,799,091	(3,799,350)					
Orange	(6,022,221)	(783,802)	6,425,044	(380,980)	(4,194,568)	(4,575,548)	(4,575,548)	4,575,548	-
Cities	(3,727,468)	(467,100)		(4,194,568)					
Total	(9,749,689)	(1,250,902)	6,425,044	(4,575,548)					
Pamlico	(844,455)	(201,073)	1,429,110	383,582	(70,831)	312,751	-	-	312,751
Cities	(57,209)	(13,622)		(70,831)					
Total	(901,664)	(214,695)	1,429,110	312,751					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Pasquotank	(1,955,009)	59,525	4,193,635	2,298,151	(631,414)	1,666,737	-	-	1,666,737
Cities	(650,761)	19,346		(631,414)					
Total	(2,605,770)	78,872	4,193,635	1,666,737					
Pender	(2,719,831)	(491,620)	3,959,977	748,527	(456,543)	291,983	-	-	291,983
Cities	(387,727)	(68,816)		(456,543)					
Total	(3,107,558)	(560,436)	3,959,977	291,983					
Perquimans	(713,073)	(205,126)	1,169,815	251,615	(206,211)	45,404	-	-	45,404
Cities	(160,151)	(46,061)		(206,211)					
Total	(873,224)	(251,187)	1,169,815	45,404					
Person	(2,195,151)	(337,520)	3,667,720	1,135,049	(444,256)	690,793	-	-	690,793
Cities	(385,063)	(59,193)		(444,256)					
Total	(2,580,213)	(396,713)	3,667,720	690,793					
Pitt	(6,456,002)	104,497	15,384,518	9,033,013	(3,998,744)	5,034,269	-	-	5,034,269
Cities	(4,063,812)	65,068		(3,998,744)					
Total	(10,519,814)	169,565	15,384,518	5,034,269					
Polk	(1,121,367)	(277,915)	1,416,277	16,996	(250,652)	(233,656)	(233,656)	233,656	-
Cities	(200,905)	(49,746)		(250,652)					
Total	(1,322,272)	(327,662)	1,416,277	(233,656)					
Randolph	(6,873,779)	(1,282,084)	10,663,844	2,507,981	(2,958,463)	(450,482)	(450,482)	450,482	-
Cities	(2,494,310)	(464,154)		(2,958,463)					
Total	(9,368,089)	(1,746,237)	10,663,844	(450,482)					
Richmond	(2,546,934)	(510,724)	6,532,641	3,474,983	(1,183,102)	2,291,881	-	-	2,291,881
Cities	(985,538)	(197,564)		(1,183,102)					
Total	(3,532,472)	(708,288)	6,532,641	2,291,881					
Robeson	(7,019,690)	(1,443,662)	22,045,466	13,582,114	(2,598,956)	10,983,158	-	-	10,983,158
Cities	(2,156,267)	(442,690)		(2,598,956)					
Total	(9,175,957)	(1,886,352)	22,045,466	10,983,158					
Rockingham	(4,565,995)	(867,061)	8,969,085	3,536,029	(2,296,482)	1,239,547	-	-	1,239,547
Cities	(1,929,940)	(366,542)		(2,296,482)					
Total	(6,495,935)	(1,233,604)	8,969,085	1,239,547					
Rowan	(6,016,481)	(713,983)	11,361,697	4,631,232	(2,373,320)	2,257,913	-	-	2,257,913
Cities	(2,121,229)	(252,091)		(2,373,320)					
Total	(8,137,710)	(966,074)	11,361,697	2,257,913					
Rutherford	(3,600,555)	(508,419)	6,973,770	2,864,796	(827,842)	2,036,954	-	-	2,036,954
Cities	(725,441)	(102,401)		(827,842)					
Total	(4,325,996)	(610,820)	6,973,770	2,036,954					
Sampson	(3,488,980)	(661,787)	7,582,919	3,432,152	(833,383)	2,598,769	-	-	2,598,769
Cities	(700,502)	(132,881)		(833,383)					
Total	(4,189,482)	(794,668)	7,582,919	2,598,769					
Scotland	(2,159,389)	(288,971)	5,496,190	3,047,830	(371,156)	2,676,674	-	-	2,676,674
Cities	(327,328)	(43,829)		(371,156)					
Total	(2,486,716)	(332,800)	5,496,190	2,676,674					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Stanly	(2,764,920)	(295,550)	5,096,539	2,036,070	(1,457,370)	578,699	-	-	578,699
Cities	(1,316,900)	(140,471)		(1,457,370)					
Total	(4,081,820)	(436,020)	5,096,539	578,699					
Stokes	(2,958,862)	(908,325)	3,680,994	(186,193)	(374,820)	(561,014)	(561,014)	561,014	-
Cities	(295,363)	(79,457)		(374,820)					
Total	(3,254,225)	(987,783)	3,680,994	(561,014)					
Surry	(4,362,406)	(287,457)	7,220,085	2,570,223	(993,103)	1,577,119	-	-	1,577,119
Cities	(931,320)	(61,783)		(993,103)					
Total	(5,293,726)	(349,239)	7,220,085	1,577,119					
Swain	(863,961)	(165,917)	1,440,821	410,943	(110,349)	300,594	-	-	300,594
Cities	(92,574)	(17,775)		(110,349)					
Total	(956,534)	(183,692)	1,440,821	300,594					
Transylvania	(1,956,011)	(110,926)	2,637,348	570,411	(337,506)	232,905	-	-	232,905
Cities	(319,395)	(18,110)		(337,506)					
Total	(2,275,406)	(129,036)	2,637,348	232,905					
Tyrrell	(274,065)	(76,868)	589,149	238,215	(19,323)	218,893	-	-	218,893
Cities	(15,090)	(4,233)		(19,323)					
Total	(289,155)	(81,101)	589,149	218,893					
Union	(8,605,613)	(743,893)	8,217,433	(1,132,072)	(2,144,417)	(3,276,489)	(3,276,489)	3,276,489	-
Cities	(1,974,002)	(170,415)		(2,144,417)					
Total	(10,579,615)	(914,308)	8,217,433	(3,276,489)					
Vance	(2,536,585)	(281,099)	6,276,574	3,458,890	(714,983)	2,743,907	-	-	2,743,907
Cities	(643,739)	(71,244)		(714,983)					
Total	(3,180,324)	(352,343)	6,276,574	2,743,907					
Wake	(27,285,053)	5,031,092	36,039,719	13,785,758	(16,994,174)	(3,208,416)	(3,208,416)	3,208,416	-
Cities	(20,828,328)	3,834,154		(16,994,174)					
Total	(48,113,381)	8,865,246	36,039,719	(3,208,416)					
Warren	(1,235,326)	(399,999)	2,749,402	1,114,078	(162,679)	951,399	-	-	951,399
Cities	(122,889)	(39,790)		(162,679)					
Total	(1,358,215)	(439,788)	2,749,402	951,399					
Washington	(834,539)	(207,335)	2,423,851	1,381,977	(162,679)	1,219,298	-	-	1,219,298
Cities	(122,889)	(39,790)		(162,679)					
Total	(957,428)	(247,125)	2,423,851	1,219,298					
Watauga	(2,310,728)	427,009	2,131,313	247,594	(704,622)	(457,027)	(457,027)	457,027	-
Cities	(862,304)	157,682		(704,622)					
Total	(3,173,032)	584,692	2,131,313	(457,027)					
Wayne	(5,790,627)	(587,692)	11,687,380	5,309,061	(2,096,712)	3,212,349	-	-	3,212,349
Cities	(1,903,380)	(193,332)		(2,096,712)					
Total	(7,694,007)	(781,023)	11,687,380	3,212,349					
Wilkes	(4,262,806)	(631,951)	7,186,367	2,291,611	(571,079)	1,720,532	-	-	1,720,532
Cities	(497,353)	(73,725)		(571,079)					
Total	(4,760,159)	(705,676)	7,186,367	1,720,532					

County	State Takes 1/2 cent Local Sales Tax (per capita)	Convert 1/4 Cent per capita to point of sale	State Takes Over Medicaid - 3 Year Phase In Effective 1/1/08	County Net Before Hold Harmless	County Holds City Harmless	Total Impact (County Gain Net Local Hold Harmless)	FY 2011-12		
							Counties In the Red	State Hold Harmless	County Net After State Hold Harmless
Wilson	(3,725,353)	(148,211)	8,544,950	4,671,386	(1,539,285)	3,132,101	-	-	3,132,101
Cities	(1,480,163)	(59,122)		(1,539,285)					
Total	(5,205,517)	(207,332)	8,544,950	3,132,101					
Yadkin	(2,304,661)	(565,618)	3,251,825	381,546	(344,397)	37,149	-	-	37,149
Cities	(276,541)	(67,856)		(344,397)					
Total	(2,581,202)	(633,474)	3,251,825	37,149					
Yancey	(1,165,688)	(218,970)	2,028,414	643,757	(124,941)	518,816	-	-	518,816
Cities	(105,186)	(19,755)		(124,941)					
Total	(1,270,873)	(238,725)	2,028,414	518,816					
	(592,600,000)		**732,989,747**		**(161,126,958)**	**140,406,032**	(20,751,406)	20,751,406	161,157,438

SENATE FINANCE COMMITTEE
Wednesday, July 11, 2007 at 1:00 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, July 11, 2007, in room 544. Twenty-five members of the committee were present. Senator Dan Clodfelter presided. Chelsea Flynt of Greenville, Zoe Bennett of Pinehurst, Mary Rebecca Harakas and Lucy Brown Spencer of Gastonia, Becca Thompson and Virginia Yarboro of Goldsboro served as pages.

H.B. 1250 – Durham Satellite Annexations.

Representative Hall was recognized to explain the bill. Senator Purcell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 252 – 18th Senatorial District Local Act – 1.

Senator Atwater was recognized to explain the bill and motioned to adopt the proposed committee substitute for discussion. The motion carried. Senator Purcell moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 1097 – Local Energy Efficiency Incentives.

Representative Insko was recognized to explain the bill. Senator Kinnaird moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 1241 – UNC Non-Appropriated Projects.

This bill was taken up for discussion only. Senator Kerr was recognized to explain the bill. Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Rob Nelson, UNC System Finance Vice President, was recognized to explain the bill and answer questions. Jim Klinger, Fiscal Research Division fiscal analyst, was recognized to explain the fiscal note. A copy of the proposed committee substitute, the fiscal note and the UNC explanation is attached.

S.B. 154 – 43rd Senatorial District Local Act.

Senator Hoyle was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Hoyle moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary and the fiscal note is attached.

S.B. 869 – Sex Offender/Register Email Addresses.

Senator Boseman was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Jim Mills, Fiscal Research Division fiscal analyst, was recognized to explain the fiscal note and answer questions. Greg McLeod, Attorney General's office, was recognized to answer questions. Senator

Albertson moved for a favorable report and referred the bill to the Appropriations Committee. A copy of the proposed committee substitute, the summary and the fiscal note is attached.

H.B. 1646 – Increase Penalties for Air Pollution.

Senator Albertson was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Cowell moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary and the fiscal note is attached.

H.B. 463 – Conservation Tax Credit.

Senator Clodfelter recognized to explain the bill. Senator Kerr moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

H.B. 708 – Hospice/License Fees, Inspections and Funds.

This bill was pulled from the agenda.

The meeting adjourned at 1:55 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

NOTE: The local bills (S154 and S282) will be PCSs for occupancy tax provisions for Dallas and Chatham County.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	July 11, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 463	Conservation Tax Credit Modifications.	Representative Luebke
SB 154	43rd Senatorial District Local Act-1.	Senator Hoyle
HB 1097	Local Energy Efficiency Incentives.	Representative Insko
HB 1250	Durham Satellite Annexations.	Representative Hall Representative Luebke Representative Wilkins, Jr.
HB 1646	Increase Penalties for Air Pollution.	Representative Allen Representative Gibson, III
SB 282	18th Senatorial District Local Act-1.	Senator Atwater
SB 708	Hospice/License Fees, Inspections, Funds.	Senator Purcell
SB 869	Sex Offender/Register E-Mail Address.-AB	Senator Boseman
SB 1241	UNC Non-Appropriated Capital Projects.	Senator Kerr

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, July 12, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **282** 18th Senatorial District Local Act-1.

Draft Number:	65265
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **869** Sex Offender/Register E-Mail Address.-AB

Draft Number:	15117
Sequential Referral:	None
Recommended Referral:	Appropriations/Base Budget
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, July 11, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #2) **463** Conservation Tax Credit Modifications.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1097** Local Energy Efficiency Incentives.
Sequential Referral: None
Recommended Referral: None

H.B. **1250** Durham Satellite Annexations.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **154** 43rd Senatorial District Local Act-1.
Draft Number: 85351
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **1646** Increase Penalties for Air Pollution.
Draft Number: 50739
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 5

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 11, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jim Prigen	Fairway Outdoor Adv.
Mike Abraczinskas	DENR-DAQ
Keith Overcash	DENR-DAQ
Patrick Buffkin	Nelson Mullins
R. Paul Wilms	NCHBA
Amy Schulder	HANC
Bill Flournoy	NC DENR
Tom Cors	TNC
Jim Leutze	TNC
Dr. Stevenie D. Simms	TNC
David Knight	TNC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 11, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Self	DENR
Edgar Miller	CTNC
Esther Davis	Electricities
Tom Baumhower	ASJ
Ed Schuetzpelz	UNC
Rob Nelson	UNC
Michael Jones	UNC
JONATHAN PRUITT	UNC
Stan McEwen	NCDOR
Lennie Collins	DOR
Thurston Webb	SA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 11, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	NC Association of County Commissioners
Dave Crawford	AIA
DAVID BARNES	Poyner Spruill
Cam Coen	BDMBC
Ed Turlington	
Alice Garland	NCEL
PGP	NCFD
Andy Romanet	NCLM
Don McCorquodale	Manning Fulton
Floyd Ellis	NC Retired
Jack Hawke	NCPC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 11, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jeanne Stewart	nursing
Penny Hupp	Daily Bulletin
Wendy Kelly	HMW
Anonymous	reacc
Eddie Caldwell	NC Sheriffs' Assn.
Kevin Daly	ACLU-NC
Christine Wyman	Conservation Council
Doug Miskew	Capstrat
Gene Ainsworth	A & A
Helen Palmer	Electricities
Dave Simpson	CAAC

Bob Shaw — NC Forestry Service
Chas Marshall — Booth Price

Dana Simpson — SA
Ken Melton — D.O.R.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1250

Short Title:	Durham Satellite Annexations.	(Local)
Sponsors:	Representatives Hall, Wilkins, and Luebke (Primary Sponsors).	
Referred to:	Local Government II, if favorable, Finance.	

March 29, 2007

A BILL TO BE ENTITLED

AN ACT REMOVING THE CAP ON SATELLITE ANNEXATIONS FOR THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

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

. . .

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

HOUSE BILL 1250:
Durham Satellite Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 11, 2007
Introduced by:	Reps. Hall, Wilkins, Luebke	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: ***House Bill 1250 is a local bill that would exempt the City of Durham from the requirement for satellite annexation that the area to be annexed, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 1250 would permanently exempt the City of Durham from the 5th requirement, which requires that the proposed area for satellite annexation, when added to the area within all other satellite corporate limits, not exceed 10% of the area within the primary corporate limits of the annexing city.

The purpose of the 5th requirement is designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. In practice, however, the standard has proved to be a problem for many smaller cities, because one large development by itself may easily exceed the 10% limit. Because of this, the General Assembly has exempted a significant number of cities and towns (at least 70) from this 10% rule by local act.

EFFECTIVE DATE: HB 1250 would become effective when it becomes law.

H1250e1-SMRE

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 282
PROPOSED COMMITTEE SUBSTITUTE S282-CSSVx-41 [v.2]

7/9/2007 12:34:29 PM

Short Title: Amend Chatham County Occupancy Tax. (Local)

Sponsors:

Referred to:

February 22, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CHATHAM COUNTY TO LEVY AN ADDITIONAL 3% ROOM OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Chapter 642 of the 1993 Session Laws reads as rewritten:

"**PART 1. CHATHAM OCCUPANCY TAX.**

Section 1. Occupancy ~~tax.~~Tax. (a) Authorization and ~~scope.~~ Scope. – The Chatham County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Chatham County Board of Commissioners may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this section and the use of tax revenue from a tax levied under this subsection shall be in accordance with this Part. Chatham County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The~~

~~tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for State sales and use tax.~~

(c) Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this Part. ~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Chatham County Board of Commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(e) Distribution and Use of ~~tax revenue.~~ Tax Revenue – Chatham County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Chatham County Tourism Development Authority. The Authority shall use at least two-thirds of the ~~net proceeds of the tax levied under this section~~ funds remitted to it under this subsection to promote travel and tourism in Chatham County and shall use the remainder for tourism-related expenditures. The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed ~~seven percent (7%) of the gross proceeds.~~three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures ~~that~~ that, in the judgment of county Tourism Development Authority, are designed to increase the use of lodging ~~facilities~~ facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.~~expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum; and other expenditures that, in the judgment of the board of commissioners, will facilitate and promote tourism.~~

~~(f) **Effective date of levy.** A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) **Repeal.** A tax levied under this section may be repealed by a resolution adopted by the Chatham County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Section 1.1. Chatham County Tourism Development Authority. – (a) Appointment and Membership. – When the Chatham County Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Chatham County shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Act for the purposes provided in this Act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Chatham County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require."

SECTION 2. G.S. 105-153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chatham, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

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

SENATE BILL 282:
Amend Chatham Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 11, 2007
Introduced by:	Sen. Atwater	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S282-CSSVx-41		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 282[1] authorizes Chatham County to increase its room occupancy tax from 3% to 6% and makes other administrative changes to conform the legislation to the occupancy tax guidelines adhered to by the House Finance Committee.

CURRENT LAW: In 1993, the General Assembly authorized Chatham County to levy a room occupancy tax of up to three percent (3%). Currently, the county administers the proceeds and is required to use at least two-thirds of the proceeds to promote travel and tourism and use the remainder for tourism-related expenditures. The funds are not administered by a Tourism Development Authority.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 282 would authorize Chatham County to increase its room occupancy tax from 3% to 6%. It would require the county to establish a Tourism Development Authority and to remit the net proceeds of the room occupancy tax to the Authority. The bill also makes changes to the current administrative provisions so that it conforms to the uniform guidelines adhered to by the House Finance Committee, which are detailed in the following chart:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county

[1] Senate Bill 282, as introduced, was a blank local bill.

administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

S0282e1-SMSV-CSSVx-41

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1097*

Committee Substitute Favorable 4/30/07

Short Title: Local Energy Efficiency Incentives. (Local)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL AND THE CITY OF ASHEVILLE TO PROVIDE DEVELOPMENT INCENTIVES IN EXCHANGE FOR REDUCTIONS IN ENERGY CONSUMPTION.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, is amended by adding a new section to read:

"Sec. 5.19. Ordinances permitting density bonuses and other land-use development incentives for development projects agreeing to meet energy conservation carbon reduction standards.

For the purpose of reducing the amount of energy consumption by new development, and thereby promoting the public health, safety, and welfare, the Town of Chapel Hill may grant a density bonus, make adjustments to otherwise applicable development requirements, or provide other incentives to a developer within the Town and its extraterritorial planning jurisdiction if the developer agrees to construct new development or reconstruct existing development in a manner that the Town determines, based on generally recognized standards established for such purposes, makes a significant contribution to the reduction of energy consumption."

SECTION 2. The City of Asheville, for the purpose of reducing the amount of energy consumption by new development, and thereby promoting the public health, safety, and welfare, may adopt ordinances to grant a density bonus, make adjustments to otherwise applicable development requirements, or provide other incentives to a developer within the City and its extraterritorial planning jurisdiction if the developer agrees to construct new development or reconstruct existing development in a manner that the City determines, based on generally recognized standards established for such purposes, makes a significant contribution to the reduction of energy consumption.

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

HOUSE BILL 1097:
Local Energy Efficiency Incentives

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 11, 2007
Introduced by:	Rep. Insko	**Summary by:**	Trina Griffin
Version:	Second Edition		Committee Counsel

SUMMARY: House Bill 1097 would authorize the Town of Chapel Hill and the City of Asheville to provide development incentives in exchange for reductions in energy consumption.

BILL ANALYSIS: House Bill 1097 would authorize the Town of Chapel Hill and the City of Asheville to adopt ordinances to provide incentives to developers within the municipalities and their extraterritorial jurisdictions that agree to construct new development or reconstruct existing development in a manner that the municipality determines makes a significant contribution to the reduction of energy consumption. The Town of Chapel Hill or the City of Asheville may grant a density bonus, make adjustments to otherwise applicable development requirements, or provide other incentives to a developer that meets the aforementioned conditions. Density bonus ordinances permit developers to increase the number of units allowed on a piece of property.

EFFECTIVE DATE: This act would become effective when it becomes law.

H1097e2-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1241
PROPOSED COMMITTEE SUBSTITUTE S1241-CSRBx-48 [v.2]

7/11/2007 11:55:38 AM

Short Title: UNC Non-Appropriated Capital Projects. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. SELF-LIQUIDATING PROJECTS

SECTION 1. The purpose of this act is: (i) to authorize the construction or acquisition by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in this act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed or otherwise acquired and financed as provided in Section 1 of this act, are as follows:

Appalachian State University	
Frank Residence Hall Renovation	$7,461,000
Steam Distribution Improvements – Phase IV	$3,086,000
East Carolina University	
Family Medicine Center – Supplement	$6,000,000
North Carolina State University	
Companion Animal Hospital	$34,000,000
Residence Halls – Improvements and Infrastructure Expansion	$13,000,000

The University of North Carolina at Chapel Hill	
College of Arts and Sciences – Digital Multimedia Center and Music Library	$4,000,000
Rosenau Hall Laboratory Building – Comprehensive Renovation	$1,124,000
Science Complex – Phase I	$20,000,000
Hanes Hall	$750,000
Genomic Sciences Building	$12,500,000
Electrical Infrastructure Improvements	$9,300,000
Information Technology Infrastructure Improvements	$11,800,000
Translational Medicine Program Facility Renovation	$4,000,000
Henry Stadium Renovation	$2,000,000
Carmichael Auditorium – Supplement	$2,000,000
Woollen Gymnasium – Supplement	$2,000,000
McColl Building Expansion and Renovation	$6,500,000
Bell Tower Development Parking	$30,000,000
Chilled Water Infrastructure	$39,600,000
The University of North Carolina at Pembroke	
New Football/Multipurpose Tower	$2,000,000
The University of North Carolina at Wilmington	
Residence Halls – Improvements	$5,000,000
Marine Biotechnology Research Facility	$15,000,000
Western Carolina University	
Residence Halls – Construction/Acquisition	$44,560,000

SECTION 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 4. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 2 and Section 7 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 2 and Section 7 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest and pay other related additional costs, plus any increase in the

specific project costs authorized by the Director of the Budget pursuant to Section 3 of this act.

SECTION 5. With respect to the Marine Biotechnology Research Facility project at the University of North Carolina at Wilmington, the institution may accomplish construction and financing through lease arrangements to and from a special purpose entity created or existing for that purpose and through working with other state agencies. The institution may use funds appropriated for the Marine Biotechnology Research Facility from the General Fund of the State on an annual basis to make debt service, lease, or other similar payments necessary to accomplish the financing; provided, however, nothing in this section shall be construed as pledging the full faith and credit of the State towards making such payments.

SECTION 6. With respect to the Residence Halls project at Western Carolina University, the institution may accomplish construction and financing through lease arrangements to and from the Western Carolina University Research and Development Corporation.

SECTION 7. The University of North Carolina at Chapel Hill may accomplish the financing of the acquisition and implementation of certain components of its enterprise administrative systems, including, but not limited to, Student, Human Resources, Payroll, and Finance, in an amount not to exceed fifty-nine million dollars ($59,000,000). Costs related to the project may include, but not be limited to, costs of applicable hardware, software, consulting services, project and support staff, renovation of the Porthole Building on the campus of the University of North Carolina at Chapel Hill, training services, leases of space for the project, and any technical infrastructure components required to implement the systems for the duration of the project. The project shall be deemed to be a "capital facility" and a "special obligation bond project" for purposes of G.S. 116D-22(5).

PART II. REVISE UNIVERSITY GENERAL OBLIGATION INDEBTEDNESS

SECTION 8. Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Elizabeth City State University by (a) changing the scope of "Mitchell-Lewis Residence Hall – Replacement" to a comprehensive renovation project and by (b) reducing the scope of the "Land Acquisition" project and transferring unused funds to "Lane Hall Classroom Building – Comprehensive Renovation" and "Electrical Distribution System Upgrade" and "Campus Infrastructure Improvements." Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University by:

(1) Renaming "Mitchell-Lewis Residence Hall – Replacement" to read "Mitchell-Lewis Residence Hall – Comprehensive Renovation", and

(2) Reducing the allocation to "Land Acquisition" by $650,000, and

(3) Increasing the allocation to "Lane Hall Classroom Building – Comprehensive Renovation" by $600,000, and

(4) Increasing the allocation to "Electrical Distribution System Upgrade" by $25,000, and

(5) Increasing the allocation to "Campus Infrastructure Improvements" by $25,000.

SECTION 9. Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Central University by reducing the scope of "Hoey Building – Comprehensive Renovation" and transferring unused funds to "Pearson Cafeteria – Expansion" and "Eagleson Residence Hall – Comprehensive Renovation". Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina Central University by:

(1) Reducing the allocation to "Hoey Building – Comprehensive Renovation" by $2,300,000,

(2) Increasing the allocation to "Pearson Cafeteria – Expansion" by $1,000,000, and

(3) Increasing the allocation to "Eagleson Residence Hall – Comprehensive Renovation" by $1,300,000.

PART III. EFFECTIVE DATE

SECTION 10. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

REVISED

BILL NUMBER: Senate Bill 1241 (Unknown Edition)

SHORT TITLE: UNC Non-Appropriated Capital Projects.

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
EXPENDITURES					
General Fund					
Operating		**$180,622**	**$2,532,009**	**$2,591,221**	**$2,651,863**
POSITIONS (cumulative):		**3.15**	**27.67**	**27.67**	**27.67**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: University of North Carolina

EFFECTIVE DATE: When the act becomes law.

BILL SUMMARY:

March 21, 2007

S 1241. UNC NON-APPROPRIATED CAPITAL PROJECTS. Filed 3/21/07. TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

This proposed committee substitute (PCS) authorizes the construction or acquisition of the following capital improvement projects by certain constituent institutions of The University of North Carolina and authorizes their financing with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, or other funds or a combination of these funds, but not including funds received for tuition or appropriated from the General Fund:

Appalachian State University	
Frank Residence Hall Renovation	$7,461,000
Steam Distribution Improvements – Phase IV	$3,086,000
East Carolina University	
Family Medicine Center – Supplement	$6,000,000
North Carolina State University	
Companion Animal Hospital	$34,000,000
Residence Halls – Improvements and Infrastructure Expansion	$13,000,000
The University of North Carolina at Chapel Hill	
College of Arts and Sciences – Digital Multimedia Center and Music Library	$4,000,000
Rosenau Hall Laboratory Building – Comprehensive Renovation	$1,124,000
Science Complex – Phase I	$20,000,000
Hanes Hall	$750,000
Genomic Sciences Building	$12,500,000
Electrical Infrastructure Improvements	$9,300,000
Information Technology Infrastructure Improvements	$11,800,000
Translational Medicine Program Facility Renovation	$4,000,000
Henry Stadium Renovation	$2,000,000
Carmichael Auditorium – Supplement	$2,000,000
Woollen Gymnasium – Supplement	$2,000,000
McColl Building Expansion and Renovation	$6,500,000
Bell Tower Development Parking	$30,000,000
Chilled Water Infrastructure	$39,600,000
The University of North Carolina at Pembroke	
New Football/Multipurpose Tower	$2,000,000
The University of North Carolina at Wilmington	
Residence Halls – Improvements	$5,000,000
Marine Biotechnology Research Facility	$15,000,000
Western Carolina University	
Residence Halls – Construction/Acquisition	$44,560,000

At the request of The University of North Carolina Board of Governors, the Director of the Budget may authorize specified changes. Pursuant to GS 116D-26, the Board of Governors may, subject to approval, issue special obligation bonds of the Board of Governors for some projects. The Aquaculture Hatchery Biotech Research Facility at the University of North Carolina at

Wilmington and the Residence Halls at Western Carolina University projects may be accomplished through specified lease arrangements. The University of North Carolina at Chapel Hill may accomplish the financing and acquisition of certain components of its enterprise administrative systems, in an amount up to $59 million, subject to limitations.

The PCS further revises Section 2(b) of S.L. 2000-3 to change the scope of the Mitchell-Lewis Residence Hall replacement project at Elizabeth City State University to a comprehensive renovation project. The PCS also eliminates a land acquisition project at ECSU.

The PCS further revises Section 2(b) of S.L. 2000-3 to reduce the authorization for the Hoey Building comprehensive renovation project at North Carolina Central University and increase the scopes of both the Pearson Cafeteria expansion project and Eagleson Residence Hall comprehensive renovation project.
Source: Bill Digest S.B. 1241 (03/21/0200) modified by the Fiscal Research Division

ASSUMPTIONS AND METHODOLOGY:

Part I. Self-Liquidating Projects

Chart 1 on Page 3 lists each self-liquidating capital improvement project proposed by the Board of Governors of the University of North Carolina for FY 2007-08. There are 24 new capital improvement projects totaling $324,681,000 in improvements. The Board also requests the authority to fund $10,000,000 in supplements to 3 previously authorized self-liquidating capital projects. Five proposed projects will increase student fees to cover debt service payments. Six new projects would require General Fund support for increased operating costs. Financial data for these charts was provided by the Division of Finance, University of North Carolina General Administration.

Chart 1

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
Appalachian State University	Frank Residence Hall Renovation	7,461,000	Housing Receipts	$100/ year increase		
Appalachian State University	Steam Distribution System Improvements – Phase IV	3,086,000	Utility Receipts			
East Carolina University	Family Medicine Center – Supplement	6,000,000	Medicare Education Receipts			
North Carolina State University	Companion Animal Hospital	34,000,000	Private Gifts		1,954,406	General Fund

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
North Carolina State University	Residence Halls – Improvements and Infrastructure Expansion	13,000,000	Housing Receipts	3% increase	239,025	General Fund
University of North Carolina at Chapel Hill	College of Arts and Sciences – Digital Multimedia Center and Music Library	4,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Rosenau Hall Laboratory Building – Comprehensive Renovation	1,124,000	Private Gifts			
University of North Carolina at Chapel Hill	Science Complex – Phase 1	20,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Hanes Hall	750,000	Private Gifts			
University of North Carolina at Chapel Hill	Genomic Sciences Building	12,500,000	Facilities and Administrative Receipts/ Dining Receipts			
University of North Carolina at Chapel Hill	Electrical Infrastructure Improvements	9,300,000	Utility Receipts			
University of North Carolina at Chapel Hill	Information Technology Infrastructure Improvements	11,800,000	Information Technology Services Receipts			
University of North Carolina at Chapel Hill	Translational Medicine Program Facility Renovation	4,000,000	Patient Receipts/ Facility and Administrative Receipts		105,338	General Fund

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
University of North Carolina at Chapel Hill	Henry Stadium Renovation	2,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Carmichael Auditorium – Supplement	2,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Woollen Gymnasium – Supplement	2,000,000	Private Gifts			
University of North Carolina at Chapel Hill	McColl Building Expansion and Renovation	6,500,000	Private Gifts		43,759	General Fund
University of North Carolina at Chapel Hill	Bell Tower Development Parking	30,000,000	Parking Receipts		192,297	Parking Receipts
University of North Carolina at Chapel Hill	Chilled Water Infrastructure	39,600,000	Utility Receipts			
University of North Carolina at Pembroke	New Football. Multipurpose Tower	2,000,000	Debt Service Fee	$30/ year	63,505	Facility Receipts and $31,525 from the General Fund
University of North Carolina at Wilmington	Residence Halls Improvements	5,000,000	Housing Receipts	$176/ year increase		
University of North Carolina at Wilmington	Marine Biotechnology Research Facility	15,000,000	Grants/ Leases/ Facilities and Administrative (Overhead) Receipts		442,803	Grants/ Leases/ Facilities and Administrative (Overhead) Receipts and $169,121 from the General Fund
Western Carolina University	New Residence Halls	44,560,000	Housing Receipts	3% increase	94,094	Housing Receipts

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
University of North Carolina at Chapel Hill	Enterprise Administrative Systems	59,000,000	Cash Reserves, Internal Reallocations, Facilities and Administrative Receipts and a Debt Service Fee			

Cost of new capital improvement projects = $324,681,000
Cost of supplements to previously authorized projects = $10,000,000
Cost of capital improvements for all projects = $334,681,000

Inflation - General Fund operating expenditures were inflated by calculating a straight line dollar increase measured from the first year of operation and escalated using the 20-year average operating expenditure estimate provided by the University of North Carolina General Administration.

Indebtedness Funding Methods:
Chart 2 summarizes the total debt authority proposed by Senate Bill 1241 and the source of funds identified to service the proposed debt.

Chart 2	
Sources of Funding	**Principal**
Utility Receipts	$51,986,000
Debt Service Fees	$2,000,000
Private Gifts	$72,374,000
Housing Receipts	$70,021,000
Parking Receipts	$30,000,000
Information Tech. Services Receipts	$11,800, 000
Medicare Education Receipts	$6,000,000
Facilities and Administrative Receipts / Dining Receipts	$12,500,000
Facilities and Administrative Receipts / Patent Receipts	$4,000,000
Facilities and Administrative Receipts / Grants / Leases	$15,000,000
Cash Reserves / Internal Reallocations / Facilities and Administrative Receipts / Previously approved $50 Debt Service Fee	$59,000,000

Part II. Revise University General Obligation Indebtedness

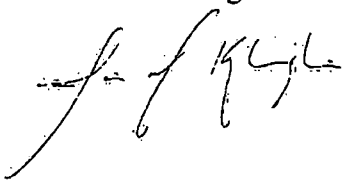
According to the Division of Finance for the University of North Carolina General Administration, **no General Fund operating impact** is anticipated from the proposed modifications to Session Law 2000-3.

SOURCES OF DATA: The University of North Carolina General Administration

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Klingler



APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 10, 2007

The University of North Carolina

SB 1241 – UNC Non-Appropriated Capital Projects

- Each year, the University requests legislative authorization for needed capital projects which the campuses proposed to construct using Non-General fund sources. This year's package contains the projects that, if authorized, are expected to begin prior to June 30, 2008.

- The package totals $334 million. It contains 23 new or supplemental capital improvement projects at 7 campuses and 1 ITS replacement project at UNC-CH. All projects have been approved by the Chancellors and Boards of Trustees and by the President and the Board of Governors.

- The projects include academic, research, clinical and administrative space and improvements to student services, residential living, dining, recreation, athletics and parking facilities.

- No funding for constructions will come from General Fund sources. Sources include:

    - 26% from gifts and grants (contributions)
    - 26% from housing and dining receipts
    - 23% from utility and ITS receipts
    - 17% from parking and overhead receipts
    - 7% from federal funds and other funds
    - 1% from student debt service fees

- No support from General Fund sources for operating costs will be required for other than academic facilities or facilities used for academic programs.

- Historically, approximately 60% of University buildings have been constructed with General fund monies and 40% have been constructed by gifts from donors, student feeds and user-generated revenues from University auxiliary operations. Since 1999, the University's contribution to that partnership has exceeded $2.7 billion.

- This bill also contains several modifications to projects authorized by the 2000 bond.

The University of North Carolina

SB 1241 – UNC Non-Appropriated Capital Projects

Each year, the University requests legislative authorization for needed capital projects which the campuses proposed to construct using Non-General fund sources. The package totals **$334 million**. This bill also contains several modifications to projects authorized by the 2000 bond.

Appalachian State University

Frank Residence Hall Renovation **$7,461,000**

This funding would provide for the comprehensive renovation of the 26-year old 49,000 square foot residence hall. Work would include upgrading existing fire safety systems and improving building accessibility.

Steam Distribution Improvements – Phase IV **$3,086,000**

This project would continue a comprehensive program to repair or replace steam distribution and condensate return lines on campus.

East Carolina University

Family Medicine Center – Supplement **$6,000,000**

The proposed increase would enable the campus to extend services from the central utility plant to the building and address the known change in bidding climate and increased costs.

North Carolina State University

Companion Animal Hospital **$34,000,000**

The facility would be a 115,000 square foot teaching hospital with clinical animal spaces and specialty practice areas. The current companion animal hospital functions would move from the existing main building and would provide much needed space for hospital growth. This project would make available approximately 35,000 square feet in the existing main building for use as classrooms, labs, offices, and outreach programs.

Residence Halls – Improvements and Infrastructure Expansion **$13,000,000**

This project would make improvements in campus residence halls including fire safety upgrades, elevator replacements, bathroom renovations, window repairs, interior renovations, and water pipe repairs. The project would also include the installation of new infrastructure, including roads and pathways, to connect the Greek Court area to the campus.

The University of North Carolina at Chapel Hill

College of Arts and Sciences – Digital Multimedia Center and Music Library **$4,000,000**

Rosenau Hall Laboratory Building – Comprehensive Renovation **$1,124,000**

Science Complex – Phase I **$20,000,000**

These three projects were authorized as part of the 2000 Higher Education Bond program and included partial funding from private gifts. The campus has requested the authority to borrow, if needed, funding on an interim basis until construction is complete.

Hanes Hall **$750,000**
The project would include renovation of the fourth floor to expand offices and interview suites for Career Services.

Genomic Sciences Building **$12,500,000**
This facility would provide 210,000 square feet of modern classrooms, laboratories, and offices, including nine wet labs, four bioinformatics labs, a 250-seat lecture hall, a 450-seat lecture hall, an 80-seat classroom, and four 30-seat seminar rooms, serving faculty, post-doctoral fellows, technicians, graduate students and undergraduates.

Electrical Infrastructure Improvements **$9,300,000**
This project would upgrade the medium voltage electrical distribution system at the south substation and continue the build-out of a ductbank serving campus electrical and telecommunications needs. The project includes high speed switches, breakers, cables, and upgraded control system.

Information Technology Infrastructure Improvements **$11,800,000**
This project would upgrade the campus and building fiber optics distribution system. Work would include WiFi connectivity, broadcast-quality video capabilities, network security, and real time communication projects.

Translational Medicine Program Facility Renovation **$4,000,000**
This project would renovate 12,000 square feet of space on the second floor of the Brinkhous-Bullitt Building serving the School of Medicine's Translational Medicine program. The work would create office and conference space that supports the program's translation of research results into clinical applications. Improvements to the building's systems and infrastructure are also included.

Henry Stadium Renovation **$2,000,000**
This project would replace the existing synthetic turf at Henry Stadium, due to age-related wear and tear, in order to improve the safe use of the facility.

Carmichael Auditorium – Supplement **$2,000,000**
Woollen Gymnasium – Supplement **$2,000,000**
The proposed increase would enable the campus to address the known change in bidding climate and the increased costs associated with preserving the necessary project scope.

McColl Building Expansion and Renovation **$6,500,000**
This proposed increase would enable the campus to address the increased costs associated with the original project scope and to renovate approximately 25,000 square feet of additional space on the first through fourth floors.

Bell Tower Development Parking **$30,000,000**
In order to accommodate additional development on campus, surface parking is being abolished to create space for new buildings. The parking deck in this plan would replace spaces lost to the construction of the Genome Sciences Building.

Chilled Water Infrastructure **$39,600,000**
The new plant in the Bell Tower parking lot is critical to the system's hydraulics. It is the oldest plant on campus, has reached the end of its useful life, and needs to be totally renovated and have its capacity increased.

The University of North Carolina at Pembroke

New Football/Multipurpose Tower **$2,000,000**

This project would provide an elevated, fully accessible building to support campus academic, recreational, athletic, and fund-raising activities.

The University of North Carolina at Wilmington

Residence Halls – Improvements **$5,000,000**

This project makes improvements to residence halls on campus including the replacement of existing fire alarm systems, installation of fire sprinkler systems, and updating bathrooms. This project would also replace two, 33-year-old elevators in Galloway Hall, a six-story residence hall serving 400 students.

Marine Biotechnology Research Facility **$15,000,000**

This project would build an approximately 60,000 square-foot marine biotechnology and aquaculture research facility. The facility will house the Marine Biotechnology Initiative as well as the Wilmington Branch of the North Carolina Oyster Hatchery Program and other initiatives seeking to develop and market commercial products from various Marine Science research initiatives.

Western Carolina University

Residence Halls – Construction/Acquisition **$44,560,000**

This project would replace two, 400-bed residence halls. Included in this project is the demolition of the old Dodson Cafeteria, a central cooling plant, and faculty offices for the Honors College which would create a living-learning environment to enhance the student learning experience by co-mingling faculty offices within the traditional residence hall setting.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 154
PROPOSED COMMITTEE SUBSTITUTE S154-CSMCx-21 [v.2]

5/9/2007 2:53:01 PM

Short Title: Dallas Occupancy Tax. (Local)

Sponsors:

Referred to:

February 14, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF DALLAS TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Aldermen of the Town of Dallas may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – The Town of Dallas shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Dallas Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Dallas and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct

market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of Dallas Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Aldermen adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Dallas Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Aldermen shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Dallas shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Board of Aldermen on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Aldermen may require.

SECTION 3. Administrative provisions. – G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Mooresville, North Topsail Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

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

SENATE BILL 154:
Dallas Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 11, 2007
Introduced by:	Sen. Hoyle	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S154-CSMCx-21		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 154[1] authorizes the Town of Dallas to levy a 3% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.***

CURRENT LAW: The Town of Dallas is located in the Gaston County. While the Town of Dallas does not have authority to levy, the county may currently levy a 3% room occupancy tax.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 154 authorizes the Town of Dallas to levy a room occupancy tax of up to 3%. The proceeds must be remitted to a town Tourism Development Authority (TDA), which must use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

EFFECTIVE DATE: Senate Bill 154 would become effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county

[1] Senate Bill 154, as introduced, was a blank local bill.

administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

S0154e1-SMSV-CSMCx-21

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 11, 2007

TO: Senate Finance

FROM: Joseph Futima
Fiscal Research Division

RE: PCS to Senate Bill 154 (Unknown Edition)

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	0	0	0	0	0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Town of Dallas

EFFECTIVE DATE: When bill becomes law

BILL SUMMARY: The Proposed Committee Substitute for Senate Bill 154[1] authorizes the Town of Dallas to levy a 3% occupancy tax. At least two-thirds of the proceeds would be used to promote travel and tourism and the remainder would be used for tourism-related expenditures. This bill conforms to the guidelines supported by the North Carolina Travel and Tourism Coalition and adhered to by the House Finance Committee.

[1] Senate Bill 154, as introduced, was a blank local bill.

ASSUMPTIONS AND METHODOLOGY: The Town of Dallas has advised that there are no hotels, motels or any type of lodging that would be subject to this occupancy tax. Due to this fact there is no estimated financial impact.

SOURCES OF DATA: Town of Dallas

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 869*

Judiciary I (Civil) Committee Substitute Adopted 5/8/07
PROPOSED COMMITTEE SUBSTITUTE S869-CSSVf-42 [v.6]

7/10/2007 12:51:43 PM

Short Title: Sex Offender/Register E-Mail Address.-AB (Public)

Sponsors:

Referred to:

March 19, 2007

A BILL TO BE ENTITLED

AN ACT TO ADD FELONY CHILD ABUSE TO THE LIST OF SEX OFFENDER REGISTRY OFFENSES WHEN THE OFFENSE INVOLVES PROSTITUTION OF A JUVENILE OR THE COMMISSION OF A SEXUAL ACT UPON A JUVENILE, TO REQUIRE THAT A SEX OFFENDER REGISTER HIS OR HER ELECTRONIC MAIL ADDRESS OR OTHER ONLINE IDENTIFIER IN THE STATEWIDE SEX OFFENDER REGISTRY, TO ALLOW LIMITED RELEASE OF ONLINE IDENTIFIER INFORMATION IN THE SEX OFFENDER REGISTRY TO CERTAIN ENTITIES THAT PROVIDE ELECTRONIC MAIL SERVICES AND OTHER INTERNET SERVICES FOR THE PURPOSE OF SCREENING ONLINE USERS, TO AUTHORIZE THE COURT TO REVOKE ANY AND ALL LICENSING PRIVILEGES HELD BY A SEX OFFENDER WHO FAILS TO REGISTER, TO DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP PROCEDURES TO ENSURE TIMELY NOTIFICATION OF THE DIVISION OF CRIMINAL INFORMATION AND SHERIFFS OF PERSONS REQUIRED TO REGISTER WHO ARE NOT SENTENCED TO ACTIVE TIME, AND TO AUTHORIZE FUNDS FOR THE GOVERNOR'S CRIME COMMISSION TO USE TO AWARD AS MATCHING GRANTS TO ELIGIBLE SHERIFFS' OFFICES TO ENHANCE AND SUPPORT THEIR EFFORTS TO ENFORCE THE STATE'S SEX OFFENDER LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6 reads as rewritten:

"**§ 14-208.6. Definitions.**

The following definitions apply in this Article:

(1a) "Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or

the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.

(1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.

(1c) "Division" means the Division of Criminal Information of the Department of Justice.

(1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

~~(1d)~~(1e) "Employed" includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(1f) "Entity" means a business, or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service or electronic instant message or chat services whether the business or organization is within or outside the State.

(1g) "Instant Message" means a form of real-time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet.

~~(1e)~~(1h) "Institution of higher education" means any postsecondary public or private educational institution, including any trade or professional institution, college, or university.

(1i) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on the communications and related infrastructure described in this subdivision.

~~(1f)~~(1j) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.

~~(1g)~~(1k) "Nonresident student" means a person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.

~~(1h)~~(1l) "Nonresident worker" means a person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.

~~(1i)~~(1m) "Offense against a minor" means any of the following offenses if the offense is committed against a minor, and the person committing the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(1n) "Online identifier" means electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.

(2) "Penal institution" means:

a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;

b. A detention facility operated under the jurisdiction of another state or the federal government; or

c. A detention facility operated by a local government in this State or another state.

(2a) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.

(2b) "Recidivist" means a person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).

(3) "Release" means discharged or paroled.

(4) "Reportable conviction" means:

a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.

b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense

against a minor or a sexually violent offense as defined by this section, or a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state.

c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.

d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent conviction for a violation of G.S. 14-202(a), (a1), or (c), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(l) requiring the individual to register.

(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1)(felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), or G.S. 14-202.3 (Solicitation of child by computer to commit an unlawful sex ~~act).~~act), G.S. 14-318.4(a1)(parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(6) "Sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(7) "Sheriff" means the sheriff of a county in this State.

(8) "Statewide registry" means the central registry compiled by the Division in accordance with G.S. 14-208.14.

(9) "Student" means a person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education."

SECTION 2. G.S. 14-208.7(b) reads as rewritten:

"(b) The Division shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall ~~require:~~ require all of the following:

(1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, drivers license number, and home ~~address;~~address.

(2) The type of offense for which the person was convicted, the date of conviction, and the sentence ~~imposed;~~imposed.

(3) A current ~~photograph;~~photograph taken by the sheriff, without charge, at the time of registration.

(4) The person's ~~fingerprints;~~fingerprints taken by the sheriff, without charge, at the time of registration.

(5) A statement indicating whether the person is a student or expects to enroll as a student within a year of registering. If the person is a student or expects to enroll as a student within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is a student or expects to enroll as a ~~student; and~~student.

(6) A statement indicating whether the person is employed or expects to be employed at an institution of higher education within a year of registering. If the person is employed or expects to be employed at an institution of higher education within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is or expects to be employed.

(7) Any online identifier that the person uses or intends to use.

~~The sheriff shall photograph the individual at the time of registration and take fingerprints from the individual at the time of registration both of which will be kept as part of the registration form. The registrant will not be required to pay any fees for the photograph or fingerprints taken at the time of registration.~~"

SECTION 3. G.S. 14-208.8(a) reads as rewritten:

"(a) At least 10 days, but not earlier than 30 days, before a person who will be subject to registration under this Article is due to be released from a penal institution, an official of the penal institution ~~shall:~~do all of the following:

(1) Inform the person of the person's duty to register under this Article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so ~~informed;~~informed.

(2) Obtain the registration information required under G.S. 14-208.7(b)(1), (2), (5), ~~and (6).~~(6), and (7), as well as the address where the person expects to reside upon the person's ~~release; and~~release.

(3) Send the Division and the sheriff of the county in which the person expects to reside the information collected in accordance with subdivision (2) of this subsection."

SECTION 4. The catch line for G.S. 14-208.9 reads as rewritten:

"**§ 14-208.9. Change of address; change of academic status or educational employment ~~status.~~status; change of online identifier.**"

SECTION 5. G.S. 14-208.9 is amended by adding a new subsection to read:

"(e) If a person required to register changes his or her or obtains a new online identifier, then the person shall, within 10 days, report in person to the sheriff of the county with whom the person registered to provide the new or changed online identifier information to the sheriff. The sheriff shall immediately forward this information to the Division."

SECTION 6. G.S. 14-208.9A(a)(3) reads as rewritten:

"(3) The verification form shall be signed by the person and shall indicate the following:

a. ~~whether~~ Whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.

b. Whether the person still uses or intends to use any online identifiers last reported to the sheriff. If the person has any new or different online identifiers, then the person shall provide those online identifiers to the sheriff."

SECTION 7. G.S. 14-208.11(a) is amended by adding a new subdivision to read:

"(10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use."

SECTION 8. G.S. 14-208.14(a) is amended by adding a new subdivision to read:

"(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry."

SECTION 9. Part 2 of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-208.15A. Release of online identifiers to entity; fee.**

(a) The Division may release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity as provided by this section.

(b) An entity desiring to prescreen its users or compare its database of registered users to the list of online identifiers of persons in the statewide registry may apply to the Division to access the information. An entity that complies with the criteria developed by the Division regarding the release and use of the online identifier information and

pays the fee may screen new users or compare its database of registered users to the list of online identifiers of persons in the statewide registry as frequently as the Division may allow for the purpose of identifying a registered user associated with an online identifier contained in the statewide registry.

(c) The Division may charge an entity that submits a request for the online identifiers of persons in the statewide registry a fee of one hundred dollars ($100.00). Fees collected under this section shall be credited to the Department of Justice and applied to the cost of providing this service.

(d) The Division shall develop criteria and adopt rules regarding the release and use of online identifier information. The criteria shall include a requirement that the information obtained from the statewide registry shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

(e) An entity that receives a complaint from a user of the entity's services that a person who has an online identifier subject to registration on the statewide registry uses its service to solicit a minor by computer to commit an unlawful sex act as defined in G.S. 14-202.3 shall report that information to the Cyber Tipline at the National Center for Missing and Exploited Children or to the appropriate law enforcement official in this State. The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(f) An entity that complies with this section in good faith is immune from civil or criminal liability resulting from either of the following:

(1) The entity's refusal to provide system service to a person on the basis that the entity reasonably believed that the person was subject to registration under State sex offender registry laws.

(2) A person's criminal or tortious acts when the person is subject to the State sex offender registry laws, and the person:

a. Complied with the requirement to register the person's online identifier, and

b. Committed the criminal or tortious acts against a minor with whom the person had communicated on the entity's system by using the person's registered online identifier."

SECTION 10. Part 2 of Article 27A of Chapter 14 of the General Statutes is amended by adding the following new section to read:

"**§ 14-208.18. Forfeiture of licensing privileges for failure to register on the sex offender and public protection registry.**

(a) Definitions. – The following definitions apply in this section:

(1) 'Licensing board' means a department, division, agency, officer, board, or other unit of State government that issues hunting, fishing, trapping, drivers, or occupational licenses or licensing privileges.

(2) 'Licensing privilege' means the privilege of a person to be authorized to engage in an activity as evidenced by hunting, fishing, or trapping

licenses, regular and commercial drivers licenses, and occupational, professional, and business licenses.

(3) 'Occupational license' means a license, certificate, permit, registration, or any other authorization issued by a licensing board that allows a person to engage in an occupation or profession.

(b) Upon a finding by the sentencing judge that a person who has a reportable conviction or is a recidivist has failed to register with the statewide sex offender and public protection registry, and upon findings as to any specific licensing privileges held by the person, the court may revoke some or all of the privileges until the person has registered with the registry. Upon an order revoking the privileges of a person who has failed to register, the clerk of superior court shall notify the appropriate licensing board that the person has failed to register and that the person's licensing privileges are revoked until the licensing board receives proof of certification by the clerk that the person has registered.

(c) A person may file a request with the clerk of superior court for certification that the person has registered with the statewide registry. A person whose licensing privileges have been revoked under subsection (b) of this section because of a willful failure to comply with the registration requirement may file a request with the clerk of superior court for certification that the person has met the requirements of or is no longer subject to the registry requirement. The clerk shall provide a form to be used for a request for certification. If the clerk finds that the person whose licensing privileges have been revoked under subsection (b) of this section for failure to comply with registering on the statewide registry has complied with or is no longer subject to the registry requirement, then the clerk shall certify that the person has met the requirements of or is no longer subject to the requirements and shall provide a copy of the certification to the person. Upon request of the person, the clerk shall mail a copy of the certification to the appropriate licensing board.

(d) If licensing privileges are revoked under this section, the person may petition the district court for a reinstatement of the person's privileges. The court may order the privileges reinstated conditioned upon compliance with this Article. The court may order the privileges reinstated if the person has complied with or is no longer subject to the registry requirement. Upon reinstatement of the person whose licensing privileges were revoked based on failure to comply with this Article, the clerk of superior court shall certify that the person has complied with or is no longer subject to the requirements of this Article and provide a copy of the certification to the person. Upon request of the person whose licensing privileges are reinstated, the clerk shall mail a copy of the certification to the appropriate licensing board.

(e) A person whose licensing privileges are reinstated under this section may provide a copy of the certification set forth in either subsection (c) or (d) of this section to each licensing agency to which the person applies for reinstatement of licensing privileges. Upon request of the person, the clerk shall mail a copy of the certification to the appropriate licensing board. Upon receipt of a copy of the certification, the licensing board shall reinstate the license.

(f) Upon receipt of notification by the clerk that a person's licensing privileges are revoked pursuant to this section, the board shall note the revocation on its records and take all necessary steps to implement and enforce the revocation. These steps shall not include the board's independent revocation process pursuant to Article 3A of Chapter 150B of the General Statutes, the Administrative Procedure Act, which process is replaced by the court process prescribed by this section. The revocation pertaining to a person shall remain in full force and effect until the board receives certification under this section that the person has complied with the requirements of this Article. The revocation pertaining to the person whose licensing privileges were revoked on the basis of failure to comply with this Article shall remain in full force and effect until the board receives certification of reinstatement under subsection (d) of this section."

SECTION 11. Chapter 93B of the General Statutes is amended by adding a new section to read:

"**§ 93B-13.1. Revocation when licensing privilege forfeited for failure to register on the sex offender and public protection registry.**

(a) Upon receipt of a court order pursuant to G.S. 14-208.18 or notice that an individual has failed to register on the statewide registry as required, the occupational license of a licensee under its jurisdiction shall be revoked. An occupational licensing board shall note the revocation in its records, report the action within 30 days to the Department of Justice, Division of Criminal Statistics, and follow the normal post-revocation rules and procedures of the board as if the revocation had been ordered by the board. The revocation shall remain in effect until the board receives certification by the clerk of superior court or the Division of Criminal Statistics that the licensee has complied with the registry requirements under Part 2 of Article 27A of Chapter 14 of the General Statutes or is no longer subject to the registry requirements that were the basis for the revocation.

(b) If at the time the court revokes a license pursuant to subsection (a) of this section the occupational licensing board has revoked the same license under the licensing board's disciplinary authority over licensees under its jurisdiction and that revocation period is greater than the revocation period resulting from forfeiture pursuant to G.S. 14-208.18, then the revocation period imposed by the occupational licensing board applies. If the period during which the license was revoked was less than two years, the board shall reinstate the license. If, however, the period of revocation was greater than two years, the board may, in its discretion, require the licensee to demonstrate competence as a condition of reinstatement.

(c) If at the time the court revokes a license pursuant to subsection (a) of this section the occupational licensing board has taken disciplinary action pursuant to the same license under the licensing board's disciplinary authority over licensees under its jurisdiction and the duration of that disciplinary action is greater than the revocation period resulting from forfeiture pursuant to G.S. 14-208.18, then the board shall have no obligation to reinstate the license as provided in (b) in this section and the disciplinary action imposed by the board shall continue in effect."

SECTION 12. By December 1, 2007, the Administrative Office of the Courts, in consultation with the North Carolina Department of Justice, North Carolina

Department of Correction, and the North Carolina Sheriffs' Association shall develop a procedure to ensure timely notification to the Division of Criminal Information, Department of Justice, and to sheriffs regarding any person subject to registration under Article 27A of Chapter 14 of the General Statutes who does not receive an active term of imprisonment, as specified in G.S. 14-208.7(a).

SECTION 13.(a) Funds are authorized to be allocated to the Governor's Crime Commission for award as grants to eligible sheriffs' offices to assist with the enforcement of the State's sex offender laws. The grants shall be awarded specifically to enhance and support law efforts by sheriffs to do the following: (i) process and conduct in-person sex offender registrations, (ii) monitor compliance of sex offenders as required under Article 27A of Chapter 14 of the General Statutes, and (iii) conduct activities to investigate and apprehend persons who commit reportable offenses as defined under Article 27A of Chapter 14 of the General Statutes. Eligible sheriffs' offices are required to provide non-State matching funds equal to twenty-five percent (25%) of the grant amount awarded under this section., one-half of which may be in in-kind contributions.

SECTION 13.(b) The Commission shall establish the criteria regarding the eligibility and amount of the awards for the grants described in this section. The grant criteria shall include consideration of all of the following:

(1) The number of convicted sex offenders in the county of the applicant.
(2) The level of community support for the grant award.
(3) Whether the application identifies a problem that is consistent with the purposes of this initiative.
(4) The development and maintenance by the applicant with other public safety agencies to regularly exchange information and intelligence.
(5) Whether the application articulates clearly the jurisdiction's goals, outcomes, and objectives and describes the accountability system and performance measures to determine progress towards achieving them.

SECTION 13.(c) Any grants allocated shall not revert to the General Fund but shall remain with the Commission for the purposes described in this section.

SECTION 13.(d) The grant funds described by this section shall supplement, and not supplant, existing funds and services provided for the tracking of registered sex offenders. The grants shall be subject to established fiscal controls, annual reporting, and accountability requirements specified by the Commission.

SECTION 13.(e) This section is effective only if funds are appropriated to implement it. Nothing in this section shall obligate or require the State to appropriate funds for the purposes set forth in the section.

SECTION 14. Sections 12 and 14 of this act are effective when they become law. Section 13 of this act becomes effective August 1, 2007. The remainder of this act becomes effective December 1, 2007, and applies to persons who are required to register under Article 27A of Chapter 14 of the General Statutes on or after that date. The requirements related to online identifiers apply to persons whose initial registration under Article 27A of Chapter 14 of the General Statutes occurs on or after December 1, 2007, and to persons who are registered under Article 27 of Chapter 14 of the General

Statutes as of December 1, 2007, but only after the first verification of registration that occurs on or after that date.

SENATE BILL 869:
Sex Offender/Register E-Mail Address.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 11, 2007
Introduced by:	Sen. Boseman	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition S869-CSSVf-42		Committee Counsel

SUMMARY: Senate Bill 869 does the following:

- ***It would add two existing criminal offenses to the list of offenses requiring registration on the sex offender registry.***
- ***It would require persons who are required to register on the sex offender registry to register their email addresses and any other 'online identifiers' the person uses or intends to use for communicating on the Internet.***
- ***It would allow entities that provide Internet services to obtain, upon payment of a $100 fee, a list of registered offenders and their online identifiers for the purpose of prescreening users.***
- ***It would provide these entities with immunity from civil and criminal liability for criminal or tortious acts committed against a minor by a person with a registered online identifier who uses the entity's services.***
- ***It would authorize a sentencing judge to revoke any and all licensing privileges, including a drivers, hunting, fishing, occupational, or business license, of a person who fails to properly register on the sex offender registry.***
- ***It would authorize the allocation of funds to the Governor's Crime Commission to be used to award grants to sheriffs' offices to support sex offender enforcement efforts.***

BILL ANALYSIS:

Section 1: Adds definitions to the sex offender registry statutes, including: electronic mail, entity, instant message, internet, and online identifier. Also adds two existing criminal offenses to the list of offenses that would require registration on the sex offender registry:

- G.S. 14-318.4(a1) – Parent or caretaker commit or permit act of prostitution with or by a juvenile.
- G.S. 14-318.4(a2) - Commission or allowing of sexual act upon a juvenile by parent or guardian.

Section 2: Requires that forms used by sheriffs to register sex offenders include any online identifier that the person either uses or intends to use.

Section 3: Amends the statute that requires a confinement facility to collect information for the registry from prisoners who are pending release (more than 10 days, but less than 30 days from release date).

Sections 4 and 5: Requires that the person report in person, within 10 days, to the sheriff to register any new or changed online identifier information. It requires the sheriff to forward this information to the Division of Criminal Information (DCI).

Section 6: Amends the statute requiring semiannual verification to require the offender to provide updated online identifier information.

Section 7: Amends penalty statute to provide that a person who willfully fails to provide an online identifier that the person uses or intends to use is guilty of a Class F felony. As a practical matter, this prohibits a registered offender from using an email address or other online identifier that the person has not registered with the sheriff.

Section 8: Requires the DCI to maintain a system that allows entities to access a list of online identifiers of persons in the sex offender registry.

Section 9:

- Authorizes DCI to release to qualifying entities, upon payment of a $100 fee, online identifier information of registered sex offenders. An entity is defined as a business or organization that provides Internet service, electronic communications service, remote computing service, online service, email service, instant message, or chat service, whether it is within or outside this State. DCI must establish criteria and rules regarding the release and use of information. Specifically, an entity may only use this information to prescreen users or compare the database of registered users of the entity against the online identifiers of persons in the registry.
- Requires an entity that receives a complaint from a user regarding another user who uses the entity's service to solicit a minor to commit an unlawful sex act and who has a registered online identifier to report the information to the Cyber Tipline at the National Center for Missing and Exploited Children or an appropriate law enforcement official.
- Provides immunity to an entity from civil or criminal liability resulting from:
    - The entity's refusal to provide service to a person based on the person's registration in the sex offender registry.
    - Criminal or tortious acts committed by a registered sex offender who registered his or her online identifier and committed the criminal or tortuous acts against a minor with whom the person communicated on the entity's system using the person's registered online identifier.

Section 10: Authorizes the sentencing judge who finds that a person has failed to comply with the sex offender registry laws to revoke some or all of the person's licensing privileges until the person is registered. The statute provides for notification by the clerk of court to the licensing agencies. It also provides that an offender may file with the clerk a request for certification based on meeting the registry requirements or that the person is no longer subject to registration, and may petition the district court for reinstatement.

The boards are to take action on revocations upon receipt of notice, and the actions of the board are not subject to the Administrative Procedures Act. A revocation under the procedure in the statute is to remain in place until such time as the board receives the required notice from the clerk of court.

Section 11: Provides for revocation of an occupational license upon receipt of a court order. The revocation is to remain in place until notification of compliance with the State registry laws. If the period of revocation exceeds two years, the licensing board may, in its discretion, require the licensee to demonstrate competence as a condition of reinstatement. Revocations resulting from the board's own disciplinary action are not superseded by the provisions of the statute.

Section 12: Requires the Administrative Office of the Courts, in consultation with the N.C. Department of Justice, N.C. Department of Correction, and the North Carolina Sheriff's Association, to develop by

December 1, 2007, a timely procedure to notify DCI when a person subject to the registration laws does not received an active term of imprisonment.

Section 13: Authorizes funds to be allocated to the Governor's Crime Commission to award grants to sheriffs' offices. The funds are to be used for assisting in the registration and monitoring requirements of the sex offender registry statutes, and the investigation and apprehension of persons who commit reportable offenses. An eligible sheriff's office would be required to match 25% of the funds. The funds would not revert to the General Fund, and shall not supplant any existing funds provided for tracking registered sex offenders.

PROPOSED COMMITTEE SUBSTITUTE: The PCS makes the following changes to the Second Edition of the bill.

- It amends the definition of 'online identifier' to specifically exclude social security number, date of birth, or pin number.
- It deletes the requirement that an offender execute a voluntary consent form upon registration that would authorize an entity to provide to the sheriff and DCI any information pertaining to the person necessary to determine the veracity of the person's online identifier.
- It changes the requirement that an offender register, in person, changes to or new online identifiers "before using the online identifier" to "within 10 days" of the change to be consistent with the other provisions for providing changed information, including address, academic status, and educational employment status.
- It adds a requirement that entities must report to the Cyber Tipline at the National Center for Missing and Exploited Children or the appropriate law enforcement official when it receives a complaint from a user about another user who is using the entity's service to solicit a minor to commit an unlawful sex act and the person has an email address subject to registration on the sex offender registry.
- It adds a provision that if an offender has a licensing privilege reinstated by the court and the revocation period exceeded two years, then the licensing board would have discretion to require the licensee to demonstrate competence prior to reinstatement.
- It modifies the grant provision by reducing the matching requirement to 25%.
- It modifies the effective date to provide that offenders will be required to register their online identifiers beginning with any initial registrations or verifications of registration that occur on or after December 1, 2007.

EFFECTIVE DATE: Section 12 is effective when it becomes law. Section 13 becomes effective July 1, 2007. The remainder of the act is effective December 1, 2007, and applies to persons who are on the sex offender registry as of that date, and to any person required by law to be on the registry on or after that date.

Hal Pell, counsel to Senate Judiciary I, substantially contributed to this summary.

S0869e2-SMSV-CSSVf-42

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 10, 2007

TO: Senator Boseman

FROM: Jean Sandaire and Jim Mills
Fiscal Research Division

RE: S869-CSSVf-42 [v.6]

FISCAL IMPACT

	Yes (X)	No ( )		No Estimate Available ( )	
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
GENERAL FUND					
Correction		DOC estimate assumes minimum fiscal impact of bill			
Recurring		$160,026	$460,874	$474,701	$488,942
Nonrecurring	$1,088,640 (16 beds)				
Judicial (Sect 10,11,12)					
Recurring	$157,856	$269,738	$283,225	$297,386	$312,355
Nonrecurring	$349,733				
Justice					
Recurring	$260,800	$268,624	$276,682	$284,983	$293,533
Non-recurring	$320,000				
Local Law Enforcement/ Crime Control	Sect 13 authorizes issuance of grants by Crime Control for local enforcement of sex offender laws but amount needed is not listed in bill and is unknown				
TOTAL EXPENDITURES	*$2,177,029*	*$698,388*	*$1,020,781*	*$1,057,070*	*$1,094,830*
REVENUE (FEES)	$100 fee for access to Justice information on sex offender online identifiers but cannot estimate # of users				
PRISON BEDS: (cumulative)*	NA	6	16	16	16
POSITIONS: (cumulative)					
Correction	-	2	6	6	6
Judicial	3	3	3	3	3
Justice	3	3	3	3	3

TOTAL	6	8	12	12	12

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch, Department of Justice, Crime Control and Public Safety.

EFFECTIVE DATE: Section 12 is effective when it becomes law. Section 13 becomes effective July 1, 2007. The remainder of the act is effective December 1, 2007, and applies to persons who are on the sex offender registry as of that date, and to any person required by law to be on the registry on or after that date.

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY (General Assembly Research Division)

This act would require persons required to register on the State sex offender registry to include any identifier the person uses or intends to use for the purpose of communicating on the Internet. The identifying information would be available to entities that provide Internet services for the purpose of allowing the entity to prescreen users, or for comparison with the registry for the purpose of protecting minors. The act also provides for the forfeiture of licensing privileges for a person who fails to properly register on the sex offender registry, and adds offenses which will require registration. The act applies to persons who are on the sex offender registry on or after December 1, 2007.

Section 1: Adds definitions to the sex offender registry statutes, including: electronic mail, entity, instant message, internet, and on-line identifier. Also adds two new offenses under the definition of "sexually violent offense"

- G.S. 14-318.4(a1) – Parent or caretaker commit or permit act of prostitution with or by a juvenile.
- G.S. 14-318.4(a2) - Commission or allowing of sexual act upon a juvenile by parent or guardian.

Section 2: Requires that forms used by sheriffs to register sex offenders include any online identifier that the person either uses, or intends to use. The registrant would also be required to execute a consent form that allows entities (as defined by the act) to provide information to the sheriff and Division of Criminal Information (DCI) necessary to determine accuracy of registry information.

Section 3: Amends the statute that requires a confinement facility to collect information for the registry from prisoners who are pending release (more than 10 days, but less than 30 days from release date).

Section 4: Amends catch line of statute.

Section 5: Prohibits a person required to register from using any online identifier that is not included in their registration. Also requires that the person report in person to the sheriff to register any changes, and to execute the necessary consent form authorizing entities to release information.

Section 6: Amends the statute requiring semiannual verification to provide for an updated or new consent form authorizing an entity to provide information to the Sheriff and the DCI.

Section 7: Amends penalty statute to provide that a person who willfully fails to provide an online identifier is guilty of a Class F felony.

Section 8: Requires the DCI to maintain a system that allows entities to compare the database of registered users of the entity to the line of online identifiers of persons in the sex offender registry.

Section 9: Requires the DCI to develop criteria and adopt rules for allowing entities, for a fee of one hundred dollars ($100), to review the database of online identifiers. The authorized purposes include the

prescreening of users or comparing the database of registered users of the entity against the online identifiers of persons in the registry to protect children from online sexual predators. The rules shall also require that the entity notify the DCI when a comparison indicates that a registered offender's online identifier is being used on the entity's system.

Section 10: Authorizes a judge who finds that a person has failed to comply with the sex offender registry laws to revoke some or all of the person's licensing privileges until the person has registered. The statute provides for notifications to the licensing agencies; requests for certification based on meeting the registry requirements or that the person is no longer subject to registration, to be filed with the clerk of court; and petitions to the district court for reinstatement.

The boards are to take action on revocations upon receipt of notice, and the actions of the board are not subject to the Administrative Procedures Act. A revocation under the procedure in the statute is to remain in place until such time as the board receives the required notice from the clerk of court.

Section 11: Provides for revocation of an occupational license upon receipt of a court order. The revocation is to remain in place until notification of compliance with the State registry laws. Revocations resulting from the board's own disciplinary action are not superseded by the provisions of the statute.

Section 12: Requires the Administrative Office of the Courts, in consultation with the N.C. Department of Justice, N.C. Department of Correction, and the North Carolina Sheriff's Association, to develop by December 1, 2007, a timely procedure to notify DCI when a person subject to the registration laws does not received an active term of imprisonment.

Section 13.(a) – Section 13.(e) Authorizes funds to the Department of Crime Control and Public Safety, to be allocated to the Governor's Crime Commission to award grants to sheriffs' offices. The funds are to be used for assisting in the registration and monitoring requirements of the sex offender registry statutes, and the investigation and apprehension of persons who commit reportable offenses. The funds would be available on a matching grant basis, dollar for dollar.

The funds would not revert to the General Fund, and shall not supplant any existing funds provided for tracking registered sex offenders.

<u>The Proposed Committee Substitute makes the following changes to the Second Edition of the bill:</u>

- It amends the definition of 'online identifier' to specifically exclude social security number, date of birth, or pin number.
- It deletes the requirement that an offender execute a voluntary consent form upon registration that would authorize an entity to provide to the sheriff and DCI any information pertaining to the person necessary to determine the veracity of the person's online identifier.
- It changes the requirement that an offender register, in person, changes to or new online identifiers "before using the online identifier" to "within 10 days" of the change to be consistent with the other provisions for providing changed information, including address, academic status, and educational employment status.
- It adds a requirement that entities must report to the Cyber Tipline at the National Center for Missing and Exploited Children or the appropriate law enforcement official when it receives a complaint from a user about another user who is using the entity's service to solicit a minor to commit an unlawful sex act and the person has an email address subject to registration on the sex offender registry.
- It adds a provision that if an offender has a licensing privilege reinstated by the court and the revocation period exceeded two years, then the licensing board would have discretion to require the licensee to demonstrate competence prior to reinstatement.

- It modifies the grant provision by reducing the matching requirement to 25%.
- It modifies the effective date to provide that offenders will be required to register their online identifiers beginning with any initial registrations or verifications of registration that occur on or after December 1, 2007.

Source: Research Division

ASSUMPTIONS AND METHODOLOGY:

The proposed committee substitute does not affect the estimated fiscal impact of this bill.

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction – Division of Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,[1] and represent the total number of beds in operation, or authorized for construction or operation as of December 6, 2006. Official Department of Correction capacity projections also assume the General Assembly will fund 500 additional prison beds, generated by partial double-celling of the future Tabor City facility (inmate admission FY 2008-09). However, Fiscal Research does not include these 500 beds in capacity estimates (row two), since these beds have not been authorized for funding.

Based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon or beyond.* Therefore, the number of *additional beds needed* (row five) is *always equal to* the projected number of *additional inmates* resulting from a bill (row four). Rows four and five in the chart demonstrate the impact of SB 869. As shown, the Sentencing Commission estimates that this specific legislation will add 16 inmates to the prison system by the end of FY 2011-12.

	June 30 2008	June 30 2009	June 30 2010	June 30 2011	June 30 2012
1. Projected No. of Inmates Under Current Structured Sentencing Act [2]	39,621	40,236	41,021	41,848	42,718
2. Projected No. of Available Prison Beds (DOC Expanded Capacity)	38,505	39,353	39,353	39,353	39,353
3. Projected No. of Beds Over/Under Inmate Population	-1,116	-883	-1,668	-2,495	-3,365
4. Projected No. of Additional					

[1] Expanded Operating Capacity (EOC) is: 1) the number of single cells housing one inmate, 2) the number of single cells housing two inmates, and 3) the number of beds in dormitories, allowing between 35 (130% of SOC) and 50 (SOC) square feet per inmate.

[2] The Sentencing and Policy Advisory Commission prepares inmate population projections annually. These projections are derived from: historical information on incarceration and release rates under Structured Sentencing; crime rate forecasts by a technical advisory group; probation and offender revocation rates; and the decline (parole and max-outs) of the stock prison population sentenced under prior sentencing acts. Projections were updated in December 2006.

Inmates Due to this Bill[3]	*N/A*	*6*	*16*	*16*	*16*
5. No. of Additional Beds Needed Each Fiscal Year Due to this Bill	***N/A***	***6***	***16***	***16***	***16***

POSITIONS: It is anticipated that by FY 2011-12, approximately 6 positions would be needed to supervise the additional inmates housed under this bill. This position total includes security, program, and administrative personnel at a ratio of approximately one employee for every 2.5 inmates. This ratio is the combined average of the last seven prisons opened by DOC – two of the prisons were medium custody and five were close custody.

FISCAL IMPACT BEYOND FIVE YEARS: Fiscal notes examine a bill's impact over a five-year horizon, through FY 2011-12. However, when information is available, Fiscal Research also attempts to quantify longer-term impacts. Accordingly, the chart below illustrates the projected number of available beds given current conditions; the projected number of additional inmates due to (bill number); and, the estimated number of new beds required each year through FY 2015-16.

	June 30 2013	June 30 2014	June 30 2015	June 30 2016
1. Available Beds (Over/Under) Under Current Structured Sentencing	-4,234	-5,117	-5,996	-6,866
2. ***Projected No. of Additional Inmates Resulting From (Bill Number)***				
3. ***Estimated No. of New Beds Required Under (Bill Number)***		***Cannot be determined***		

CONSTRUCTION: Construction costs for new prison beds, listed in the following chart, are derived from Department of Correction cost range estimates (FY 2006-07) for each custody level, and assume Expanded Operating Capacity (EOC). Figures represent the midpoints of each range.

As shown, there are two primary options for prison bed construction: 1) a "stand alone," or entirely new institution;[4] or, 2) an addition within or adjacent to the perimeter of an existing institution, termed an "add-on."[5] Cost estimates for "add-on" beds are based upon a prototypical design, and assume that program/core support from the base institution will support 500 additional close or medium custody inmates, or 250 additional minimum custody inmates. "Add-on" costs are lower, relative to "stand-alone," due partly to the usage of existing sites and infrastructure.

Estimated Construction Cost per Custody Level, FY 2006-07

Custody Level	Minimum	Medium	Close
Cost Per Bed: EOC "Stand Alone"	$56,000	$63,000	$109,000
Cost Per Bed: EOC "Add-On"	$52,000	$39,000	$71,000

Construction costs are shown as *non-recurring costs in the "Fiscal Impact" table* (p.1). An annual inflation rate of eight percent (8.0%) is applied to these base costs.[6] As illustrated (p.1), these costs also assume that

[3] Criminal penalty bills effective December 1, 2007 should not affect prison population and bed needs until FY 2008-09, due to the lag time between offense charge and sentencing - 6 months on average. No delayed effect is presumed for the Court System.
[4] New, "stand alone" institution built for Expanded Operating Capacity; single cells are assumed for close custody, and dormitories are assumed for medium and minimum custody (occupancy no greater than 130% of SOC).

[5] Close and medium custody "add-on" facilities are built within the perimeter of an existing 1,000-cell Close Security Institution; a minimum custody "add-on" is built adjacent to an existing perimeter. Add-on facilities built for EOC employ the same custody configurations as "stand alone" (i.e. single cells for close custody, and dorms for medium and minimum custody levels).
[6] Office of State Construction, March 24, 2006.

funds to construct beds at a "stand alone" facility should be budgeted four years in advance, since building a prison typically requires four years for site selection, planning, design, construction, and occupancy. The overall duration for facility addition ("add-on") is shorter, requiring that funds be budgeted three years in advance.

Accordingly, given an increase of 16 inmates, bed provision through construction of a "stand alone" facility could cost approximately $1,088,640. Provision through "add-on" could cost approximately $624,000.

OPERATING: Operating costs are based on actual FY 2005-06 costs for each custody level, as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical, etc.), and administrative overhead costs for the Department and the Division of Prisons. A three percent (3.0%) annual inflation rate is applied to these base costs, as shown in the *recurring costs estimate in the "Fiscal Impact" table* (p.1).

Daily Inmate Operating Cost per Custody Level, FY 2005-06

Custody Level	Minimum	Medium	Close	Daily Average
Daily Cost Per Inmate	$54.81	$70.83	$79.72	$66.87

Assuming daily average cost of $24,408 in 05/06, plus inflation the cost will be $160,026 in 2008/09 to operate 6 new beds and $460,874 to operate 16 beds.

Methodology for Prison Bed Impact

The following chart summarizes the minimum bed impact for each criminal penalty in the bill. Further discussion of the basis for these estimates follows the chart.

Change in Offense	Prison Bed Impact				
Expands # Offenders who must register as Sex offenders	FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12
Fail to Comply with Photo Class 1 Misd	Possible minor impact on local jails				
Fail to Register violations and certain residential restrictions/working with children Class F		1	3	3	3
Fail to report Non=Compliance Class H		1	2	2	2
Violate Residential Restrictions Class G		1	2	2	2
Failure to Register Email (NEW) Class F		1	3	3	3
Fail to Enroll in GPS Class F		1	3	3	3
Tamper with GPS Device Class E		1	3	3	3
TOTAL Beds		**6**	**16**	**16**	**16**

Source: Sentencing and Policy Advisory Commission

The following analysis of the impact of SB 869 on Correction is primarily based on comments from the Sentencing Commission. Since the data on these offenses did not allow the Commission to use the prison population simulation model, Fiscal Research used Commission data for a "what if" scenario based on the bed impact if a small number of convictions occurred.

Section 1

Section 1 of the proposed bill amends G.S. 14-208.6(5), the definition of "sexually violent offense," to include G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile) and G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). In FY 2005/06, there were no convictions under G.S. 14-318.4(a1) and eight convictions under G.S. 14-318.4(a2), both of which are Class E felonies.

Adding these offenses to the definition of "sexually violent offenses" expands the group of "reportable offenses" requiring registration as a sex offender. The expanded group of reportable offenses expands the pool of potential convictions under:

- G.S. 14-208.9A(c) (sex offender failure to comply with Sheriff's request for new photo; Class 1 misdemeanor)
- G.S. 14-208.11(a) (failure to register; Class F felony)
- G.S. 14-208.11A (fail to report non-compliance of sex offender; Class H felony)
- G.S. 14-208.16 (violation of sex offender residential restriction; Class G felony)
- G.S. 14-208.17 (registrant working or volunteering for child-involved activities, violation of limitations on residential use; Class F felony)

In FY 2005/06, there were 234 convictions for failure to register under G.S. 14-208.11(a) (which represents an increase from 147 convictions in FY 2004/05 and 116 convictions in FY 2003/04). With the exception of G.S. 14-208.11(a), the listed offenses are new offenses (effective December 1, 2006). As a result, there are no historical data available for these offenses.

It is not known how many of the additional offenders under this section will fail to comply with their registration requirements.

- G.S. 14-208.9A(c): In FY 2005/06, 20% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 31 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, additional Class 1 convictions under this proposed bill would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

- G.S. 14-208.11(a) and G.S. 14-208.17: In FY 2005/06, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two additional Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.

- G.S. 14-208.11A: In FY 2005/06, 34% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. If, for example, there were three additional Class H convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.

- G.S. 14-208.16: In FY 2005/06, 42% of Class G convictions resulted in active sentences, with an average estimated time served of 16 months. If, for example, there were two additional Class G convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.

Adding G.S. 14-318.4(a1) and G.S. 14-318.4(a2) to the group of reportable offenses also expands the pool of persons potentially required to submit to GPS monitoring under G.S. 14-208.40(a)(2) (subject to DOC's risk assessment), which could result in additional resource needs for DCC. *Based on analysis by the Division of Community Corrections and discussions with Fiscal Research, DOC does not expect any significant increase in the number of offenders on GPS.*

The new group required to submit to GPS monitoring would expand the potential pool of offenders under G.S. 14-208.44, subsections (a) (failure to enroll; Class F felony) and (b) (tampering with GPS device; Class E felony). However, it is not known how many of the additional offenders under this section will be required to submit to GPS monitoring and may fail to enroll or tamper with the GPS device. These offenses are new offenses (effective December 1, 2006). As a result, there are no historical data available for these offenses.

- G.S. 14-208.44(a): In FY 2005/06, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two additional Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.

- G.S. 14-208.44(b): In FY 2005/06, 49% of Class E convictions resulted in active sentences, with an average estimated time served of 31 months. If, for example, there were two additional Class E convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. In addition, since a period of Post-Release Supervision follows release from prison for offenders convicted of Class B1-E felonies, there will be some impact on Post-Release Supervision caseloads and prison beds due to revocations.

Section 7

The proposed bill amends several statutes governing sex offender registration to require that offenders include in their registration information any "online identifier" (*e.g.*, e-mail address) that they use or intend to use and to prohibit the use of any such identifier before it is provided to the Sheriff. Section 7 of the proposed bill creates a new offense under G.S. 14-208.11(a) (failure to register) by making it a Class F felony to fail to provide such online identifiers during registration. Failure to comply with registration requirements at any point during the registration period is a Class F felony. In FY 2005/06, there were 234 convictions for failure to register under G.S. 14-208.11(a).

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2005/06, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two additional Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.[7]

General supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from $7.71 to $14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is $14.97 for the initial six-month intensive duration, and $1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Adding G.S. 14-318.4(a1) and G.S. 14-318.4(a2) to the group of reportable offenses also expands the pool of persons potentially required to submit to GPS monitoring under G.S. 14-208.40(a)(2) (subject to DOC's risk assessment), which may result in additional resource needs for DCC and may also result in impact to the prison population due to revocation. Based on analysis by the Divsion of Community Corrections and discussions with Fiscal Research, DOC does not expect any significant increase in the number of offenders on GPS.

Offenders supervised by DCC are required to pay a $30 supervision fee monthly, while those serving community service pay a one-time fee of $200. Offenders on house arrest with electronic monitoring must also pay a one-time $90 fee. These fees are collected by the Court System and are credited to the General Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of $90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

Department of Justice

The Department of Justice (DOJ) currently operates the sex offender registry database. This bill requires that the Department expand the database to collect Internet identification information. DOJ estimates that it will cost $735,718 in 2007-08 and $380,233 in 2008-09 to implement this bill. The additional costs are associated with database development/maintenance, software/equipment purchases and additional staff positions to support the database's expanded purpose. These estimates have been adjusted based on information received from the agency to more accurately reflect the anticipated cost of implementing this bill. More specifically, the following adjustments were made:

[7] DCC incurs costs of $0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

Fiscal Research Division Adjustments

		DOJ Estimate	FRD Estimate
		Recurring	**Recurring**
1	Salary and wages	$ 275,928	**$ 210,300**
2	Benefits/Medical	$ 63,020	**$ 39,000**
3	Office Lease	$ 23,625	**$ 0**
4	Operating Expenses	$ 17,660	**$ 11,500**
	Total Recurring	**$ 380,233**	**$ 260,800**
		Nonrecurring	**Nonrecurring**
5	IT Contractors	$ 254,139	**$ 254,000**
6	Furniture	$ 16,000	**$ 10,600**
7	Auto/Accessories	$ 23,800	**$ 23,200**
8	Computers	$ 46,897	**$ 21,000**
9	Training, Equipment and Software	$ 14,649	**$ 11,200**
	Total Nonrecurring	**$ 355,485**	**$ 320,000**
Total Requirements		$ 735,718	$ 580,800

Position cost reduction. The agency estimate included funding for 5 staff positions to support the database's expanded purpose: Two IT positions for database development and maintenance, a Computer Crimes Agent to investigate/apprehend violators and two Information Processing Technicians to support database operations and ensure data input accuracy. The two Information Processing Technician positions were taken out of the agency's estimate. The agency already has staff doing information monitoring/database support functions for the sex offender registry. This bill does not create a new process. It adds an additional function to the information monitoring process. This bill will not increase agency's workload enough to require two additional staff positions. (-$89,648). *(NOTE: House Budget includes two new Computer Crimes Agent positions, but these funds cannot be considered to cover the cost of this bill unless these positions are included in the final budget).*

Offices Lease cost reduction The agency indicated that they will need an additional 1,500 square feet of work space to accommodate the staff positions requested at a total cost of $23,625. As part of their 2007-09 agency budget request, the agency requested over 40 staff positions to support the agency's office and field operations with no request for additional office space to accommodate the new staff positions. It is very unlikely that the agency will be receiving an additional 40 positions in the budget process. They should have space to accommodate the three staff positions needed to implement this bill. The agency estimate was reduced to eliminate the costs built in for lease space. (-$23,625)

Furniture cost reduction The agency requested $16,000 for furniture cost. This amount was reduced to reflect the amount of furniture needed to accommodate three staff positions recommended. (-$5,400)

Computer cost reduction The agency estimate for computer costs was reduced base on the number of units needed to accommodate the three staff positions. Amounts requested for high-tech computers for similar functions in prior agency requests further justifies this reduction. (-$25,897)

Training, equipment, software and operating cost reduction The amount requested for training, equipment, software other operating expenses was reduced to reflect the amount needed for three staff positions. Also,

the agency mentioned that some of the software costs were already included in the computer cost estimate. (-$10,341)

Based on the adjustments made, the Fiscal Research Division estimates that it will cost $580,800 in 2007-08 and $260,800 in 2008-09 to implement this bill.

NOTE: *Section 9 of the bill allows DOJ to collect a fee from entities to review the database for online identifiers but there is no way to determine the number of entities that will choose to use this service. This fee may offset some of the costs detailed in this Note for DOJ.*

Judicial Branch

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Sections 1-11
Section 1: Expand definition of sexually violent offense

This bill expands the definition of sexually violent offense to include certain child abuse offenses, thus expanding the pool of defendants who would be required to register as sex offenders if convicted of these offenses.

Under current law, defendants with certain reportable convictions, including a conviction for a sexually violent offense, must register with the Sex Offender and Public Protection Registration Program or the Sexually Violent Predator Registration Program. Failure to register is punishable as a Class F felony under current GS 14-208.11. This bill expands current GS 14-208.6(5) by adding two child abuse offenses to the list of sexually violent offenses: a parent committing or permitting prostitution with or by a juvenile (GS 14-318.4(a1)) and the commission or allowing of a sexual act upon a juvenile by a parent (GS 14-318.4(a2)).

AOC data for calendar 2006 show approximately 5 defendants charged and none convicted under current GS 14-318.4(a1); there were 47 charged and 16 convicted under current GS 14-318.4(a2). AOC has no data from which to determine the number of defendants convicted of these child abuse offenses who would fail to register as a sex offender, or thereafter violate provisions of the Program.

Sections 2, 5, 6, and 7: Registration and updating of online identifier

Section 2 of this bill expands the type of information collected on the sex offender registration form by requiring the registrant to provide any online identifier, as defined in new GS 14-208.6(1o), that he/she uses or intends to use. Section 5 prohibits a registrant from using any online identifier that has not been included on the registration form, and requires him/her to notify the sheriff of any changes to the online identifier before using it. Online identifier is defined broadly to include electronic mail addresses, and instant message, IP and other Internet communication addresses.

Section 5 also requires a registrant to execute a consent form enabling the sheriff and Department of Justice to obtain any information necessary to verify his/her changed or new online identifier. Section 6 expands current GS 208.9A by providing that a registrant who has an online identifier must update the consent form or execute a new one to enable the sheriff and DOJ to verify the online identifier.

Current GS 14-208.11(a) provides that a person required to register is guilty of a Class F felony if he/she fails to register, fails to return the verification form, or fails to update registry information. Section 7 of this bill expands current GS 14-208.11(a) by specifying that it is a Class F felony to fail to provide an online identifier as required.

AOC data for calendar 2006 show 716 defendants charged under current GS 14-208.11. AOC has no data from which to estimate the number of sex offenders with online identifiers who would fail to register or update them as required by this bill. Thus we cannot estimate the number of additional felony charges that would arise. Considering the prevalence of Internet communication, a substantial number of additional violations could arise. For any new charges, there would be an increase in the workload of superior court judges, district attorneys, clerks, court reporters, and indigent defense counsel.

Sections 10 and 11: Revocation of licensing privileges for failure to register as sex offender

This bill outlines new procedures for revoking the licensing privileges of persons who fail to register as sex offenders under current Article 27A of Chapter 14.

Current GS 15A-1331A(b) provides that the licensing privileges of a person convicted of a felony are automatically forfeited for the full term of his/her probation period if he/she was offered a suspended sentence conditioned upon acceptance of probation and rejects probation, or probation is revoked or suspended. „Licensing privilege_ is defined in current GS 15A-1331A(a)(2) to include regular and commercial driver's licenses, occupational licenses, and hunting and fishing licenses and permits.

New GS 14-208.18 provides that the court may revoke some or all of the licensing privileges of a person who has failed to register as a sex offender. Licensing privilege is broadly defined to include regular and commercial driver's licenses, hunting, fishing, and trapping licenses, and occupational, business, and professional licenses. The person may petition the court for reinstatement of the licensing privileges; the court may reinstate such privileges if the person has complied with or is no longer subject to the registry requirement.

AOC assumes that for every person charged with failure to register, the court would devote time to consider revocations. Given the importance of licensing privileges, it can be anticipated that the prospect of having these privileges revoked as a result of failing to register or failing to update registration information would affect prosecution and defense strategies, and that all persons whose privileges are revoked would seek reinstatement of such privileges.

Fiscal Research generally agrees with this analysis. While it is unlikely all 716 offenders who fail to register will have licenses of some type, the broad range of licenses covered in the bill (including drivers licenses) makes it likely that a large majority of the 716 cases will fall under the proposed law.

If an average of two hours of in-court time, including revocation and reinstatement proceedings, is spent on each of the 716 defendants charged with failure to register under current GS 14-208.11, these 1,432 hours would require one position each for a district court judge, clerk, and assistant district attorney. Cost for each position is:

Position	07/08 (7 mos.)Recurring	07/08 NR	FY 08/09
ADA	$55,544	$3,596	$95,598
Dist Court Judge	$21,786	$2,203	$37,480
Deputy Clerk	$80,526	$9,434	$136,660
TOTAL	**$157,856**	**$15,233**	**$269,738**

Total costs over 5 years are shown in the Fiscal Impact table on Page 1

Section 12
This Section requires the AOC to develop a procedure to ensure timely notification to the sheriffs and the Department of Justices Division of Criminal Information of those registered sex offenders who do not receive an active term of imprisonment.

Under current procedure, the clerk manually fills out the „notification of requirement to register as a sex offender_ form (AOC-CR-261) for each person who is required to register under Article 27A of Chapter 14, and who does not receive an active term of imprisonment. The clerk leaves copies of this form in the courthouse for the sheriff to pick up. The AOC will not modify this procedure as a result of this bill; the AOC will continue to give this form manually to the sheriffs, and will incur no programming costs as a result.

The AOC Automated Criminal/Infractions System (ACIS) contains a sex offender flag that is manually triggered by the clerk when he/she enters information on the AOC-CR-261 form into ACIS. Since this flag is not automatically triggered when AOC-CR-261 information is entered, there is a possibility that the clerk would fail to trigger the flag for some sex offenders. In addition, the sex offender flag does not contain all the case information needed to comply with this new requirement. To resolve these two issues, an estimated 4,460 hours of design, programming, and implementation would be required in ACIS and CourtFlow at an estimated cost of $334,500. These programming changes would allow for the electronic transmission to the DOJ of all pertinent data on sex offenders who receive a suspended sentence.

Crime Control and Public Safety and Local Law Enforcement
Section 13 establishes a grant program under the Governors Crime Commission to provide funds to sheriffs' offices to enforce sex offender laws. However, no appropriation figure is included in SB 869 and the amount of funds needed for such a program cannot be determined

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; Department of Justice and Office of State Construction.

TECHNICAL CONSIDERATIONS: None.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1646*
PROPOSED SENATE COMMITTEE SUBSTITUTE H1646-CSSV-43 [v.1]

7/10/2007 2:01:19 AM

Short Title: Increase Penalties for Air Pollution. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTIES FOR VIOLATIONS OF LAWS TO PROTECT AIR QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.114A reads as rewritten:

"**§ 143-215.114A. Enforcement procedures: civil penalties.**

(a) A civil penalty of not more than ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) may be assessed by the Secretary against any person who:

(1) Violates any classification, standard or limitation established pursuant to G.S. 143-215.107.

(2) Is required but fails to apply for or to secure a permit required by G.S. 143-215.108 or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.

(3) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.110.

(4) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Article or Parts 1 or 7 of Article 21 of this Chapter.

(5) Violates a rule of the Commission or a local governing body implementing this Article or Parts 1 or 7 of Article 21.

(6) Violates the offenses set out in G.S. 143-215.114B.

(7) Violates the emissions limitations set out in G.S. 143-215.107D.

(b) If any action or failure to act for which a penalty may be assessed under this section is continuous, the Secretary may assess a penalty not to exceed ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) per day for so long as the violation continues.

(b1) The Secretary may assess a civil penalty of not more than ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) per day for a violation of the emissions limitations

set out in G.S. 143-215.107D as provided in this subsection. If at the end of any calendar year, an investor-owned public utility has violated an emissions limitation set out in G.S. 143-215.107D, the violation shall be considered to be continuous from the day that the collective emissions first exceeded the emissions limitation set out in G.S. 143-215.107D through the end of the calendar year and the Secretary may assess a separate civil penalty for each day.

(c) In determining the amount of the penalty the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(d) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(e) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(f) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subdivision (4) of this subsection, or requests remission of the assessment in whole or in part as provided in subdivision (5) of this subsection. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

(g) Repealed by Session Laws 1996, Second Extra Session c. 18, s. 27.34(f).

(h) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act becomes effective October 1, 2007, and applies to offenses committed on or after that date.

HOUSE BILL 1646:
Increase Penalties for Air Pollution

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 11, 2007
Introduced by:	Reps. Allen, Gibson	**Summary by:**	Trina Griffin
Version:	PCS to First Edition H1646-CSSV-43		Committee Counsel

SUMMARY: House Bill 1646 would increase from $10,000 to $25,000 the maximum civil penalty for violating air pollution laws. The increase would be effective for offenses committed on or after October 1, 2007.

CURRENT LAW: G.S. 143-215.114A authorizes the Secretary of Environmental and Natural Resources to assess a civil penalty of not more than $10,000 against any person who violates any of the following statutes and rules for the protection of air quality:

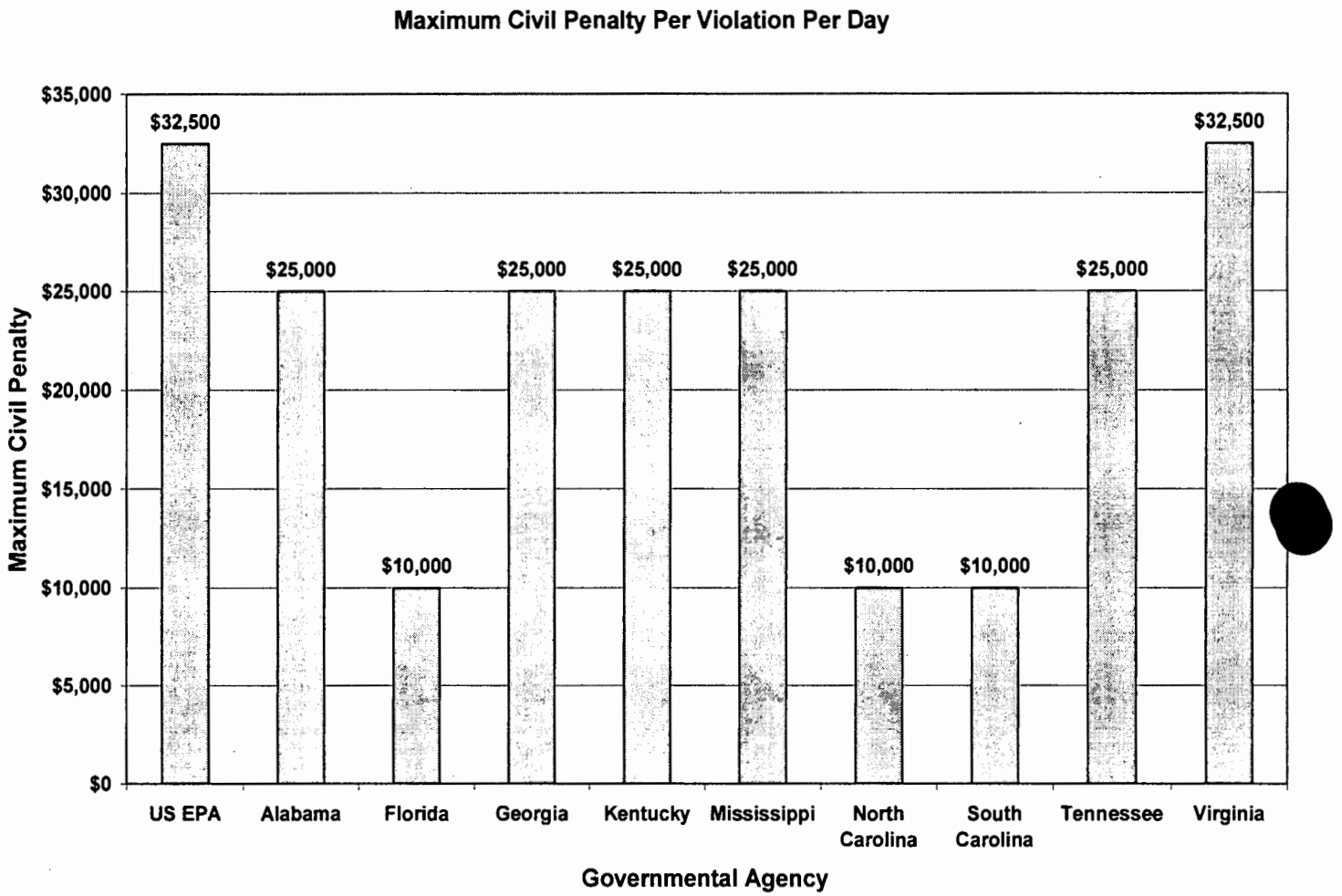
- The classifications, standards, and limitations in G.S. 143-215.107.
- The permits required by G.S. 143-215.108. That section prohibits doing a number of things that can result in air pollution or affect air quality unless the person obtains a permit. The permits are issued by the Environmental Management Commission, which has rulemaking authority to attach conditions to the permits. A violation of 143-215.108 would be failing to obtain a permit, or failing to comply with the permit's conditions.
- The special orders issued by the Environmental Management Commission pursuant to G.S. 143-215.110.
- The reporting requirements of Article 21B of Chapter 143 (Air Pollution Control) or of Parts 1 or 7 of Article 21 of Chapter 143. Article 21 is the general article about Water and Air Quality.
- The rules adopted by the Environmental Management Commission or a local governing body implementing the air pollution statutes.
- The criminal violations set forth in G.S. 143-215.114B.
- The emissions limitations set forth in G.S. 143-215.107D. That statute limits emissions by investor-owned utilities of oxides of nitrogen and sulfur dioxide (Clean Smokestacks Act).

If the act or omission for which the civil penalty is assessed is continuous, the Secretary may assess up to $10,000 for every day the violation continues. In the case of nitrogen and sulfur dioxide emissions by investor-owned utilities, if the polluter is in violation at the end of a calendar year, the daily assessment begins on the day the emission exceeded the limit and continues to the end of the year. The proceeds of the penalty are remitted to the Civil Penalty and Forfeiture Fund.

BILL ANALYSIS: House Bill 1646 increases the maximum civil penalty the Secretary of Environment and Natural Resources may assess for the above air pollution violations from $10,000 to $25,000.

EFFECTIVE DATE: The bill would become effective October 1, 2007. It would apply to offenses committed on or after that date.

BACKGROUND: The maximum civil penalty for these air pollution violations was last increased in 1991. At that time it went up from $5,000 to $10,000. The maximum civil penalty in the comparable statute for the protection of water quality was increased from $10,000 to $25,000 in 1999. Below is a chart identifying the federal and other southern state's maximum civil penalty for air pollution violations per day.



The information displayed in the above chart was provided by staff in the Division of Air Quality in the Department of Environment and Natural Resources and Legislative staff.

Bill Gilkeson and Jennifer Mundt substantially contributed to this summary.

H1646e1-SMSV-CSSV-43

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 1646 (First Edition)

SHORT TITLE: Increase Penalties for Air Pollution.

SPONSOR(S): Representatives Allen and Gibson

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Civil Penalty & Forfeiture Fund	**No estimate available. See Assumptions & Methodology.**				
EXPENDITURES:					
Office of Administrative Hearings	**No estimate available. See Assumptions & Methodology.**				
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment & Natural Resources, Division of Air Quality; Office of Administrative Hearings.

EFFECTIVE DATE: July 1, 2007

BILL SUMMARY: Amends G.S. 143-215.114A to increase the cap on penalties from $10,000 to $25,000 for listed air quality violations including violations of permits and special orders, on daily penalties for continuous violations, and for daily penalties for violations of emission limitations.

ASSUMPTIONS AND METHODOLOGY:

Department of Environment & Natural Resources

This bill would increase the maximum amount the Department can charge for air quality violations. It does not require the Department to charge more; it provides them with the option to charge more. The Department has assessed the full $10,000 fine 17 times in the last five years. The Department estimates that they would rarely exceed the $10,000 fine amount - perhaps assessing a fine in excess of $10,000 two or three times per year, although it is unclear if such violations would warrant a $25,000 fine or an amount somewhere between $10,000 and $25,000. **Thus, an estimate of the increased revenue is not available at this time but is likely negligible.**

Office of Administrative Hearings
While some increase in the number of cases the Office of Administrative Hearings will process is expected, the exact increase cannot be determined. This increase is not expected to be significant, however. Fiscal Research therefore determines that the Office of Administrative Hearings should be able to manage this increase within existing resources.

SOURCES OF DATA: Department of Environment & Natural Resources

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Kristin Walker, Brian Reynolds, Douglas R. Holbrook

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 9, 2007

Official
Fiscal Research Division
Publication

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1646*

Short Title:	Increase Penalties for Air Pollution.	(Public)
Sponsors:	Representatives Allen, Gibson (Primary Sponsors); Brown, Faison, Harrison, Insko, and Weiss.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTIES FOR VIOLATIONS OF LAWS TO PROTECT AIR QUALITY.

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(2) Is required but fails to apply for or to secure a permit required by G.S. 143-215.108 or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.

(3) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.110.

(4) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Article or Parts 1 or 7 of Article 21 of this Chapter.

(5) Violates a rule of the Commission or a local governing body implementing this Article or Parts 1 or 7 of Article 21.

(6) Violates the offenses set out in G.S. 143-215.114B.

(7) Violates the emissions limitations set out in G.S. 143-215.107D.

(b) If any action or failure to act for which a penalty may be assessed under this section is continuous, the Secretary may assess a penalty not to exceed ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) per day for so long as the violation continues.

(b1) The Secretary may assess a civil penalty of not more than ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) per day for a violation of the emissions limitations

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(c) In determining the amount of the penalty the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(d) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(e) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(f) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subdivision (4) of this subsection, or requests remission of the assessment in whole or in part as provided in subdivision (5) of this subsection. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

(g) Repealed by Session Laws 1996, Second Extra Session c. 18, s. 27.34(f).

(h) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act becomes effective July 1, 2007, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 463

Committee Substitute Favorable 3/27/07
Committee Substitute #2 Favorable 6/5/07

Short Title: Conservation Tax Credit Modifications. (Public)

Sponsors:

Referred to:

March 5, 2007

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CREDIT FOR CERTAIN REAL PROPERTY DONATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.34 reads as rewritten:

"**§ 105-130.34. Credit for certain real property donations.**

(a) Any ~~corporation~~ C Corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, ~~or other similar land conservation purposes~~ (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed five hundred thousand dollars ($500,000). To support the credit allowed by this section, the taxpayer must file with ~~its~~ the income tax ~~return,~~return for the taxable year in which the credit is ~~claimed, a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~claimed the following:

(1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9."

SECTION 2. G.S. 105-151.12 reads as rewritten:

"**§ 105-151.12. Credit for certain real property donations.**

(a) ~~A person who~~An individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, ~~or (iv) other similar land conservation purposes~~(iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. ~~The credit allowed under this section may not exceed two hundred fifty thousand dollars ($250,000).~~ To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed ~~a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~the following:

(1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a

qualified donation made by a pass-through entity must be filed by the pass-through entity.

(2) A self-contained or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty thousand dollars ($250,000). In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a husband and wife filing a joint tax return may not exceed five hundred thousand dollars ($500,000). If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(a2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through entity in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of another pass-through entity, may not exceed five hundred thousand dollars ($500,000). Each individual who is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed two hundred fifty thousand dollars ($250,000). Each corporation that is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed five hundred thousand dollars ($500,000). If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Repealed by Session Laws 1998-212, s. 29A.13(b).

~~(d) In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.~~

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.

~~(f) Notwithstanding G.S. 105-269.15, the maximum dollar limit that applies in determining the amount of the credit applicable to a partnership that qualifies for the credit applies separately to each partner.~~"

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2007.

HOUSE BILL 463:
Conservation Tax Credit Modifications

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	June 11, 2007
Introduced by:	Rep. Luebke	**Summary by:**	Dan Ettefagh
Version:	Third Edition		Committee Counsel

SUMMARY: ***HB 463 would equalize the cap for the conservation tax credit for corporations and pass-through entities at $500,000. The bill, a recommendation of the Revenue Laws Study Committee, would also require any taxpayer claiming the credit to support the claim's represented value of the real property donation by using either certain appraisal reports or the county's appraisal value as adjusted by the sales assessment ratio. Finally, the bill narrows the conservation purposes which qualify the land for a credit. The Proposed Committee Substitute makes technical and clarifying changes to the bill requested by the Department of Revenue and clarifies that married couples filing jointly are entitled to the same tax credit cap as two unrelated individuals making an equivalent donation of property.***

[As introduced, this bill was identical to S241, as introduced by Sen. Clodfelter, which is currently in Senate Finance.]

CURRENT LAW: Under current law, a taxpayer receives an income tax credit for certain donations of real property located in North Carolina. The amount of the credit is 25% of the fair market value of the donated property interest, capped at $250,000 for individuals and $500,000 for corporations. To be eligible for the credit, the land must be useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes, and the land must be donated in perpetuity to and accepted by the State, a local government, or a body organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions.

In support of the claim of the credit, a taxpayer is required to file with the income tax return a certification by DENR that the property is suitable for the statutorily listed conservation purposes. DENR does not review the documentation in an effort to verify the taxpayer's representation as to the fair market value of the donated property interest.

BILL ANALYSIS: House Bill 463 accomplishes the following three primary functions:

- It brings equity to the tax treatment of C Corporation and pass-through entity taxpayers by equalizing the tax credit dollar amount limitation for both at $500,000.
- It addresses valuation concerns of donated property by requiring the use of certain types of supported appraisal reports or the county's appraisal value.
- It reduces uncertainty with respect to the types of uses that qualify for conservation purposes by substituting specific uses in place of a catch-all use.

With respect to the first primary function, House Bill 463 raises the existing conservation tax credit dollar limitation for pass-through entities from $250,000 to $500,000. Current law limits the tax credit a pass-through business entity receives for conservation land donations to $250,000 while C Corporation business entities receive $500,000 for similarly valued conservation land donations. This bill brings the

credit for pass-through entities to the same level as that which is available to C Corporations for similar donations of land useful for conservation purposes.

With respect to the second primary function, House Bill 463 addresses concerns regarding the accuracy of the stated fair market value of donated property interests. These concerns, reported by the Department, stem from (a) the use of restricted appraisal reports that are compiled specifically for one person and contain little or no information relied upon by the appraiser to formulate the property's value and (b) the lack of any requirement in the current law of specific documentation useful for establishing the fair market value of the donation. The bill addresses this issue by requiring a taxpayer to support a claim for a credit with either a self-contained or a summary appraisal report, which are two types of reports defined by Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice and required to have certain information included supporting the valuation determination. A taxpayer may elect, for fee simple donations of property only, to use the county's appraised value of the property as adjusted by the sales assessment ratio.

With respect to the third primary function, House Bill 463 adds specificity to what conservation purposes qualify for the conservation tax credit. Differences in the statutory construction of the phrase, "other similar land conservation purposes" developed between DENR and Revenue. The bill eliminates the phrase and substitutes six, new, specific conservation purposes: forestland or farmland conservation, watershed protection, conservation of natural areas as that term is defined in G.S. 113A-164.3(3), conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, conservation of predominantly natural parkland, or historic landscape conservation.

The PCS makes a technical change to the language of G.S. 105-130.34 to refer specifically to C Corporations, since G.S. 105-151.12 deals with pass-through entities, including S Corporations. In addition, the PCS clarifies that the cap for a married couple filing jointly is $500,000.

EFFECTIVE DATE: This bill would become effective for taxable years beginning on or after January 1, 2007.

BACKGROUND: The conservation tax credit was enacted in 1983 with a dollar limitation for all taxpayers of $5,000. That cap was raised in 1989 (to $25,000 for all taxpayers), 1997 (to $100,000 for individuals and $250,000 for corporations), and in 1999 (to $250,000 for individuals and $500,000 for corporations).

Prior to January 1, 2007, the cap for individuals claiming a conservation tax credit was not applied to pass-through entities as a whole. Rather, the pass-through entity received tax credits up to the statutory dollar amount limitation for each member making a qualifying donation. In 2001, the Revenue Laws Study Committee proposed that North Carolina begin applying dollar amount limitations of most tax credits to pass-through entities as a whole as well as to each individual partner. Doing so brought North Carolina into conformity with how federal law allowed pass-through entities to take tax credits. While the original proposal applied to the conservation tax credit, the bill ultimately enacted excluded the conservation tax credit and preserved the historic treatment of pass-through entities taking the tax credit by applying the cap only to the individual members of the pass-through entity and not to the entity as a whole. This exception for the conservation tax credit was originally set to expire in 2005; however, the sunset was extended twice, preserving the unique application of the cap for the conservation tax credit until it expired on January 1, 2007. Effective January 1, 2007, pass-through entities claiming the conservation tax credit are limited, as are all individual taxpayers, to a cap of $250,000. The amount of the tax credit dollar limitation for C Corporations claiming the conservation tax credit is $500,000.

H0463e1-SMMC

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 463 (Third Edition)

SHORT TITLE: Conservation Tax Credit Modifications.

SPONSOR(S): Representative Luebke

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	*See Assumptions and Methodology*				
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: January 1, 2007

BILL SUMMARY:

This legislative proposal would equalize the cap for the conservation tax credit for corporations and pass-through entities at $500,000. Individuals can receive a credit not to exceed $250,000 and as amended, married taxpayers filing jointly can receive a tax credit up to $500,000 rather than the $250,000 cap under current law. The bill would also require any taxpayer claiming the credit to support the claim's represented value of the real property donation by using either certain appraisal reports or the county's appraisal value as adjusted by the sales assessment ratio. Finally, the bill narrows the conservation purposes that qualify the land for a credit.

ASSUMPTIONS AND METHODOLOGY:

Based on discussions with the Department of Revenue, there is not sufficient data available for an accurate assessment of the overall fiscal impact from the proposed changes in the bill. Fiscal Research thinks that raising the cap on pass through entities may lead to granting higher tax credits

for donated lands, while the improved valuation guidelines and a more narrowly defined conservation purpose may offset the increased credit cap for pass through entities. Increasing the credits allowed for married couples filing jointly may allow a few taxpayers to receive more credits than allowed under current law. The Department of Revenue in analyzing past returns of married filers claiming the conservation credit have estimated the impact at less than $500,000 per tax year.

SOURCES OF DATA: Department of Revenue

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY:

Barry Boardman

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: June 26, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 708
PROPOSED COMMITTEE SUBSTITUTE S708-CSTD-28 [v.1]

7/9/2007 4:24:20 PM

Short Title: Hospice/License Fees, Inspections, Funds. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ANNUAL LICENSE FEE FOR HOSPICES; TO REQUIRE INSPECTIONS OF HOSPICES EVERY THREE YEARS; AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SUPPORT TWO FULL-TIME POSITIONS TO SURVEY ALL LICENSED HOSPICE PROVIDERS EVERY THREE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-202 reads as rewritten:

"**§ 131E-202. Licensing.**

(a) The Commission shall adopt rules for the licensing and regulation of hospices, hospice inpatient facilities, and hospice residential care facilities pursuant to this Article for the purpose of providing care, treatment, health, safety, welfare, and comfort of hospice patients. These rules shall include, but not be limited to:

(1) The qualifications and supervision of licensed and nonlicensed personnel;

(2) The provision and coordination of home and inpatient care, including the development of a written care plan;

(3) The management, operation, staffing, and equipping of the hospice program;

(4) Clinical and business records kept by the hospice, hospice inpatient care facility, and hospice residential care facility; and

(5) Procedures for the review of utilization and quality of care.

(b) The Department shall provide applications for hospice licensure. Each application filed with the Department shall contain all information requested therein. A license shall be granted to the applicant upon determination by the Department that the applicant has complied with the provisions of this Article and with the rules adopted by the Commission thereunder. Each license shall be issued only for the premises and persons named therein, shall not be transferable or assignable except with the written

approval of the Department, and shall be posted in a conspicuous place on the licensed premises.

(c) The Department shall issue and renew the license in accordance with this Article and with rules adopted ~~thereunder.~~thereunder and shall charge the applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00)."

SECTION 2. G.S. 131E-204 reads as rewritten:

"**§ 131E-204. Inspections.**

The Department shall inspect all hospices that are subject to rules adopted pursuant to this Article in order to determine compliance with the provisions of this Article and with rules adopted thereunder. Inspections shall be conducted at a minimum of every three years in accordance with rules adopted by the Commission."

SECTION 3. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Facility Services, the sum of forty-two thousand five hundred dollars ($42,500) for the 2007-2008 fiscal year and the sum of forty-two thousand five hundred dollars ($42,500) for the 2008-2009 fiscal year. These funds shall be used to support two full-time equivalent positions to survey all licensed hospice providers every three years.

SECTION 4. This act becomes effective October 1, 2007.

SENATE BILL 708:
Hospice/License Fees, Inspections, Funds

BILL ANALYSIS

Committee:	Senate Ref to Finance. If fav, re-ref to Appropriations/Base Budget	**Date:**	July 10, 2007
Introduced by:	Sen. Purcell	**Summary by:**	Heather Fennell Committee Counsel
Version:	PCS to First Edition S708-CSTD-28		

SUMMARY: The PCS to Senate Bill 708 authorizes an annual license fee for hospices of $350 per year, requires inspection of hospices every three years, and appropriate funds to the Department of Health and Human Services to support two full-time positions to survey licensed hospice providers across the State. The PCS clarifies that the license fee applies to both initial and renewal applications for licensure, and changes the effective date.

[As introduced, this bill was identical to H1927, as introduced by Reps. Farmer-Butterfield, Parmon, Fisher, which is currently in House Finance.]

CURRENT LAW:

Licensing: Article 10 of Chapter 131E provides for the licensure of hospices, hospice inpatient facilities, and hospice residential care facilities. G.S. 131E-202 requires the North Carolina Medical Commission to adopt rules for the licensing. The rules must include:

(1) The qualifications and supervision of licensed and nonlicensed personnel;

(2) The provision and coordination of home and inpatient care, including the development of a written care plan;

(3) The management, operation, staffing, and equipping of the hospice program;

(4) Clinical and business records kept by the hospice, hospice inpatient care facility, and hospice residential care facility; and

(5) Procedures for the review of utilization and quality of care.

G.S. 131E-203 exempts hospices administered by the local health departments from the licensing requirements. In addition, health care facilities licensed under Article 5 or 6 of Chapter 131E that provide hospice services but do not operate a freestanding hospice facility, are not required to obtain a separate license under G.S. 131E-202.

Any facility offering hospice services that is exempted from the licensing requirement is still subject to the rules adopted by the Commission under this Article.

Inspections: G.S. 131E-204 requires the Department of Health and Human Services to inspect all hospice facilities that are subject to this Article.

BILL ANALYSIS:

Sec. 1 of Senate Bill 708 authorizes the Department to charge a nonrefundable annual license fee of $350.00 hospices, hospice inpatient facilities, and hospice residential care facilities.

Sec. 2 of the bill requires the Department to inspect all hospices, hospice inpatient facilities, and hospice residential care facilities subject to this Article at least once every three years.

Sec. 3 of the bill appropriates $42,500 for the 2007-2008 fiscal year and $42,500 for the 2008-2009 fiscal year for two full-time positions the in the Department of Health and Human Services to survey all licensed hospice providers every three years.

EFFECTIVE DATE: This act is effective October 1, 2008.

BACKGROUND: Currently there is no license fee for hospices, hospice inpatient facilities, and hospice residential care facilities.

The current license fees for other facilities are as follows:

Facility Type	**Number of Beds**	**Base Fee**	**Per-Bed Fee**
Adult Care Homes	1-6 beds	$250.00	
	6+ beds	$350.00	$12.50
Continuing Care Retirement Communities	1+ beds	$450.00	$12.50
General Acute Hospitals:	1-49 beds	$250.00	$12.50
	50-99 beds	$350.00	$12.50
	100-199 beds	$450.00	$12.50
	200-399 beds	$550.00	$12.50
	400-699 beds	$750.00	$12.50
	700+ beds	$950.00	$12.50
Other Hospitals:		$500.00	$12.50

S0708e1-SMTD-CSTD-28

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 708 (First Edition)

SHORT TITLE: Hospice/License Fees, Inspections, Funds.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES	**$90,000**	**$90,000**	**$90,000**	**$90,000**	**$90,000**
Fees	**$70,000**	**$70,000**	**$70,000**	**$70,000**	**$70,000**
Federal Funds	**$20,000**	**$20,000**	**$20,000**	**$20,000**	**$20,000**
EXPENDITURES	**$150,000**	**$158,400**	**$167,745**	**$177,642**	**$187,768**
General Fund	**$60,000**	**$68,400**	**$77,745**	**$87,642**	**$97,768**
POSITIONS (cumulative):	**2**	**2**	**2**	**2**	**2**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Health Service Regulation, Department of Health and Human Services

EFFECTIVE DATE: July 1, 2007

BILL SUMMARY: The proposed legislation amends GS 131E-202 to require an annual license fee of $350 for hospices and also amends GS 131E-204 to require that hospices be inspected at a minimum of once every three years. The proposed legislation also appropriates $42,500 in each year of the biennium from the General Fund to the Department of Health and Human Services, Division of Facility Services, to support two positions to do the required inspections.

ASSUMPTIONS AND METHODOLOGY: **Revenues:** The Division of Health Service Regulation licenses 200 hospices annually. The proposed legislation requires an annual license fee of $350. The annual revenue from the proposed licensure fee for hospices would be $70,000 (200 hospices X $350 annual license fee). Since hospices serve Medicare patients, the Division can draw down $20,000 in federal funding to cover the cost of licensure and regulation of hospices.

Expenditures: The proposed legislation requires that all licensed hospices be inspected at least once every three years. Under current law, hospices are inspected according to rules set by the Medical Care Commission which uses the federal standard of inspections once every ten years. The Division of Health Service Regulation does not have staff assigned to inspect hospices. The Division has estimated that hospice inspections once every three years would require two registered nurse positions (Facility Survey Consultant I - Pay Grade 73). The annual cost of these positions' salaries, benefits, travel, and other costs is estimated to be $150,000 in FY 2007-08 and have been inflated to reflect increased cost of salaries and benefits in FY 2008-09 through FY 2011-12. Fees and federal funding will not cover the full cost of the hospice inspection program, and the remaining costs will need state appropriations to fully fund the program. Estimated state appropriations for the inspection program are $60,000 for FY 2007-08 and $68,400 for FY 2008-09, and the need for state appropriations increases to $97,768 by FY 2011-12.

SOURCES OF DATA: Division of Health Service Regulation, Department of Health and Human Services

TECHNICAL CONSIDERATIONS: Effective July 1, 2007, the name for the Division of Facility Services was changed to the Division of Health Service Regulation.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Carol Shaw

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: 7/10/07

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 708

Short Title:	Hospice/License Fees, Inspections, Funds.	(Public)
Sponsors:	Senators Purcell; Atwater, Dorsett, Jones, Kinnaird, and Rand.	
Referred to:	Finance.	

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ANNUAL LICENSE FEE FOR HOSPICES; TO REQUIRE INSPECTIONS OF HOSPICES EVERY THREE YEARS; AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SUPPORT TWO FULL-TIME POSITIONS TO SURVEY ALL LICENSED HOSPICE PROVIDERS EVERY THREE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-202 reads as rewritten:

"**§ 131E-202. Licensing.**

(a) The Commission shall adopt rules for the licensing and regulation of hospices, hospice inpatient facilities, and hospice residential care facilities pursuant to this Article for the purpose of providing care, treatment, health, safety, welfare, and comfort of hospice patients. These rules shall include, but not be limited to:

(1) The qualifications and supervision of licensed and nonlicensed personnel;

(2) The provision and coordination of home and inpatient care, including the development of a written care plan;

(3) The management, operation, staffing, and equipping of the hospice program;

(4) Clinical and business records kept by the hospice, hospice inpatient care facility, and hospice residential care facility; and

(5) Procedures for the review of utilization and quality of care.

(b) The Department shall provide applications for hospice licensure. Each application filed with the Department shall contain all information requested therein. A license shall be granted to the applicant upon determination by the Department that the applicant has complied with the provisions of this Article and with the rules adopted by the Commission thereunder. Each license shall be issued only for the premises and persons named therein, shall not be transferable or assignable except with the written

approval of the Department, and shall be posted in a conspicuous place on the licensed premises.

(c) The Department shall renew the license in accordance with this Article and with rules adopted ~~thereunder.~~thereunder and shall charge the applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00)."

SECTION 2. G.S. 131E-204 reads as rewritten:

"**§ 131E-204. Inspections.**

The Department shall inspect all hospices that are subject to rules adopted pursuant to this Article in order to determine compliance with the provisions of this Article and with rules adopted thereunder. Inspections shall be conducted at a minimum of every three years in accordance with rules adopted by the Commission."

SECTION 3. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Facility Services, the sum of forty-two thousand five hundred dollars ($42,500) for the 2007-2008 fiscal year and the sum of forty-two thousand five hundred dollars ($42,500) for the 2008-2009 fiscal year. These funds shall be used to support two full-time equivalent positions to survey all licensed hospice providers every three years.

SECTION 4. This act becomes effective July 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 11, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to SB 282

FISCAL IMPACT

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Chatham Co.	**$110,075**	**$113,377**	**$116,779**	**$120,282**	**$123,891**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Chatham County

EFFECTIVE DATE: Becomes effective when law.

BILL SUMMARY:
The Proposed Committee Substitute for Senate Bill 282 authorizes Chatham County to increase its room occupancy tax from 3% to 6% and makes other administrative changes to conform the legislation to the occupancy tax guidelines adhered to by the House Finance Committee.

ASSUMPTIONS AND METHODOLOGY:
The current 3% tax in Chatham County generated $103,756 in FY 2005-06. Based on 3% growth for future years, the additional 3% tax is estimated to generate the following revenue stream.

Chatham Occupancy Tax Proceeds		
	3% Tax	Each 1%
FY 07-08	$110,075	$36,692
FY 08-09	$113,377	$37,792
FY 09-10	$116,779	$38,926
FY 10-11	$120,282	$40,094
FY 11-12	$123,891	$41,297

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

SENATE FINANCE COMMITTEE
Wednesday, July 18, 2007 at 1:00 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met at 1:00 p.m. on Wednesday, July 18, 2007, in room 544. Twenty-nine members of the committee were present. Senator David Hoyle presided. Kara Simpson, Andray Lineberger, Jonathan Rhyne, and Terrell White all of Gastonia; David Richardson, Alex White and Brice Hawley all of Greenville; and Will Hodgkins of Cherryville served as pages.

H.B. 986 – Butner Incorporation.

Representative Crawford was recognized to explain the bill. Senator Nesbit offered an amendment and motioned for its adoption. The motion carried. Senator Apodaca moved to adopt the bill as amended and the motion carried. A copy of the bill, the summary, fiscal information and the amendment is attached.

H.B. 705 – School Food Service Equipment/Lease-Purchase.

Representative Crawford was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1529 – Actuarial Valuation/Retiree Health Benefits.

Representative Crawford was recognized to explain the bill. Senator Purcell moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Stevens moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 78 – Amend Burke County Occupancy Tax.

Representative Church was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

H.B. 1755 – Coordinate Statewide Enhance 911 System.

Representative Saunders was recognized to explain the bill. Senator Swindell moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Tillman moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 1191 – Incorporate Eastover.

Representative Glazier was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary and fiscal information is attached.

H.B. 555 – Carrboro/Roanoke Rapids Special Assessments.

Representatives Insko and Allen were recognized to explain the bill. Senator Swindell moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Weinstein moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 1321 – Weight and Size Exemption for Fire Response.

Representative Moore was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

H.B. 1598 – Extend QVB Credit.

Representative Gibson was recognized to explain the bill. Senator Goss moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Tillman moved for a favorable report and the motion carried. A copy of proposed committee substitute and the summary is attached.

H.B. 649 – Increase Fees/Landscape Contractors.

Representative Gibson was recognized to explain the bill. Senator Weinstein moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

H.B. 1488 – Amend Psychology Practice Act.

Senator Purcell was recognized to explain the bill. Senator Brunstetter moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 19 – Nash-Rocky Mount/Edgecombe Boundary Correction.

Senator Swindell was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Brown moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

S.B. 181 – Clayton Ordinance Violators/Annex Areas.

Senator Smith was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 854 – Amend Private Protective Services Act.

Senator Snow was recognized to explain the bill. Senator Purcell moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Brunstetter moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

S.B. 1241 – UNC Non-Appropriated Capital Projects.

Senator Kerr was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Rob Nelson, UNC Finance Vice President, was recognized to speak in favor of the bill and answer questions. Cindy Avrette, Research Division staff attorney, was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the fiscal note and informational handout is attached.

S.B. 1332 – Raise Fee Ceiling/Amend Hearing Aid Dealer Laws.

Senator Purcell was recognized to explain the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 831 – Wireless Telecommunications Facilities.

Senator Hoyle was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Hoyle offered an amendment and moved for it adoption, the motion carried. Ben Hitchings, NC Planning Association, was recognized to speak in opposition to the bill. Vivian Jones, Wake Forest Mayor, was recognized to speak in opposition to the bill. Andy Romanet, NC League of Municipalities, was recognized to speak in favor of the bill. Paul Meyer, NC Association of County Commissioners, was recognized to speak in favor of the bill. Senator Tillman moved to adopt the PCS as amended and the motion carried. A copy of the proposed committee substitute, the summary, the amendment, and the fiscal note is attached.

S.B. 150 – Outdoor Advertising Vegetation Removal Changes.

Senator Jenkins was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion, the motion carried. Secretary Ross, NC DENR, was recognized to speak in opposition to the bill. Christa Wagner, NC Sierra Club, was recognized to speak in opposition to the bill. Senator Tillman moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary and the fiscal note is attached.

The meeting adjourned at 2:10 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	July 18, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 78	Amend Burke County Occupancy Tax.	Representative Church, Sr.
HB 555	Carrboro/Special Assessments.	Representative Insko
HB 649	Increase Fees/Landscape Contractors.	Representative Gibson, III
HB 705	School Food Service Equipment/Lease-Purchase.	Representative Crawford, Jr. Representative Wray
HB 944	Harnett/Subdivision Recreation Facilities.	Representative Lewis
HB 986	Butner Incorporation.	Representative Crawford, Jr.
HB 1191	Incorporate Eastover.	Representative Dickson Representative Lucas Representative Glazier Representative Brisson
HB 1321	Weight and Size Exemption for Fire Response.	Representative Clary Representative Moore
HB 1488	Amend Psychology Practice Act.	Representative Goodwin
HB 1529	Actuarial Valuation/Retiree Health Benefits.	Representative Crawford, Jr.
~~HB 1598~~	Extend Qualified Business Venture Tax Credit.	Representative Gibson, III Representative Daughtridge, Jr. Representative Owens, Jr. Representative Wainwright

~~HB 1755~~	Coordinate Statewide Enhanced 911 System.	Representative Saunders Representative Brubaker Representative Howard Representative Holliman
SB 19	Nash County Local Act.	Senator Swindell IV
SB 181	Clayton Ordinance Violators/Annex Areas.	Senator Smith
SB 609	Chatham Recreation Exaction Fee.	Senator Atwater
~~SB 854~~	Amend Private Protective Services Act.	Senator Snow
SB 1241	UNC Non-Appropriated Capital Projects.	Senator Kerr
SB 1332	Raise Fee Ceil'g/Amend Hear. Aid Dealer Laws.	Senator Purcell

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, July 19, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **1191** Incorporate Eastover.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1241** UNC Non-Appropriated Capital Projects.
Draft Number: 15120
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **150** Outdoor Adv. Vegetation Removal Changes.
Draft Number: 15121
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **831** Wireless Telecommunications Facilities.
Draft Number: 35417
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **854** Amend Private Protective Services Act.

Draft Number:	55541
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #2) **1755** Coordinate Statewide Enhanced 911 System.

Draft Number:	50747
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 6

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, July 18, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **1529** Actuarial Valuation/Retiree Health Benefits.

Draft Number:	60387
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1598** Extend Qualified Business Venture Tax Credit.

Draft Number:	50748
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, July 18, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

S.B.(CS #1) **181** Clayton Ordinance Violators/Annex Areas.
Sequential Referral: None
Recommended Referral: None

S.B.(CS #1) **1332** Raise Fee Ceil'g/Amend Hear. Aid Dealer Laws.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **78** Amend Burke County Occupancy Tax.
Sequential Referral: None
Recommended Referral: None

H.B. **649** Increase Fees/Landscape Contractors.
Sequential Referral: None
Recommended Referral: None

H.B. **705** School Food Service Equipment/Lease-Purchase.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1321** Weight and Size Exemption for Fire Response.
Sequential Referral: None
Recommended Referral: None

H.B.(SCS #1) **1488** Amend Psychology Practice Act.
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

H.B.(CS #1) **986** Butner Incorporation.
Sequential Referral: None
Recommended Referral: None

Long Title Amended: Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **19** Nash County Local Act.

Draft Number:	15113
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **555** Carrboro/Special Assessments.

Draft Number:	50733
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 10

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Molly Diggins	Sierra Club
David Knight	TNC
Greer Cowood	TNC
John Quinterno	BTG
[illegible]	BGS
Jackson	NC Aggregates Assoc.
Gary Thayer	AIPG
Gary Jeffy	NFIB
Barry Hill	NCNG

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ew Schwellpy	UNC
Andy Willis	UNC
K Shipley	Schering
Sam Ivy	NCBIO
ANN URLE	DUKE
David Sullivan	NCCCS
Suzanne Williams	NCCCS
Erin Kinney	NC Conservation Network
William Dudley	CC & PS
Wayne Hobgood	CC&PS
DON URLE	NCDOT

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
TED SHERROD	NCDOT
Helen Landi	"
Sam McEwen	NCDOR
Sandra L Kelly	NCLCRB
Jonathan Proffitt	JWL Gen. Admin
AMY SIMES	DENR
Phyllis Lee	City of Roanoke Rapids
Frederick A. Wombe	SBA Network Services, Inc.
Liz Hill	American Tower Corporation
JIM LORA	OSBM
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sondra Panico	NC Dept. of Justice
Ron Adams	NC Wireless 911 Bd
Richard Taylor	NC Wireless 911 Bd
T. Ferguson	NCGA
Rob Nelson	UNC
John McKay	Gov. Office
Paul Stock	NCBA
Betty Turner	BAC
Debra Derr	AT&T
Dwight Allen	Smith Anderson
Bob Weller	N. C. Tax Bldg.

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Casandra White	Gov. Office
Jeff Van Dyke	T
Amy Schulder	McGuireWoods
Mary Father	Brown Reed
R. Paul Wilms	NCMBA
Hasket Mackey	NCMBA
Sarah Price	BGA
Dan McCorquodale	MFS
[illegible]	MFS
Anthony Brown	MFS
Will McDew	Gov. Off.

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Marty Bocock	[illegible]
Bill Haigh	alltel
Lou Ann Harris	LHHA
Scott Gordon	Duke Energy Carolinas
Jim Wrenn	Hoyle Hicks & Wrenn, LLP Town of Butner
Kevin FitzGerald	UNC Chapel Hill.
Don Hobart	NC DOC
[illegible]	Gov. Office
Edgar Mills	CTIA
[illegible]	LPA
[illegible]	BC BS

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Walker Moffitt	City of Asheboro
J B Davis	Klaussner Fur Ind
Barbara Carsley	BSOC
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
Jim [illegible]	IOG
Pam McHoon	EMBARQ
Steve Brewer	EMBARQ
John McAlister	NC Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Rusty Mowrey	CMS
Vivian Jones	Town of Wake Forest
Jim Rogers	Fanning Outdoor Adv
Tony Adams	NCOAA
[illegible]	JD/AL, PA
[illegible]	Poyner & Spruill
Richard Mann	UNC-Chapel Hill
Roger Patterson	UNC - Chapel Hill
Dianne Bracky	Forestry
[illegible]	Forestry
Jackie Hicks	CMS

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Richard Edwards	CityScape Consultants Raleigh, N.C.
Ben Hitchings	NC Chapter of American Planning Association
Julie Hunt	NC Chapter of American Planning Association
PG	NC FS
Kevin Daly	ACLU-NC
Mark Lanier	UNCW
Joyce Peters	JP Design
Sara & Howard Pelaid	Eastover NC
Emily Atkinson	Capstreet
Benny Pearce	EASTOVER
Doug Hewett	City of Fayetteville NC
Lee-Ann C Pegram	DLK & Assoc

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mac Williams	Eastover Inc.
Mark Chilton	Town of Carrboro
Estherine Davis	Electri Cities
Angie Hairr	Williams Mullen
Jane James	Mumm
David Kelly	Intern Rep. Insko
TJ Strader	NC Ports
Janet Rose	NC PORTS
BRUCE THOMPSON	PARKER POE
Michael Freeman	F. Browett
Tracy Kimbrell	Parker Poe

Senate Finance Committee Agenda
Wednesday, July 18, 2007, 1:00 PM
544 LOB

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 78	Amend Burke County Occupancy Tax.	Rep. Church
HB 555	Carrboro/Special Assessments.	Rep. Insko
HB 649	Increase Fees/Landscape Contractors.	Rep. Gibson
HB 705	School Food Service Equipment/Lease-Purchase.	Rep. Crawford Rep. Wray
HB 986	Butner Incorporation.	Rep. Crawford
HB 1191	Incorporate Eastover.	Rep. Dickson Rep. Lucas Rep. Glazier Rep. Brisson
HB 1321	Weight and Size Exemption for Fire Response.	Rep. Clary Rep. Moore
HB 1488	Amend Psychology Practice Act.	Rep. Goodwin
HB 1529	Actuarial Valuation/Retiree Health Benefits.	Rep. Crawford
HB 1598	Extend Qualified Business Venture Tax Credit.	Rep. Gibson Rep. Daughtridge Rep. Owens Rep. Wainwright
HB 1755	Coordinate Statewide Enhanced 911 System.	Rep. Saunders Rep. Brubaker Rep. Howard Rep. Holliman
SB 19	Nash County Local Act.	Sen. Swindell
SB 150	Outdoor Adv. Vegetation Removal Changes.	Sen. Jenkins
SB 181	Clayton Ordinance Violators/Annex Areas.	Sen. Smith
SB 831	Wireless Telecommunications Facilities.	Sen. Hoyle
SB 854	Amend Private Protective Services Act.	Sen. Snow
SB 1241	UNC Non-Appropriated Capital Projects.	Sen. Kerr
SB 1332	Raise Fee Ceil'g/Amend Hear. Aid Dealer Laws.	Sen. Purcell

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 4

HOUSE BILL 986*

Committee Substitute Favorable 6/27/07
Committee Substitute #2 Favorable 7/3/07
Fourth Edition Engrossed 7/10/07

Short Title: Butner Incorporation. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF BUTNER, TO TRANSFER CERTAIN ASSETS PREVIOUSLY HELD BY THE STATE OF NORTH CAROLINA FOR THE TOWN OF BUTNER TO THE NEWLY INCORPORATED TOWN OF BUTNER, AND TO MAKE CONFORMING CHANGES TO PUBLIC LAWS AFFECTING THE BUTNER RESERVATION.

The General Assembly of North Carolina enacts:

SECTION 1. Findings and Purpose. The General Assembly finds as follows:

(1) The Camp Butner reservation is administered by the Secretary of the Department of Health and Human Services (hereinafter "Secretary") in accordance with the provisions of Article 6 of Chapter 122C of the General Statutes (the Camp Butner reservation is variously referred to, in whole or in part, as the Camp Butner reservation, the Town of Butner, and the Community of Butner and in this act shall be referred to as the "Butner Reservation").

(2) The Department of Health and Human Services (hereinafter "Department") has long operated the Town of Butner with the Secretary or the Secretary's designee acting as the de facto mayor of the Town of Butner.

(3) The operation of the Town of Butner is not a core function of the Department, and the Department's mission would not be negatively impacted by the incorporation of the Town of Butner.

(4) The utilities were transferred to the South Granville Water and Sewer Authority ("SGWASA") pursuant to the provisions of Session Law 2006-159 which also provides that SGWASA shall pay to the Department a sum, indexed to inflation, as set out in that legislation to

support the operations of the Butner Reservation including the Town of Butner.

(5) The citizens of the Town of Butner currently also pay a tax authorized by Section 1 of Chapter 830 of the 1983 Session Laws of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property to the Butner Public Safety Division of the Department of Crime Control and Public Safety.

(6) The customers of the utility have paid for water and sewer over the years, and those payments have also financed the operations of the Town of Butner.

(7) Certain personal property has been purchased by the Department for use in operating the Butner Reservation and that personal property traditionally used primarily for the benefit of the portion of the Butner Reservation to be incorporated should be transferred by the State to the newly incorporated Town of Butner.

SECTION 1.1. A Charter for the Town of Butner is enacted to read:

"CHARTER OF THE TOWN OF BUTNER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Butner are a body corporate and politic under the name 'Town of Butner.' The Town of Butner has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Butner are as shown on a map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner City Hall, the Granville County Planning Department, and in the office of the Granville County Board of Elections. The area within said boundaries shall be in the Town of Butner and in no other municipality.

"Section 2.2. **Extraterritorial Jurisdiction.** Until modified in accordance with law, the extraterritorial jurisdiction of the Town of Butner under G.S. 160A-360 shall be as shown on a map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and in the office of the Granville County Board of Elections.

"Section 2.3. **Restrictions on Annexation as to Creedmoor.**

(a) The Town of Butner may not annex under Article 4A of Chapter 160A of the General Statutes any territory not shown in its corporate limits or extraterritorial jurisdiction on the map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and the Granville County Board of Elections located east of the centerline of Cash Road and south of Interstate 85 without first receiving approval of the City of Creedmoor Board of Commissioners.

(b) For a period of five years following the effective date of the incorporation of the Town of Butner, the Town of Butner may not involuntarily annex under Part 2 or 3

of Article 4A of Chapter 160A of the General Statutes any territory not shown in its corporate limits or extraterritorial jurisdiction on the map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and the Granville County Board of Elections located west of the centerline of Cash Road and South of Interstate 85 without first receiving approval of the City of Creedmoor Board of Commissioners.

"Section 2.4. **Restrictions on Annexation and Extraterritorial Jurisdiction as to the City of Durham.**

(a) Notwithstanding the provisions of G.S. 160A-58.1(b)(2) and provided the remainder of the requirements of Part 4 of Article 4A of Chapter 160A of the General Statutes are met, the City of Durham may annex by satellite annexation pursuant to G.S. 160A-58.1, or any successor statute, any territory in Durham County that is closer to the primary corporate limits of the Town of Butner than to the primary corporate limits of the City of Durham. This subsection shall also be considered as part of the Charter of the City of Durham.

(b) In addition to any other requirements of law, the Town of Butner may not annex under Article 4A of Chapter 160A of the General Statutes any territory in Durham County, or exercise extraterritorial authority under Article 19 of Chapter 160A of the General Statutes in Durham County, without first receiving approval of the City of Durham, as evidenced by a resolution or ordinance adopted by the City Council.

(e) The Town of Butner shall not request any changes in this section of the Charter without first receiving approval of the City of Durham, as evidenced by a resolution or ordinance adopted by the City Council.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of the Governing Body; Number of Members.** The governing body of the Town of Butner shall be the Town Council, which shall have six members.

"Section 3.2. **Temporary Officers.**

(a) Until January 1, 2008, Edgar Smoak is appointed Mayor. At its first regular meeting in December 2007, the Butner Town Council shall choose from among its membership a Mayor to serve from January 1, 2008, through December 31, 2008. At its first regular meeting in December 2008, the Butner Town Council shall choose from among its membership a Mayor to serve from January 1, 2009, through the organizational meeting after the initial election of 2009.

(b) Until the organizational meeting after the initial election of 2009 provided for by Article IV of this Charter, Vicky Cates, Christine Emory, Linda Jordan, Tom Lane, Elbert Oakely, Jr., and John Wimbush are appointed members of the Town Council of the Town of Butner. Edgar Smoak is appointed to the Butner Town Council to serve from January 1, 2008, through the organizational meeting after the initial election of 2009 to fill the vacancy caused by a member of the Town Council being chosen as Mayor. The person chosen from the council to serve as Mayor from January 1, 2008, through December 31, 2008, is appointed to the Butner Town Council to serve from January 1, 2009, through the organizational meeting after the initial election of 2009.

(c) If any person named in this section is unable to serve, the remaining named members of the Town Council shall, by majority vote, appoint a person to serve until the initial election is held.

"Section 3.3. **Manner of Electing Council; Term of Office.** The qualified voters of the entire Town shall elect members of the Town Council from the Town at large. Members shall be elected in 2009, and quadrennially thereafter, for four-year terms. To be eligible for election to the Town Council, an individual must reside in the Town of Butner. Vacancies on the Town Council shall be filled in accordance with G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Town shall elect the Mayor in 2009, and biennially thereafter, for a term of two years. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to the matters involving the Town of Butner, and shall have the right to vote as a member of the Town Council only on matters before the Town Council when his or her vote is necessary to break a tie.

"Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.**

(a) The person serving as vice-chairman of the Butner Advisory Council on the day before the effective date of incorporation shall serve as the Mayor Pro Tempore until January 1, 2008. In December of 2007, the members of the Butner Town Council shall select a Mayor Pro Tempore from the membership of the Town Council to serve from January 1, 2008, through December 31, 2008. In December of 2008, the members of the Butner Town Council shall select a Mayor Pro Tempore from the membership of the Town Council to serve from January 1, 2009, until the organizational meeting after the 2009 municipal election.

(b) At the organizational meeting after the initial election in November 2009, and biennially thereafter, the Mayor Pro Tempore shall be elected from among the members of the Town Council and shall serve for a term of two years.

(c) The Mayor Pro Tempore shall act both in the absence or disability of the Mayor. If the Mayor and the Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of the Town Council present may elect a temporary chairman to preside in the absence. The Mayor Pro Tempore shall have the right to vote on all matters before the Town Council and shall be considered a member of the Town Council for all purposes.

"Section 3.6. **Compensation of Mayor and Town Council.** Compensation of the Mayor and members of the Town Council shall be fixed by the Town Council pursuant to the provisions of G.S. 160A-64.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes, except that the first election is to be held on the statewide date for municipal elections in November 2009.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE V. ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager plan as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and fees authorized by general law.

"Section 6.2. **Budget.** From and after July 1, 2007, the citizens and property in the Town of Butner shall be subject to municipal taxes levied for the fiscal year beginning July 1, 2007, and, for that purpose, the Town shall obtain from Granville County a record of the property in the area herein incorporated that was listed for taxes as of January 1, 2007. The Town may adopt a budget ordinance for fiscal year 2007-2008 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the Act insofar as is practical. For fiscal year 2007-2008, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 106-360 as if the taxes had been due and payable on September 1, 2007.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Butner is authorized to adopt such ordinances as the Town Council deems necessary for the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** Business shall be conducted in accordance with G.S. 14-234 and in accordance with other applicable statutes.

"Section 8.2. **Provision of Services and Administration of Functions.** The Town Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide the services and administer the functions in the most efficient and cost-effective manner.

"Section 8.3. **Shared Revenues.** For the purpose of allocation of State and local shared revenues during the 2007-2008 fiscal year, including sales tax and Powell Bill funds, the Town of Butner shall be considered to have been incorporated on June 30, 2007."

SECTION 2. The incorporation of the Town of Butner by Section 1 of this act and the remaining provisions of this act satisfy the requirement of Section 2(c) of Session Law 2006-159 that the majority of the functions of the Department performed at the Butner Reservation are assumed by a municipal corporation organized pursuant to the laws of the State of North Carolina.

SECTION 3.(a) The Governor shall convey to the incorporated Town of Butner on or before September 1, 2007, all right, title, and interest in all of the personal

property used by the Department for the benefit of that portion of the Reservation to be incorporated by this bill in the operation of the Town of Butner including tools, vehicles, lawn mowers, backhoe loaders, and files specific to the operation of the newly incorporated Town of Butner including, but not limited to, the following:

(1) 1992 Ford Truck, VIN number 1FTEF14Y6NLA85717;
(2) 2002 Ford F-250, VIN number 1FTNW21F42EC18905;
(3) 2003 Ford F-250, VIN number 1FTNX21P33EEC90069;
(4) 2003 Ford F-250, VIN number 1FTNX21PX3EC90070;
(5) 2003 Ford F-250, VIN number 1FTNX21P13EC90071;
(6) 2007 International Dump Truck, VIN number 1HTWAAAN17J408280;
(7) Texas Bragg Utility Trailer, number 17XFP1011V1976244;
(8) Hardee Trailer Tandem, number 1H9ET2148LLD59020;
(9) 2007 Hudson 9-ton trailer, number 10HHTDID171000022;
(10) Toro 16HP walk behind mower model 30182, number 30182-690886;
(11) John Deere Z-TRAK Riding Mower, number TC0777B021014;
(12) Ford Model 1710 T22 Tractor with mower, number UL11130;
(13) Massey Ferguson MF481-4 tractor, number BP09020;
(14) Ford/New Holland Model DR655D backhoe/loader, number A430916;
(15) Bobcat model 743 Skid-steer loader, number 501939197;
(16) Hyundai Robex R55-7 mini excavator, number M80111802; and
(17) Such additional equipment used by the Department primarily for the operation of the Town of Butner as shown on a list of equipment agreed upon by the Department and the interim governing board of the Butner Advisory Council and which is on file with the Secretary and the Chairman of the Butner Advisory Council.

SECTION 3.(b) On or before December 15, 2007, the Governor shall convey to the incorporated Town of Butner for use for recreation facilities, the preservation of open space, and future development all right, title, and interest in the following real property owned by the State of North Carolina, which property is within the area to be incorporated as the Town of Butner:

(1) Granville County Tax Parcel # 086501473006, as shown on that certain plat recorded at Plat Book 13, Page 122 of the Granville County Registry and containing 0.6065 acres more or less;
(2) Granville County Tax Parcel # 086502572428, consisting of 5.79 acres more or less and more particularly described as a strip of land approximately 100.00 in width running parallel to the railroad track off of B Street;
(3) Granville County Tax Parcel # 086607782896 consisting of 0.54 acres more or less and more particularly described as Lot 2, 12th Street;
(4) Granville County Tax Parcel # 086607782946, consisting of lot 1 as shown on that certain plat recorded at Plat Book 12, Page 137 of the Granville County Registry;

(5) Granville County Tax Parcel # 086720719052, consisting of lot 6A as shown on that certain plat recorded at Plat Book 15, Page 23 of the Granville County Registry;

(6) Granville County Tax Parcel # 087610265136, being a water meter station site approximately 55 feet in length and 25 feet in width off of Gate 2 Road;

(7) Granville County Tax Parcel # 087606275755, consisting of lot 5 as shown on that certain plat recorded at Plat Book 5, Page 25 of the Granville County Registry;

(8) Granville County Tax Parcel # 087606276823, consisting of lots 6 and 7 as shown on that certain plat recorded at Plat Book 5, Page 25 of the Granville County Registry;

(9) Granville County Tax Parcel # 087606287781, being a small lot approximately 25.00 feet in width on the southeast end, 27.00 feet in width on the northwest end, and 155.2 feet in length located off of C Street;

(10) Granville County Tax Parcel # 087718217623, consisting of that portion of the 30 foot alley owned by the State as shown on that certain plat recorded at Plat Book 3, Page 149 of the Granville County Registry;

(11) Granville County Tax Parcel # 087718228382, consisting of lot 22-A as shown on that certain plat recorded at Plat Book 16, Page 140 of the Granville County Registry;

(12) Granville County Tax Parcel # 087718229235, consisting of lot 23-A as shown on that certain plat recorded at Plat Book 16, Page 140 of the Granville County Registry;

(13) Granville County Tax Parcel # 087718320095, consisting of lot 26-A as shown on that certain plat recorded at Plat Book 17, Page 97 of the Granville County Registry;

(14) Granville County Tax Parcel # 086608788472, consisting of lot 13 as shown on that certain plat recorded at Plat Book 5, Page 127 of the Granville County Registry;

(15) Granville County Tax Parcel # 086608785481, consisting of lot 1 as shown on that certain plat recorded at Plat Book 5, Page 127 of the Granville County Registry;

(16) Granville County Tax Parcel # 086608890153, consisting of lot 7 as shown on that certain plat recorded at Plat Book 7, Page 74 of the Granville County Registry;

(17) Granville County Tax Parcel # 086608891250, consisting of lot 8 as shown on that certain plat recorded at Plat Book 7, Page 74 of the Granville County Registry;

(18) Granville County Tax Parcel # 087606396411, consisting of lot 10 as shown on that certain plat recorded at Plat Book 2, Page 118A of the Granville County Registry;

(19) Granville County Tax Parcel # 086615636355, consisting of lot 4 as shown on that certain plat recorded at Plat Book 4, Page 141 of the Granville County Registry;

(20) Granville County Tax Parcel # 086615635235, consisting of lot 5 as shown on that certain plat recorded at Plat Book 4, Page 141 of the Granville County Registry;

(21) Granville County Tax Parcel # 086501487018, consisting of lots 4 and 5 as shown on that certain plat recorded at Plat Book 2, Page 147 of the Granville County Registry;

(22) Granville County Tax Parcel # 086501499107, consisting of lots 26 and 27 as shown on that certain plat recorded at Plat Book 2, Page 147 of the Granville County Registry;

(23) Granville County Tax Parcel # 086604501213, consisting of lots 48 and 49 as shown on that certain plat recorded at Plat Book 2, Page 147 of the Granville County Registry;

(24) That certain tract or parcel of land identified in the Butner Long-Range Master Plan dated December 1998 prepared pursuant to Section 4 of Senate Bill 428, 1997 Session, consisting of 650 acres more or less located in the southern portion of the study area as described in said master plan along 'B' Street and west of 12th, 5th, and 4th Street, and more particularly shown on a map dated March 19, 2007, prepared by Deborah H. Robertson, Registered Forester, for the North Carolina Department of Agriculture, a copy of which is on file with the Town of Butner, the Department of Health and Human Services, and the Department of Agriculture. If said property or any portion thereof is sold, leased, or otherwise conveyed to a private entity (other than a land trust or other nonprofit organization devoted to conservation), the sales price shall be either (i) approved by the Secretary and the Town of Butner or (ii) equal to or greater than the appraised value of the property as determined by a qualified appraiser selected by the Town of Butner and the Secretary or, if the Town of Butner and the Secretary cannot agree on an appraiser, then the value of the property as determined by the average of the value of said property as determined by a qualified appraiser selected by the Secretary and a qualified appraiser selected by the Town of Butner. Upon the disposition of said land by the Town of Butner, twenty-five percent (25%) of any sales proceeds shall be retained by the Town of Butner, and the remainder of the sales proceeds, if any, shall be paid to the State Treasurer by the Town for deposit in a capital improvement account to the credit of the Department of Health and Human Services as set out in Section 12 hereof. The costs of sale, if any, shall be deducted from the sales proceeds and shall be allocated between the Town and the Department based upon each party's share of the sales proceeds;

(25) That certain tract or parcel of land identified in the Butner Long-Range Master Plan dated December 1998 prepared pursuant to Section 4 of Senate Bill 428, 1997 Session, consisting of five acres more or less located in the central portion of the study area as described in said master plan along Central Avenue, midway between 'D' Street and 'E' Street and known as the Gazebo area;

(26) That certain tract or parcel of land identified in the Butner Long-Range Master Plan dated December 1998 prepared pursuant to Section 4 of Senate Bill 428, 1997 Session, consisting of 30 acres more or less located in the central portion of the study area, between 'F' Street and 'G' Street and from 12th Street to Central Avenue; provided, however, that the State shall retain ownership of the portion of said property consisting of 7843.45 square feet (0.18 acres) currently leased by the State to Sprint as shown on that certain map entitled "Site Survey for: Sprint," prepared by Jim Morrow, Professional Land Surveyor and dated January 9, 2005, and upon which is currently located a cellular telephone tower. It is further provided that this property shall vest in the Town of Butner if said property is no longer leased by the State for use as a communications tower or is no longer used or occupied by the State for State purposes;

(27) That certain tract or parcel of land between 'D' Street and 'E' Street and from 24th Street to 26th Street upon which is located that structure known as the Butner Sports Arena;

(28) That certain building and parcel of land known as Granville County Tax Parcel # 087605091519 located on Central Avenue currently leased by the Department to the Employment Security Commission; provided, however, that such transfer shall be subject to the terms of the existing lease between the Department and the Employment Security Commission;

(29) That certain tract or parcel of land consisting of twenty acres more or less previously designated for use as a ball field for Town of Butner and being that portion of a 83.6892 acre tract shown on a survey titled "Survey for North Carolina Department of Human Resources, Butner, North Carolina," and dated October 23, 1995 by James R. Wilson, Registered Land Surveyor lying northeast of the Wake Electric Management Corporation power line right-of-way as shown on said map;

(30) That certain tract or parcel of land described in Session Law 1997-443 and set aside for the use of the citizens of Butner "until the time . . . that a permanent local government is established on the Butner Reservation at which time the land shall be transferred to the local government." Said tract or parcel of land is more particularly described in said session law as follows: "Approximately 2 acres, on the east side it borders Central avenue with a line running along the Wallace

Bradshur property on the north back to the tree line next to the ADATC. From there it follows a tree line south and west to and including the softball field. From the softball field it turns east to the State Employees Credit Union and follows the Credit Union property on the south side back to Central Avenue." In addition thereto, said conveyance is intended to include all property owned by the State, including all alleyways, (except the property occupied by the State Employees Credit Union) bounded on the south by the above described softball field, on the north by Central Avenue, on the west by the property formerly belonging to Wallace Bradsher (now owned by Ronald Alligood) and on the east by West E Street;

(31) That certain portion of the lands owned by the State containing 8.11 acres more or less bordered by G Street, 21st Street, Granville Street, and that certain parcel of land described in the Granville County tax records as Granville County Tax Parcel # 086720900028 to the south;

(32) That certain portion of the lands owned by the State beginning at a point in the northeast corner of that parcel of land described in the Granville County tax records as Granville County Tax Parcel # 087717029272 and continuing in a straight line from said point northeast in a manner parallel to F Street approximately 1,762.64 feet to a point perpendicular to the southwest corner of the paved surface of 25th Street; running thence southeast approximately 227.01 feet to a point being a common corner between Granville County Tax Parcel # 087713234113, the subject property, and 25th Street and running thence southwest approximately 235.00 feet to a corner, thence southeast approximately 590.05 feet along the boundaries with Granville County Tax Parcel numbers 087713234113, 087714235047, 087714225965, 087714226845, and 087714226762; thence southwest approximately 99.00 feet to a common corner with Granville County Tax Parcel number 087714225529; thence northwest approximately 225.00 feet to a corner; thence southwest approximately 560.00 feet to a corner with Granville County Tax Parcel # 087717221306; thence southeast along a common boundary with Granville County Tax Parcel # 087717221306 approximately 225.00 feet to a corner with East F Street; thence southwest approximately 329.00 feet to a common corner with Granville County Tax Parcel # 087717127160 and East F Street; thence northwest approximately 225.00 feet to a common corner with Granville County Tax Parcel # 087717127160; thence southwest approximately 308.32 feet along Granville County Tax Parcel numbers 087717127160, 087717126083, and 087717125071 to a corner; thence northeast approximately 18.00 feet; thence northwest approximately 354.00 feet to a corner with G Street; thence southeast approximately 244.00 feet to a common corner with Granville County Tax Parcel # 087717029272 and G Street; thence northwest

approximately 225.00 feet along the boundary of Granville County Tax Parcel # 087717029272 to the point and place of beginning containing 21.9718 acres more or less;

(33) Granville County Tax Parcel # 086502592083, consisting of 5.34 acres more or less;

(34) Granville County Tax Parcel # 086502592311, consisting of 1.07 acres more or less and more particularly described as Lot 1, West B Street;

(35) Granville County Tax Parcel # 086604503159, consisting of 0.47 acres more or less and more particularly described as Lots 48, 49, Block B, B Street;

(36) Granville County Tax Parcel # 086604503279, consisting of 0.46 acres more or less and more particularly described as Lots 50, 51, Block B, B Street;

(37) Granville County Tax Parcel # 086604503379, consisting of 0.44 acres more or less and more particularly described as Lots 52, 53, Block B, B Street;

(38) Granville County Tax Parcel # 086604503499, consisting of 0.45 acres more or less and more particularly described as Lots 54, 55, Block B, B Street;

(39) Granville County Tax Parcel # 086604504519, consisting of 0.46 acres more or less and more particularly described as Lots 56, 57, Block B, B Street;

(40) Granville County Tax Parcel # 086604504638, consisting of 0.45 acres more or less and more particularly described as Lots 58, 59, Block B, B Street;

(41) Granville County Tax Parcel # 086604504868, consisting of 0.46 acres more or less and more particularly described as Lots 62, 63, Block B, B Street;

(42) Granville County Tax Parcel # 086604504978, consisting of 0.44 acres more or less and more particularly described as Lots 64, 65, Block B, B Street;

(43) Granville County Tax Parcel # 086604513433, consisting of 0.48 acres more or less and more particularly described as Lots 72, 73, Block A, B Street;

(44) Granville County Tax Parcel # 086604515008, consisting of 0.44 acres more or less and more particularly described as Lots 66, 67, Block B, B Street;

(45) Granville County Tax Parcel # 086604515128, consisting of 0.44 acres more or less and more particularly described as Lots 68, 69, Block B, B Street;

(46) Granville County Tax Parcel # 086604515258, consisting of 0.44 acres more or less and more particularly described as Lots 70, 71, Block B, B Street;

(47) Granville County Tax Parcel # 086604515377, consisting of 0.42 acres more or less and more particularly described as Lots 72, 73, Block B, B Street;

(48) Granville County Tax Parcel # 086604516404, consisting of 0.43 acres more or less and more particularly described as Lots 74, 75, Block B, B Street;

(49) Granville County Tax Parcel # 086604516533, consisting of 0.42 acres more or less and more particularly described as Lots 76, 77, Block B, B Street;

(50) Granville County Tax Parcel # 086604516661, consisting of 0.42 acres more or less and more particularly described as Lots 78, 79, Block B, B Street;

(51) Granville County Tax Parcel # 086604517710, consisting of 0.43 acres more or less and more particularly described as Lots 80, 81, Block B, B Street;

(52) Granville County Tax Parcel # 086604517870, consisting of 0.43 acres more or less and more particularly described as Lots 82, 83, Block B, B Street;

(53) Granville County Tax Parcel # 086604518827, consisting of 0.42 acres more or less and more particularly described as Lots 84, 85, Block B, B Street;

(54) Granville County Tax Parcel # 086604518944, consisting of 0.43 acres more or less and more particularly described as Lots 86, 87, Block B, B Street;

(55) Granville County Tax Parcel # 086604528092, consisting of 0.43 acres more or less and more particularly described as Lots 88, 89, Block B, B Street;

(56) Granville County Tax Parcel # 086604528460, consisting of 0.47 acres more or less and more particularly described as Lots 94, 95, Block A, B Street;

(57) Granville County Tax Parcel # 086604529150, consisting of 0.43 acres more or less and more particularly described as Lots 90, 91, Block B, B Street;

(58) Granville County Tax Parcel # 086604620117, consisting of 0.44 acres more or less and more particularly described as Lots 92, 93, Block B, B Street;

(59) Granville County Tax Parcel # 086604620274, consisting of 0.43 acres more or less and more particularly described as Lots 94, 95, Block B, B Street;

(60) Granville County Tax Parcel # 086604621322, consisting of 0.44 acres more or less and more particularly described as Lots 96, 97, Block B, B Street;

(61) Granville County Tax Parcel # 086604621399, consisting of 0.44 acres more or less and more particularly described as Lots 98, 99, Block B, B Street;

(62) Granville County Tax Parcel # 086615623535, consisting of 1.11 acres more or less and more particularly described as Lot 100-103, B Street;

(63) Granville County Tax Parcel # 086615624652, consisting of 0.44 acres more or less and more particularly described as Lots 104, 105, Block B, B Street;

(64) Granville County Tax Parcel # 086615625628, consisting of 0.46 acres more or less and more particularly described as Lots 106, 107, Block B, B Street;

(65) Granville County Tax Parcel # 086615626714, consisting of 0.58 acres more or less and more particularly described as Lots 108, 109, Block B, B Street;

(66) Granville County Tax Parcel # 086612870444, consisting of 0.46 acres more or less and more particularly described as Lot 3 (Drain Lot), 12th Street;

(67) Granville County Tax Parcel # 086608870513, consisting of 0.46 acres more or less and more particularly described as Lot 2, 12th Street;

(68) Granville County Tax Parcel # 086612871305, consisting of 0.46 acres more or less and more particularly described as Lot 4, 12th Street;

(69) Granville County Tax Parcel # 086608880691, consisting of 0.71 acres more or less and more particularly described as Lot 19, 13th Street;

(70) Granville County Tax Parcel # 086608880736, consisting of 0.51 acres more or less and more particularly described as Lot 15, F Street;

(71) Granville County Tax Parcel # 087717027043, consisting of 0.52 acres more or less and more particularly described as Lot 13, G Street;

(72) Granville County Tax Parcel # 086720919453, consisting of 0.51 acres more or less and more particularly described as Lot 3, G Street;

(73) Granville County Tax Parcel # 087717010447, consisting of 0.52 acres more or less and more particularly described as Lot 4, G Street;

(74) Granville County Tax Parcel # 087717011524, consisting of 0.52 acres more or less and more particularly described as Lot 5, G Street;

(75) Granville County Tax Parcel # 087717012600 consisting of 0.52 acres more or less and more particularly described as Lot 6, G Street;

(76) Granville County Tax Parcel # 087717012677, consisting of 0.51 acres more or less and more particularly described as Lot 7, G Street;

(77) Granville County Tax Parcel # 087717013753, consisting of 0.51 acres more or less and more particularly described as Lot 8, G Street;

(78) Granville County Tax Parcel # 087717014739, consisting of 0.51 acres more or less and more particularly described as Lot 9, G Street;

(79) Granville County Tax Parcel # 087717015805, consisting of 0.51 acres more or less and more particularly described as Lot 10, G Street;

(80) Granville County Tax Parcel # 087717015991, consisting of 0.51 acres more or less and more particularly described as Lot 11, G Street;
(81) Granville County Tax Parcel # 087717016967, consisting of 0.50 acres more or less and more particularly described as Lot 12, G Street;
(82) Granville County Tax Parcel # 087717028039, consisting of 0.51 acres more or less and more particularly described as Lot 14, G Street;
(83) Granville County Tax Parcel # 087717029106, consisting of 0.51 acres more or less and more particularly described as Lot 15, G Street;
(84) Granville County Tax Parcel # 087717029272, consisting of 0.51 acres more or less and more particularly described as Lot 16, G Street;
(85) Granville County Tax Parcel # 087717110827, consisting of 0.74 acres more or less and more particularly described as Lot 8, G Street;
(86) Granville County Tax Parcel # 087717111915, consisting of 0.73 acres more or less and more particularly described as Lot 7, G Street;
(87) Granville County Tax Parcel # 087717122002, consisting of 0.74 acres more or less and more particularly described as Lot 6, G Street;
(88) Granville County Tax Parcel # 087717123009, consisting of 0.74 acres more or less and more particularly described as Lot 5, G Street; and
(89) That portion of the property owned by the State of North Carolina bordering Lake Holt consisting of ten acres more or less upon which property is currently located the concession stand/bait shop, enclosed picnic shelter, boat docks, picnic tables, parking area and other recreational facilities currently used by the Town of Butner in support of the recreational use of Lake Holt, together with an easement thereto across the existing access roads from Old Highway 75 to said recreational facilities.
(90) All other lots, alleyways, and parcels of land one acre or less not currently occupied by the State of North Carolina.

SECTION 3.(c) The Town of Butner may dispose of by private negotiation and sale any of the real property described in subsection (b) of this section, and shall specifically be exempt as to those dispositions from the provisions of Article 12 of Chapter 160A of the General Statutes. This subsection does not apply to property listed in subdivisions (25), (26), (27), (28), (29), (30), or (89) of subsection (b) of this section.

SECTION 3.(d) On or before March 15, 2008, the Governor shall convey to the incorporated Town of Butner for use for recreation, the preservation of open space, protection of the public drinking water supply, and possible future expansion of Lake Holt, a perpetual Conservation Easement pursuant to Article 4 of Chapter 121 of the General Statutes enforceable against the State of North Carolina, without regard to the defense of sovereign immunity or similar doctrines, in and to all land owned by the State of North Carolina (except that portion of the hereinafter described land under use by the National Guard and restricted by a deed provision requiring that said land revert to the ownership of the United States if not used for military purposes, said National Guard property being more particularly described at Deed Book 140, Page 236 of the Granville County Registry) east of Range Road (State Road 1121), south of Roberts

Chapel Road, north of Old Highway 75, and west of Range Road (State Road 1126) consisting of 1463 acres more or less surrounding the perimeter of Lake Holt as more particularly described on a map prepared June 18, 2007 by Deborah H. Robertson, Registered Forester, for the North Carolina Department of Agriculture, a copy of which is on file with the Town of Butner, the Department of Health and Human Services and the Department of Agriculture; provided, however, that the State of North Carolina shall not be restricted in its right to use that portion of the above-referenced property currently used by the State for the operation of Camp Barham and Camp Eason as long as such use, which may include the construction of additional improvements, is consistent with such laws, rules, regulations, and ordinances as are or may be in place for the protection of the public drinking supply and that said easement shall not be by its terms inconsistent with the rights given to the South Granville Water and Sewer Authority in that certain Easement and License Agreement dated December 14, 2006 and recorded at Book 1185, Page 291 of the Granville County Registry. Said easement shall prohibit all residential, commercial, and industrial uses in the easement area but shall not limit the State of North Carolina's use of said easement area for agricultural and silvicultural uses, provided said uses are consistent with all laws, rules, regulations, and ordinances governing said uses. There shall be excepted from the above easement area that certain tract or parcel of land consisting of 85 acres more or less and labeled "Proposed NBAF Site" on the above-described map; provided, however, that if said tract or parcel of land is not selected by the United States Department of Homeland Security for use in connection with the National Bio and Agro-Defense Facility project (NBAF Project) within five years of the date hereof, said area shall become subject to the terms of the easement to be granted. If no deed is recorded within five years in the Granville County Registry conveying said tract or parcel of land or some part thereof for use in connection with the above-described project, it shall be conclusively presumed that said tract or parcel of land or part thereof not so conveyed is subject to the terms of the easement herein granted. Said easement also shall grant to the South Granville Water and Sewer Authority and its successors the right to enforce the terms of the easement related to the protection of the public drinking water supply. The Town of Butner shall be allowed the continued use, including the expansion and improvement, of the recreational facilities described in Section 3(b)(89) of this act.

SECTION 3.(e) The Department of Health and Human Services may contract with the Town of Butner to provide employees, equipment, and material and services for a period not to exceed six months after incorporation and to lease property to the Town of Butner any time after incorporation.

SECTION 3.1. G.S. 122C-3(3) reads as rewritten:

"**§ 122C-3. Definitions.**

The following definitions apply in this Chapter:

...

(3) "Camp Butner reservation" means the original Camp Butner reservation as may be designated by the Secretary as having been acquired by the State and includes not only areas which are owned and occupied by the State but also those which may have been leased or

otherwise disposed of by the ~~State.~~ State, and shall also include those areas within the municipal boundaries of the Town of Butner and that portion of the extraterritorial jurisdiction of the Town of Butner consisting of lands not owned by the State of North Carolina.

...."

SECTION 4. G.S. 122C-403 reads as rewritten:

"**§ 122C-403. Secretary's authority over Camp Butner reservation.**

The Secretary shall administer the Camp Butner ~~reservation~~ reservation except (i) those areas within the municipal boundaries of the Town of Butner and (ii) that portion of the Town of Butner's extraterritorial jurisdiction consisting of lands not owned by the State of North Carolina. In performing this duty, the Secretary has the powers listed below. In exercising these powers the Secretary has the same authority and is subject to the same restrictions that the governing body of a city would have and would be subject to if the reservation was a city, unless this section provides to the contrary. The Secretary may:

(1) Regulate airports on the reservation in accordance with the powers granted in Article 4 of Chapter 63 of the General Statutes.

(2) Take actions in accordance with the general police power granted in Article 8 of Chapter 160A of the General Statutes.

(3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, and the protest petition requirements in G.S. 160A-385, and 160A-386 do not ~~apply.~~ apply, but the Secretary shall give the mayor of the Town of Butner at least 14 days' advance written notice of any proposed zoning change. The Secretary may ~~appoint the Butner Planning Council~~ establish a board to act like a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, ~~the Butner Planning Council~~ that board shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.

(4) Establish one or more planning agencies in accordance with the power granted in ~~G.S. 160A-361 or designate the Butner Planning Council as the planning agency for the reservation.~~ G.S. 160A-361.

(5) Regulate streets, traffic, and parking on the reservation in accordance with the powers granted in Article 15 of Chapter 160A of the General Statutes.

(6) Control erosion and sedimentation on the reservation in accordance with the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of the General Statutes.

(7) Contract with and undertake agreements with units of local government in accordance with the powers granted in G.S. 160A-413 and Article 20, Part 1, of Chapter 160A of the General Statutes.

(8) Regulate floodways on the reservation in accordance with the powers granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the General Statutes.

~~(8a) Act on resolutions adopted by the council pursuant to G.S. 122C-413.1(a). If the Secretary approves the resolution, it shall be carried out by the Butner Town Manager. The Secretary shall have no more than 30 days during which to disapprove any recommendation of the council contained in the resolution. Any disapproval shall be in writing, stating the reasons for the disapproval, and shall be returned to the council. If the Secretary does not disapprove a recommendation of the council within the prescribed period, the recommendation shall be deemed approved by the Secretary and shall be carried out by the Butner Town Manager.~~

(9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the ~~Butner Town Manager.~~Secretary's designee.

~~(9a) Select the Butner Town Manager from the candidates submitted by the council pursuant to G.S. 122C-413.1(b). The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.~~

(10) Adopt rules to carry out the purposes of this Article."

SECTION 5. G.S. 122C-405 reads as rewritten:

"**§ 122C-405. Procedure applicable to rules.**

Rules adopted by the Secretary under this Article shall be adopted in accordance with the procedures for adopting a city ordinance on the same subject, shall be subject to review in the manner provided for a city ordinance adopted on the same subject, and shall be enforceable in accordance with the procedures for enforcing a city ordinance on the same subject. Violation of a rule adopted under this Article is punishable as provided in G.S. 122C-406.

Rules adopted under this Article may apply to part or all of the Camp Butner ~~reservation.~~ Reservation, except those areas within the municipal boundaries of the Town of Butner and that portion of the Town of Butner's extraterritorial jurisdiction consisting of lands not owned by the State of North Carolina. If a public hearing is required before the adoption of a rule, ~~the Butner Planning Council shall conduct the hearing.~~ the Secretary shall designate one or more employees of the Department to conduct the hearing. The Butner Town Council shall receive at least 14 days' advance written notice of any public hearing with all correspondence concerning such public hearings to be directed to the mayor of the Town of Butner and sent by certified mail, return receipt requested, or equivalent delivery service to Butner Town Hall."

SECTION 6. G.S. 122C-407 reads as rewritten:

"**§ 122C-407. Water and sewer system.**

(a) The Department may acquire, construct, establish, enlarge, maintain, operate, and contract for the operation of a water supply and distribution system and a sewage collection and disposal system for the Camp Butner ~~reservation.~~ Reservation, and may enter into such contracts, memoranda of understanding, and other agreements with other persons or entities, including, but not limited to, local governments, authorities, and private enterprises, reasonably necessary to extend or otherwise provide water and sewer service to any portion of the Camp Butner Reservation.

(b) ~~These water and sewer systems~~ Those things authorized by subsection (a) of this section may be operated for the benefit of persons and property within the Camp Butner reservation and areas outside the reservation within reasonable limitations specifically including any sanitary ~~district or city~~ district, water and sewer authority, county water and sewer district, or municipality in Durham or Granville Counties.

(c) The Secretary may fix and enforce water and sewer rates and charges in accordance with G.S. 160A-314 as if it were a city."

SECTION 7. G.S. 122C-408 reads as rewritten:

"**§ 122C-408. Butner Public Safety Division of the Department of Crime Control and Public Safety; jurisdiction; fire and police district.**

(a) The Secretary of Crime Control and Public Safety may employ special police officers for the territory of the Butner ~~Advisory Council Jurisdiction~~ Reservation. The Secretary of Crime Control and Public Safety shall contract with the Town of Butner to provide fire and police protection to those areas within the incorporated limits of the Town of Butner. ~~The territorial jurisdiction of these special police officers shall be the Butner Advisory Council Jurisdiction, as defined in G.S. 122C-413(a).~~ The territorial jurisdiction of these officers shall consist of the property shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety and such additional areas which are within the incorporated limits of the Town of Butner as shown on a map to be kept in the office of the Butner Town Manager and in the office of Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety. The Secretary of Crime Control and Public Safety may organize these special police officers into a public safety department for that territory and may establish it as a division within that principal department as permitted by Chapter 143B of the General Statutes.

(b) After taking the oath of office required for law-enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those counties respectively. Within the territorial jurisdiction stated in subsection (a) of this section, the special police officers have the primary responsibility to enforce the laws of North ~~Carolina~~ Carolina, the ordinances of the Town of Butner, and any rule applicable to ~~that territory~~ the Butner Reservation adopted under authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and also have the powers set forth for firemen in Articles 80, 82 and 83 of Chapter 58 of the General Statutes. Any civil or criminal process to be served on any individual confined

at any State facility within the territorial jurisdiction described in subsection (a) of this section shall be forwarded by the sheriff of the county in which the process originated to the Director of the Butner Public Safety Division. Special police officers authorized by this section shall be assigned to transport any individual transferred to or from any State facility within the territorial jurisdiction described in subsection (a) of this section to or from the psychiatric service of the University of North Carolina Hospitals at Chapel Hill.

(c) The contract between the Town of Butner and the Department of Crime Control and Public Safety shall provide that:

(1) The Butner Public Safety Division of the Department of Crime Control and Public Safety shall provide the same level of service to the incorporated area known as the Town of Butner as provided to those areas of the Town of Butner served by Butner Public Safety on January 1, 2007;

(2) The Town of Butner shall pay to the State Treasurer, on or before May 1 of each year, for deposit in the General Fund an amount equal to the amount that actually would have been collected from real and personal property ad valorem taxes due January 5, 2007, in the area incorporated as the Town of Butner effective July 1, 2007, assuming a tax of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property in said area increased effective July 1 of each year by the increase in the percentage change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, for the southeast region, all urban consumers (or if that data shall no longer be available, the closest equivalent substitute then in publication by the United States Government) for the previous year ended December 31st;

(3) If additional areas are added to the incorporated limits of the Town of Butner, the payments due under the contract shall be increased by an amount equal to the amount that actually would have been collected from real and personal property ad valorem taxes due January 5 of the year of incorporation of such area if said incorporation occurs on or before May 1 or the amount collected for the preceding year if said incorporation occurs prior to May 1 of the then current year assuming a tax of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property in said area and increased yearly as set out above; and

(4) The Town of Butner and the Department of Crime Control and Public Safety may by mutual agreement modify the amounts required to be paid by the Town of Butner pursuant to subdivisions (2) and (3) of this subsection."

SECTION 8. G.S. 122C-409 reads as rewritten:

"**§ 122C-409. Community of Butner comprehensive emergency management plan.**

The Department of Crime Control and Public Safety shall establish an emergency management agency as defined in G.S. 166A-4(2) for ~~the Community of Butner and~~ the Camp Butner ~~reservation.~~ Reservation, and the Town of Butner."

SECTION 9. G.S. 122C-410 reads as rewritten:

"**§ 122C-410. Authority of county or city over Camp Butner ~~reservation.~~ Reservation; zoning jurisdiction by Town of Butner over State lands.**

(a) A municipality other than the Town of Butner may not annex territory extending into or extend its extraterritorial jurisdiction into the Camp Butner reservation without written approval from the Secretary and the Butner Town Council of each proposed annexation or extension. The Town of Butner may not annex territory extending into or extend its extraterritorial jurisdiction into those portions of the Camp Butner Reservation owned by the State of North Carolina without written approval from the Secretary of each proposed annexation or extension. The procedures, if any, for withdrawing approval granted by the Secretary to an annexation or extension of extraterritorial jurisdiction shall be stated in the notice of approval.

(b) A county ordinance may apply in part or all of the Camp Butner reservation (other than areas within the Town of Butner) if the Secretary gives written approval of the ~~ordinance.~~ ordinance, except that ordinances adopted by a county under Article 18 of Chapter 153A of the General Statutes may not apply in the extraterritorial jurisdiction of the Town of Butner without approval of the Butner Town Council. The Secretary may withdraw ~~his~~ approval of a county ordinance by giving written notification, by certified mail, return receipt requested, to the county. A county ordinance ceases to be effective in the Camp Butner reservation 30 days after the county receives the written notice of the withdrawal of approval. This section does not enhance or diminish the authority of a county to enact ordinances applicable to the Town of Butner and its extraterritorial jurisdiction.

(c) Notwithstanding any other provision of this Article, no portion of the lands owned by the State as of September 1, 2007, which are located in the extraterritorial jurisdiction or the incorporated limits of the Town of Butner shall be subject to any of the powers granted to the Town of Butner pursuant to Article 19 of Chapter 160A of the General Statutes except as to property no longer owned by the State. If any portion of such property owned by the State of North Carolina as of September 1, 2007, is no longer owned by the State, the Town of Butner may exercise all legal authority granted to the Town pursuant to the terms of its charter or by Article 19 of Chapter 160A of the General Statutes and may do so by ordinances adopted prior to the actual date of transfer. Before the State shall dispose of any property inside the incorporated limits of the Town of Butner or any of that property currently under the control of the North Carolina Department of Health and Human Services or the North Carolina Department of Agriculture and Consumer Services within the extraterritorial jurisdiction of the Town of Butner, southeast of Old Highway 75, northeast of Central Avenue, southwest of 33rd Street, and northwest of "G" Street, by sale or lease for any use not directly associated with a State function, the Town of Butner shall first be given the right of first refusal to purchase said property at fair market value as determined by the average of

the value of said property as determined by a qualified appraiser selected by the Secretary and a qualified appraiser selected by the Town of Butner."

SECTION 10. Part 1B of Article 6 of Chapter 122C of the General Statutes (Butner Advisory Council) is repealed.

SECTION 11. Article 6 of Chapter 122C of the General Statutes is amended by adding a new Part to read:

"Part 1D. Butner Commissions.

"**§ 122C-414. Butner Fire and Police Commission.**

(a) There is created a Butner Fire and Police Commission to consist of seven members, to be appointed in accordance with this section.

(b) The Butner Fire and Police Commission shall consist of seven members, three appointed by the Town of Butner, two appointed by the Secretary, one appointed by the Secretary of Crime Control and Public Safety, and one appointed by the Granville County Board of Commissioners. All members appointed by the Town of Butner shall reside within the Town of Butner or its extraterritorial jurisdiction or the Butner Reservation. All members appointed by the Secretary or the Secretary of Crime Control and Public Safety shall either work at or have responsibility for one of the State-run institutions located within the Butner Reservation or shall reside within the Town of Butner and its extraterritorial jurisdiction or the Butner Reservation. The Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety shall serve as an ex officio member of the Butner Fire and Police Commission. No active member of the Butner Public Safety Division of the Department of Crime Control and Public Safety may serve on the Butner Fire and Police Commission.

(c) The Butner Fire and Police Commission has the following duties and responsibilities:

(1) To periodically review, and recommend changes to, the operational policy for the Butner Public Safety Division of the Department of Crime Control and Public Safety.

(2) To consult with the Secretary of the Department of Crime Control and Public Safety in the Department's hiring of the Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety. Such consultation shall include, but not be limited to, the Commission reviewing and providing its comments to the Secretary of the Department of Crime Control and Public Safety on the credentials of the applicants for said position. In performing its functions under this subsection, the Commission members shall have the same access to the applicants' personnel records pursuant to Article 7, Chapter 126 of the General Statutes as the Secretary of the Department of Crime Control and Public Safety and shall be subject to the same restraints concerning the personnel information as set out in said article.

(3) To review and make recommendations to the Secretary of Crime Control and Public Safety concerning the recommended needs of the

Butner Public Safety Division of the Department of Crime Control and Public Safety.

(4) To receive and forward citizen complaints received by the Commission concerning the Butner Public Safety Division of the Department of Crime Control and Public Safety to the Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety and the Secretary of the Department of Crime Control and Public Safety as the Commission determines is appropriate.

(5) To perform all such other functions assigned to it by the General Assembly or the Secretary of the Department of Crime Control and Public Safety.

(d) The members of the Butner Fire and Police Commission shall be appointed within 30 days after the effective date of incorporation of the Town of Butner. One member appointed by the Town of Butner, one member appointed by the Secretary, and the member appointed by the Granville County Board of Commissioners shall serve an initial term of two years. The remainder of the members shall serve an initial term of four years. The beginning date of each initial term for the purpose of reappointment shall be September 1, 2007. Thereafter each member shall serve a term of four years.

"**§ 122C-415. Butner Lands Commission.**

(a) There is created a Butner Lands Commission to consist of nine members, to be appointed in accordance with this section.

(b) The Butner Lands Commission shall consist of nine members, two appointed by the Town of Butner, two appointed by Granville County, two appointed by the Secretary, one appointed by the Commissioner of the North Carolina Department of Agriculture and Consumer Services, one appointed by the Secretary of Commerce, and one appointed by the Governor on or before September 1, 2007. The Butner Lands Commission shall make recommendations to the Governor on or before September 1, 2008, concerning:

(1) Land owned by the State of North Carolina in the Butner Reservation that may be well-suited to the creation of a mega-site business and industrial park.

(2) Land owned by the State of North Carolina that should be released for private commercial and residential development.

(3) The use of other lands within the Butner Reservation that will promote agricultural research and development, the development and growth of State institutions, and the preservation of natural lands."

SECTION 12. G.S. 146-30(c) reads as rewritten:

"(c) The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or products of land owned by or under the supervision and control of the Wildlife Resources Commission, or acquired or purchased with funds of that

Commission, shall be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived from the sale of land or timber from land owned by or under the supervision and control of the Department of Agriculture and Consumer Services shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services, to be used for such specific capital improvement projects or other purposes as are provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Environment and Natural Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient. Provided further, the net proceeds derived from the sale of any portion of the land owned by the State in or around the ~~unincorporated area known as~~ Butner Reservation on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the ~~Hospital to provide water and sewers and to bring those streets in the unincorporated area known as Butner not on the State highway system up to standards adequate for acceptance on the system,~~ Department of Health and Human Services to make capital improvements on or to property owned by the State in the Butner Reservation ~~according to a plan adopted by the Department of Administration, and~~ subject to approval by the Office of State Budget and Management, ~~with the approval of the Board of County Commissioners of Granville County,~~ and may be used to build industrial access roads to industries located or to be located on the Butner Reservation, ~~on the Butner lands,~~ to construct new city streets ~~on the Butner lands,~~ in the Butner Reservation, extend water and sewer service on the Butner ~~lands,~~ Reservation, ~~and~~ repair storm drains on the Butner ~~lands.~~Reservation, and for other capital uses on the Reservation as determined by the Secretary."

SECTION 13. G.S. 136-41.1(c) reads as rewritten:

"(c) ~~Notwithstanding the provisions of subsections (a) and (b) of this section and of G.S. 136-41.2, the unincorporated area known as Butner qualifies in all respects for allocation of funds under this section and certification of the population and street mileage of Butner by the North Carolina Department of Health and Human Services is acceptable. Funds allocated to the area for this purpose shall be administered by the~~

~~Butner Town Manager.~~ Any funds allocated to the unincorporated area known as the Butner Reservation shall be transferred to the Town of Butner."

SECTION 14. Section 1 of Chapter 830 of the 1983 Session Laws reads as rewritten:

"Section 1.(a) The territorial jurisdiction of the Butner Police and Fire Protection District shall include: (i) any property formerly a part of the original Camp Butner reservation, including both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of said reservation and said sanitary ~~district.~~ district, provided, however, that those portions of said lands within the corporate limits of the Town of Butner are removed from the Butner Police and Fire Protection District for the purposes hereof."

SECTION 14.1. Section 1.1 through 14 of this act shall become effective only if the Charter of the Town of Butner is approved under section 5 of the Voting Rights Act of 1965. If the Charter is not approved, Sections 1.1 through 14 of this act have no force and effect. If the Charter is approved, then those sections become effective on the first day of the next calendar month that begins more than three days after the approval, except that the persons appointed as temporary officers under Section 3.2 of the Charter may immediately take the oath of office and take such preliminary actions as may be necessary for initial organization, personnel actions, and budget adoption, in such special meetings as may be called under G.S. 160A-71.

SECTION 14.2. The Department of Justice shall be responsible for submitting any information required by G.S. 120-30.9F for preclearance under the Voting Rights Act of 1965.

SECTION 14.3. Section 14 of this act removes the territory within the corporate limits of the Town of Butner from the Butner Police and Fire Protection District provided by Section 1 of Chapter 830 of the 1983 Session Laws, as amended. Since this act will become effective after July 1, 2007, with respect to taxes on property located within the corporate limits, for taxes levied for the 2007-2008 fiscal year, if the incorporation becomes effective, Granville County shall remit to the Town of Butner rather than to the State General Fund the taxes collected for that district on properties located within the corporate limits. Notwithstanding the previous sentence, if Granville County does not bill the Butner Police and Fire Protection District tax for fiscal year 2007-2008 on properties located within the proposed corporate limits until either the incorporation is either precleared or rejected under Section 5, those taxes are released or refunded if the incorporation is precleared, or shall be billed if the incorporation is rejected.

SECTION 15. This act is effective when it becomes law.

HOUSE BILL 986:
Butner Incorporation

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Rep. Crawford	**Summary by:**	Judy Collier
Version:	Fourth Edition		Research Assistant

SUMMARY: House Bill 986 would incorporate the Town of Butner[1]. HB 986 would become effective when it becomes law and is subject to pre-clearance by the U.S. Department of Justice prior to implementation.

CURRENT LAW: Municipalities may be created by the General Assembly and may give such powers and duties to those cities and towns as it may deem advisable. The General Assembly cannot incorporate, as a city or town, any territory meeting any of the following criteria:

- Lying within 1 mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census.
- Lying within 3miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census.
- Lying within 4 miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census.
- Lying within 5 miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census.

Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by a 3/5 vote of all the members of each chamber. Article VII, Section 1, North Carolina Constitution.

Rule 35.1(b) of the House Rules requires that a legislative proposal proposing incorporation must have attached to its bill jacket a report of the Joint Municipal Incorporations Commission prior to a favorable report by a committee of the House. Article 20 of Chapter 120 creates the Joint Municipal Incorporation Commission and sets forth the constitutional and statutory criteria for review of a proposed incorporation.

The Camp Butner reservation has been run by the Department of Health and Human Services for a number of years, administered by the Secretary.

BILL ANALYSIS: HB 986 would incorporate the Town of Butner; transfer certain assets previously held by the State of North Carolina for the Town of Butner to the newly incorporated Town of Butner; and make conforming changes to public laws affecting the Butner reservation.

EFFECTIVE DATE: HB 986 would become effective when it becomes law, and is subject to pre-clearance by the U.S. Department of Justice prior to implementation.

H0986e4-SMRE

Erika Churchill, counsel to House Local Government I Committee, substantially contributed to this summary.

[1] In its Report to the General Assembly dated June 25, 2007, the Joint Legislative Commission on Municipal Corporations found that the proposed Town of Butner meets the standards required by Article 20 of Chapter 120 of the General Statutes and recommended incorporation of the area as the Town of Butner.

PRO FORMA ESTIMATE OF REVENUES FOR THE POSSIBLE INCORPORATION OF BUTNER (GRANVILLE COUNTY) FOR FISCAL YEAR 2005-06

Proposed Property Tax Rate per $100 valuation	0.25
Estimated Permanent Resident Population	5,440
Roads - Locally Maintained	81.9

Pro Forma Revenue, Fiscal Year 2005-06

1. Sales & use tax *	$1,070,000
2. Electric power franchise tax***	$155,000
3. Beer & wine excise taxes *,**	$25,000
4. Piped natural gas excise tax***	$35,000
5. Telecommunications sales tax*,***	$80,000
6. Powell Bill*	$260,000
TOTAL	$1,625,000

* Items 1, 3, 5, and 6 require a mimimum tax rate of $0.05 per $100 valuation.

** A newly incorporated municipality in Granville County would share in the beverage tax revenues only after holding a referendum in which the sales of beer and/or wines are approved.

*** The electric power franchise tax distribution is equal to 3.09% of the gross receipts from the sale, within the corporate limits of the municipality, of electricity. Effective July 1, 1999, the utility franchise tax on piped natural gas was repealed and replaced with the piped natural gas excise tax. Effective January 1, 2002, the telephone franchise tax was repealed and replaced with a sales & use tax.

THIS DOCUMENT REPRESENTS A PUBLIC RECORD WHICH MAY BE DISTRIBUTED TO ANYONE REQUESTING IT.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 705

Short Title:	School Food Service Equipment/Lease-Purchase.	(Public)
Sponsors:	Representatives Crawford, Wray (Primary Sponsors); Bell, Church, and Insko.	
Referred to:	Finance.	

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO PERMIT LOCAL BOARDS OF EDUCATION TO ENTER INTO LEASE PURCHASE OR INSTALLMENT PURCHASE CONTRACTS FOR FOOD SERVICE EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-528(a) reads as rewritten:

"(a) Local boards of education may purchase or finance the purchase of automobiles; school buses; mobile classroom units; food service equipment, photocopiers; and computers, computer hardware, computer software, and related support services by lease purchase contracts and installment purchase contracts as provided in this section. Computers, computer hardware, computer software, and related support services purchased under this section shall meet the technical standards specified in the North Carolina Instructional Technology Plan as developed and approved under G.S. 115C-102.6A and G.S. 115C-102.6B."

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

HOUSE BILL 705:
School Food Service Equipment/Lease-Purchase

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 16, 2007
Introduced by:	Reps. Crawford, Wray	**Summary by:**	Martha Walston
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 705 authorizes local boards of education to purchase or finance food service equipment through lease purchase contracts and installment purchase contracts.

CURRENT LAW: G.S. 115C-528 authorizes local boards of education to purchase the following items under a lease purchase or installment purchase contract: school buses; mobile classroom units; photocopiers; and computers, computer hardware, computer software, and related support services.

Lease purchase contract – this type of contract authorizes the local board of education to possess and use the property for a specified period of time while making periodic payments. The contract contains either an obligation or option to purchase the property during the term of the contract. The contract may also include an option to upgrade the property during the term, and the board does not have to rebid the contract if it exercises this option. An option to upgrade is common when purchasing computers.

Installment purchase contract – this type of contract gives the seller a security interest in the property to secure payment of the purchase price.

Both lease purchase contracts and installment purchase contracts cannot exceed the useful life of the property purchased. The contracts require approval by the Local Government Commission and the county commissioners, depending upon the term and amount of the contract.[1]

The contracts may not contain a nonsubstitution clause that restricts the local board's right to continue to provide a service or activity or to replace or substitute property that has been financed. No deficiency judgment is allowed against any local board for breach of the contract, and the taxing power of a unit of local government may not be pledged to secure payment of the contract.

BILL ANALYSIS: House Bill 705 expands the authority of a local board of education to enter into a lease purchase or installment purchase contract when purchasing food service equipment.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: Prior to 1996, local school units had authority to acquire property by lease purchase or installment purchase only for automobiles and guaranteed energy savings contracts.

H0705e1-SMLA

[1] The Local Government Commission must approve a contract that obligates the local board to pay $500,000 or more. No prior approval is required if the term of the contract is less than three years and the total amount financed does not exceed either $250,000 or an amount equal to three times the local board's annual state allocation for classroom materials, equipment, and instructional supplies, whichever is less. Contracts that exceed this dollar threshold or extend beyond three years must be approved by the county commissioners and be treated as continuing contracts for capital outlay.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1529
PROPOSED SENATE COMMITTEE SUBSTITUTE H1529-CSSV-44 [v.1]

7/16/2007 2:09:31 PM

Short Title: Actuarial Valuation/Retiree Health Benefits. (Public)

Sponsors:

Referred to:

April 18, 2007

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE COMMITTEE ON ACTUARIAL VALUATION OF RETIRED EMPLOYEES' HEALTH BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-38.1. Committee on Actuarial Valuation of Retired Employees' Health Benefits.**

(a) There is established the Committee on Actuarial Valuation of Retired Employees' Health Benefits. The Committee shall be responsible for collecting data and reviewing assumptions for the sole purpose of conducting required actuarial valuations of State supported retired employees' health benefits under other post-employment benefit accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation.

(b) The Committee on Actuarial Valuation of Retired Employees' Health Benefits shall consist of five members serving ex officio, as follows:

(1) The State Budget Officer, who shall serve as the Chair;

(2) The State Auditor;

(3) The State Controller;

(4) The State Treasurer; and

(5) The Executive Administrator for the Teachers' and the State Employees' Comprehensive Major Medical Plan.

(c) A majority of the members of the Committee then serving shall constitute a quorum.

(d) Each member shall be entitled to one vote on the Committee. Three affirmative votes shall be necessary for a decision by the members at any meeting of the Committee.

(e) The Committee shall keep in convenient form such data as is necessary for actuarial valuation of retired employees' health benefits under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. The Department of State Treasurer, Retirement Systems Division, the Teachers' and State Employees' Comprehensive Major Medical Plan, and any other State agency, department, or university institution, local public school agency, or local community college institution shall provide any necessary data upon request of the Committee for the purpose of conducting its responsibilities.

(f) The Committee shall designate either the actuary under contract with the Department of State Treasurer, Retirement Systems Division, or the actuary under contract with the Teachers' and State Employees' Comprehensive Major Medical Plan as the technical adviser to the Committee on matters regarding the actuarial valuation of retired employees' health benefits created by the provisions of this Chapter. The technical advisor shall perform such actuarial valuation and other duties as are required under this Chapter.

(g) The Committee shall secure an annual calendar-year actuarial valuation of retired employees' health benefits under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation.

(h) The Committee shall keep a record of all of its proceedings which shall be open to public inspection."

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

HOUSE BILL 1529:
Actuarial Valuation/Retiree Health Benefits

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Rep. Crawford	**Summary by:**	Trina Griffin
Version:	PCS to First Edition H1529-CSSV-44		Committee Counsel

SUMMARY: House Bill 1529 would establish the Committee on Actuarial Valuation of Retired Employees' Health Benefits. The Proposed Committee Substitute changes the effective date from July 1, 2007 to when it becomes law.

BILL ANALYSIS: House Bill 1529 would establish the Committee on Actuarial Valuation of Retired Employees' Health Benefits. The Committee would collect data and review assumptions for the purpose of conducting required actuarial valuations of State-supported retired employees' health benefits using the new accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation.

The Committee would consist of five members as follows:

- The State Budget Officer, Chair
- The State Auditor
- The State Controller
- The State Treasurer
- The Executive Administrator for the Teachers' and the State Employees' Comprehensive Major Medical Plan

The Committee must designate as a technical adviser either the actuary under contract with the State Treasurer, Retirement Systems Division, or the actuary under contract with the Teachers' and State Employees' Comprehensive Major Medical Plan. The Committee must keep a record of all of its proceedings, and they must be open to public inspection.

Unlike the Retirement System, where the Board of Trustees can carry out the oversight of the process for valuation of retirement benefit liabilities, retiree health care liabilities cut across the Retirement System and the State Health Plan where there is not a single unified Board to oversee this function. The process for the first valuation conducted last year was done informally with the participation of the above-named officials. The bill would ensure that the process is formalized for the future as the individuals in those roles change over time.

EFFECTIVE DATE: This bill would become effective when it becomes law.

H1529e1-SMSV-CSSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 78

Committee Substitute Favorable 6/26/07

Short Title: Amend Burke County Occupancy Tax. (Local)

Sponsors:

Referred to:

February 7, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE BURKE COUNTY TO LEVY AN ADDITIONAL THREE PERCENT OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 422 of the 1989 Session Laws, as amended by Chapter 143 of the 1995 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. – (a) Authorization and ~~scope.~~ Scope. – The Burke County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious ~~organizations.~~organizations when furnished in furtherance of their nonprofit purpose.

(a1) Authorization of Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Burke County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection must be in accordance with this act. Burke County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county.~~

~~The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected.~~

(c) Administration. – A tax levied under this act must be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

(c1) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to~~

~~all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~

(e) Distribution and Use of ~~tax revenue.~~ Tax Revenue. – Burke County ~~shall use~~ must, on a quarterly basis, remit the net proceeds of the occupancy tax ~~only to promote economic development and travel and tourism in Burke County. The county may allocate the net proceeds one-half for economic development and one-half for travel and tourism or in any other ratio the board of commissioners considers appropriate. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.~~levied under this act to the Burke County Tourism Development Authority. The Authority must use the proceeds as follows:

(1) First three percent (3%). – At least two-thirds must be used to promote travel and tourism in Burke County, and the remainder must be used for tourism-related expenditures in Burke County.

(2) Remainder. – The Authority must segregate the remaining net proceeds into three separate accounts as set out in this subdivision. The Authority must use at least two-thirds of the funds in each account to promote travel and tourism in each of the named areas and must use the remainder for tourism-related expenditures in each of the named areas. The amounts and accounts are as follows:

a. Forty-five percent (45%) must be remitted to the Morganton Account.

b. Thirty percent (30%) must be remitted to the Burke County Account.

c. Twenty-five percent (25%) must be remitted to the Valdese Account.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Burke County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

"Sec. 1.1. Burke County Tourism Development Authority. – (a) Appointment and Membership. – When the Burke County Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it must also adopt a resolution creating a county Tourism Development Authority that is a public authority under the Local Government Budget and Fiscal Control Act. The resolution must provide for the membership of the Authority, including the members' terms of office, and for the filling

of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. Of the total membership, at least one member must represent the Town of Morganton, and at least one member must represent the Town of Valdese. The board of commissioners must designate one member of the Authority as chair and must determine the compensation, if any, to be paid to members of the Authority.

The Authority meets at the call of the chair and must adopt rules of procedure to govern its meetings. The Finance Officer for Burke County is the ex officio finance officer of the Authority.

(b) Duties. – The Authority must expend the net proceeds of the tax remitted to it under this act for the purposes provided in this act. The Authority must promote travel, tourism, and conventions, sponsor tourism-related events and activities, and finance tourism-related capital projects in the county and in the named towns in this act.

(c) Reports. – The Authority must report quarterly and at the close of the fiscal year to the Burke County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

"Sec. 2. This act is effective upon ratification."

SECTION 2. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

SECTION 3. This act is effective when it becomes law. The Burke County Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

HOUSE BILL 78:
Amend Burke County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Rep. Church	**Summary by:**	Trina Griffin
Version:	Second Edition		Committee Counsel

SUMMARY: House Bill 78 authorizes Burke County to levy an additional 3% room occupancy tax, it requires the establishment of a county tourism development authority, and it modifies the distribution formula for the occupancy tax proceeds.

House Bill 78 received a favorable recommendation from the House Finance Subcommittee on Occupancy Tax on June 20, 2007.

CURRENT LAW: In 1989, the General Assembly authorized Burke County to levy a 3% room occupancy tax. As of 1996, the county is authorized to allocate 50% of the net proceeds for economic development and 50% for travel and tourism, or *in any other ratio the board of commissioners considers appropriate.* The proceeds are not required to be distributed by a tourism development authority. However, the county does have its own "Travel and Tourism Board."

BILL ANALYSIS: House Bill 78 does the following:

- It authorizes Burke County to levy an additional 3% room occupancy tax, for a total rate of 6%.
- It requires Burke County to convert its Travel and Tourism Board to a Tourism Development Authority (TDA) within 30 days after the act becomes effective, consistent with the occupancy tax guidelines. It also requires representation of Morganton and Valdese on the TDA.
- It requires Burke County to remit the net proceeds of the entire 6% tax to the TDA.
- It requires the TDA to spend the proceeds as follows:
    - First 3%. – Two-thirds of the first 3% must be spent to promote travel and tourism and the remainder must be spent on tourism-related expenditures.
    - Remainder. – The remainder must be segregated into three accounts as follows. Two-thirds of the proceeds in each account must be used to promote travel and tourism in each of the named areas and the remainder must be used for tourism-related expenditures in each of the named areas.
        - Morganton Account = 45%
        - Burke County Account = 30%
        - Valdese Account = 25%
- It conforms the current administrative provisions to the statutory uniform provisions.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the

occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

The administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

H0078e2-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 78 (Second Edition)

SHORT TITLE: Amend Burke County Occupancy Tax.

SPONSOR(S): Representative Church

FISCAL IMPACT

Yes (x) No ( ) No Estimate Available ( )

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Burke County TDA	**$172,340**	**$175,959**	**$179,654**	**$183,607**	**$187,830**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Burke County, City of Morganton, Town of Valdese

EFFECTIVE DATE: Becomes effective when law.

BILL SUMMARY:
House Bill 78 authorizes Burke County to levy an additional 3% room occupancy tax, it requires the establishment of a county tourism development authority, and it modifies the distribution formula.

ASSUMPTIONS AND METHODOLOGY:
Burke County currently levies a 3% room occupancy tax. HB 78 would allow the county to levy an additional 3% tax, for a total of 6%. The current 3% Burke County occupancy tax generated $165,648 in FY 2005-06. Projections for the additional 3% tax are based on current collections and consumer price index increases from Moody's Economy.com.

The bill requires Burke County to convert its Travel and Tourism Board to a Tourism Development Authority (TDA) and to spend the proceeds of the total 6% tax as follows:

- First 3%. – Two-thirds of the first 3% must be spent to promote travel and tourism and the remainder must be spent on tourism-related expenditures.
- Remainder. – The remainder must be segregated into three accounts as follows. Two-thirds of the proceeds in each account must be used to promote travel and tourism in each of the named areas and the remainder must be used for tourism-related expenditures in each of the named areas.

- Morganton Account = 45%
- Burke County Account = 30%
- Valdese Account = 25%

Proposed Distribution of Burke County Occupancy Tax					
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
First 3%	172,340	175,959	179,654	183,607	187,830
Morganton Acct	77,553	79,181	80,844	82,623	84,523
Burke Co. Acct	51,702	52,787	53,896	55,082	56,348
Valdese Acct	43,085	43,989	44,913	45,901	46,957

SOURCES OF DATA: NC Department of Revenue, City of Morganton

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

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DATE: July 17, 2007

Official
Fiscal Research Division
Publication

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1755

Committee Substitute Favorable 5/4/07
Committee Substitute #2 Favorable 6/4/07
Fourth Edition Engrossed 6/6/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H1755-CSTDf-24 [v.25]

7/17/2007 6:24:04 PM

Short Title: Coordinate Statewide Enhanced 911 System. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE AND IMPROVE THE ADMINISTRATION OF THE STATE'S 911 SYSTEM THROUGH A STATEWIDE 911 BOARD, BY ENSURING THAT ALL VOICE SERVICES CONTRIBUTE TO THE 911 SYSTEM AND BY PROVIDING PARITY IN THE QUALITY OF SERVICE AND THE LEVEL OF 911 CHARGES ACROSS VOICE COMMUNICATIONS SERVICE PROVIDERS.

Whereas, maintaining an efficient Enhanced 911 system across the State benefits all citizens and not just certain localities; and

Whereas, the Wireless 911 Board has successfully administered the statewide wireless Enhanced 911 system for many years; and

Whereas, local governments have administered a similar wireline Enhanced 911 system for their local jurisdictions; and

Whereas, the average monthly 911 service charges paid to local governments by local exchange company customers exceeds the average monthly 911 service charges paid to the Wireless 911 Board by wireless company customers, thereby creating an unfair competitive advantage for wireless companies; and

Whereas, some VoIP-enabled providers do not currently support the Enhanced 911 system by collecting 911 service charges; and

Whereas, the consolidation of the State's Enhanced 911 system under a single board with a uniform 911 service charge will improve the integration of the State's 911 system, enhance efficiency and accountability, and create a level competitive playing field among voice communications technologies; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1(a). Chapter 62A of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Emergency Telephone Service.

"**§ 62A-40. Definitions.**

The following definitions apply in this Article.

(1) 911 Board. – The 911 Board established in G.S. 62A-41.

(2) 911 Fund. – The North Carolina 911 Fund established in G.S. 62A-43.

(3) 911 State Plan. – A document prepared, maintained, and updated by the 911 Board that provides a comprehensive plan for communicating 911 call information across networks and among PSAPs, addresses all aspects of the State's 911 system, and describes the allowable uses of revenue in the 911 Fund.

(4) 911 system. – An emergency telephone system that does all of the following:

a. Enables the user of a voice communications service connection to reach a PSAP by dialing the digits 911.

b. Provides enhanced 911 service.

(5) Call taking. – The act of processing a call for emergency assistance up to the point that the call is ready for dispatch, including the use of equipment, call classification, location of a caller, and determination of the appropriate response level for emergency reponders.

(6) Commercial Mobile Radio Service (CMRS). – Defined in 47 C.F.R. § 20.3.

(7) CMRS connection. – Each mobile handset telephone number assigned to a CMRS subscriber with a place of primary use in North Carolina.

(8) CMRS provider. – An entity, whether facilities-based or nonfacilities-based, that is licensed by the Federal Communications Commission to provide CMRS or that resells CMRS within North Carolina.

(9) Enhanced 911 service. – Directing a 911 call to an appropriate PSAP by selective routing based on the geographical location from which the call originated and providing information defining the approximate geographic location and the telephone number of a 911 caller, in accordance with the FCC Order.

(10) Exchange access facility. – The access from a subscriber's premises to the telephone system of a service supplier. The term includes service supplier provided access lines, private branch exchange trunks, and centrex network access registers, as defined by applicable tariffs approved by the North Carolina Utilities Commission. The term does not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Service (WATS), Foreign Exchange (FX), or incoming only lines.

(11) FCC Order. – The Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997, and any consent decrees, rules, and regulations adopted by the Federal Communications Commission pursuant to the Order.

(12) GIS mapping. – Computerized geographical information that can be used to assist in locating a person who calls emergency assistance, including street centerlines, ortho photography, and oblique imaging.

(13) Interconnected VoIP service. – Defined in 47 C.F.R. § 9.3.

(14) Local exchange carrier. – An entity that is authorized to provide telephone exchange service or exchange access in North Carolina.

(15) Prepaid wireless telephone service. – A right that meets all of the following requirements:

a. Authorizes the purchase of CMRS, either exclusively or in conjunction with other services.

b. Must be paid for in advance.

c. Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis.

(16) Primary PSAP. – The first point of reception of a 911 call by a public safety answering point.

(17) Proprietary information. – Subscriber lists, technology descriptions, technical information, or trade secrets that are developed, produced, or received internally by a voice communications service provider or by a voice communications service provider's employees, directors, officers, or agents.

(18) Public safety answering point (PSAP). – The public safety agency that receives an incoming 911 call and dispatches appropriate public safety agencies to respond to the call.

(19) Service supplier. – An entity that provides exchange telephone service to a telephone subscriber.

(20) Subscriber. – A person who purchases a voice communications service and is able to receive it or use it periodically over time.

(21) Voice communications service connection. – Each telephone number assigned to a residential or commercial subscriber by a voice communications service provider, without regard to technology deployed.

(22) Voice communications service. – Any of the following:

a. The transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used.

b. The ability to receive and terminate voice calls to and from the public switched telephone network.

c. Interconnected VoIP service.

(23) Voice communications service provider. – An entity that provides voice communications service to a subscriber.

(24) VoIP provider. – An entity that provides interconnected VoIP service.

"**§ 62A-41. 911 Board.**

(a) Membership. – The 911 Board is established in the Office of Information Technology Services. The 911 Board consists of 17 members as follows:

(1) Four members appointed by the Governor as follows:

a. An individual who represents municipalities appointed upon the recommendation of the North Carolina League of Municipalities.

b. An individual who represents counties appointed upon the recommendation of the North Carolina Association of County Commissioners.

c. An individual who represents a VoIP provider.

d. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

(2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:

a. An individual who is a sheriff.

b. Two individuals who represent CMRS providers operating in North Carolina.

c. An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.

(3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:

a. An individual who is a chief of police.

b. Two individuals who represent CMRS providers operating in North Carolina.

c. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.

(4) The State Chief Information Officer or the State Chief Information Officer's designee, who serves as the chair.

(b) Term. – A member's term is four years. Members remain in office until their successors are appointed and qualified. Vacancies are filled in the same manner as the

original appointment. The Governor may remove any member for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).

(c) Meetings. – Members of the 911 Board serve without compensation. Members receive per diem, subsistence, and travel allowances at the rate established in G.S. 138-5. A quorum of the 911 Board is nine members. The 911 Board meets upon the call of the chair.

(d) Public Servants. – The members of the 911 Board are public servants under G.S. 138A-3 and are subject to the provisions of Chapter 138A of the General Statutes.

"**§ 62A-42. Powers and duties of the 911 Board.**

(a) Duties. – The 911 Board has the following powers and duties:

(1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in voice communications service technology and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, and formulate strategies for the efficient and effective delivery of enhanced 911 service.

(2) To administer the 911 Fund and the monthly 911 service charge authorized by G.S. 62A-43.

(3) To distribute revenue in the 911 Fund to CMRS providers and PSAPs in accordance with this Article and advise CMRS providers and PSAPs of the requirements for receiving a distribution from the 911 Fund.

(4) To establish policies and procedures to fund advisory services and training for PSAPs and to provide funds in accordance with these policies and procedures.

(5) To investigate the revenues and expenditures associated with the operation of a PSAP to ensure compliance with restrictions on the use of amounts distributed from the 911 Fund.

(6) To make and enter into contracts and agreements necessary or incidental to the performance of its powers and duties under this Article and to use revenue available to the 911 Board under G.S. 62A-44 for administrative expenses to pay its obligations under the contracts and agreements.

(7) To accept gifts, grants, or other money for the 911 Fund.

(8) To undertake its duties in a manner that is competitively and technologically neutral as to all voice communications service providers.

(9) To adopt rules to implement this Article. This authority does not include the regulation of any enhanced 911 service, such as the establishment of technical standards.

(10) To take other necessary and proper action to implement the provisions of this Article.

(b) Prohibition. – In no event shall the 911 Board or any other State agency lease, construct, operate, or own a communications network for the purpose of providing 911 service.

"**§ 62A-43. Service charge for 911 service.**

(a) Charge Imposed. – A monthly 911 service charge is imposed on each active voice communications service connection that is capable of accessing the 911 system. The service charge is seventy cents (0.70) or a lower amount set by the 911 Board under subsection (d) of this section. The service charge is payable by the subscriber to the voice communications service provider. The provider may list the service charge separately from other charges on the bill. Partial payments made by a subscriber are applied first to the amount the subscriber owes the provider for the voice communications service.

(b) Prepaid Wireless. – A voice communications service provider of prepaid wireless telephone service must collect and remit to the 911 Board the monthly service charge imposed upon prepaid wireless telephone subscribers in the State under one of the following methods:

(1) Collecting the service charge from each active prepaid wireless telephone service subscriber whose account balance is equal to or greater than the amount of the service charge.

(2) Dividing the provider's total earned prepaid wireless telephone service revenue received for the month from each active prepaid wireless telephone service subscriber by fifty dollars ($50.00) and multiplying the quotient by the amount of the service charge.

(c) Remittance to 911 Board. – A voice communications service provider must remit the service charges collected by it under this section to the 911 Board. The provider must remit the collected service charges by the end of the calendar month following the month the provider received the charges from its subscribers. A provider may deduct and retain from the service charges it receives from its subscribers and remits to the 911 Board an administrative allowance equal to the greater of one percent (1%) of the amount of service charges remitted or fifty dollars ($50.00) a month.

(d) Adjustment of Charge. – The 911 Board must monitor the revenues generated by the service charge. If the 911 Board determines that the rate produces revenue in excess of the amount needed, the 911 Board must reduce the rate. The reduced rate must ensure full cost recovery for voice communications service providers and for primary PSAPs over a reasonable period of time. A change in the amount of the rate becomes effective only on July 1 of an even-numbered year. The 911 Board must notify providers of a change in the rate at least 90 days before the change becomes effective.

(e) Collection. – A voice communications service provider has no obligation to take any legal action to enforce the collection of the service charge billed to a subscriber. The 911 Board may initiate a collection action and reasonable costs and attorneys' fees associated with that collection action may be assessed against the subscriber. At the request of the 911 Board, but no more than annually, a voice communications service provider must report to the 911 Board the amount of the provider's uncollected service charges. The 911 Board may request, to the extent

permitted by federal privacy laws, the name, address, and telephone number of a subscriber who refuses to pay the 911 service charge.

(f) Restriction. – A local government may not impose a service charge or other fee on a subscriber to support the 911 system.

"**§ 62A-44. 911 Fund.**

(a) Fund. – The 911 Fund is created as an interest-bearing special revenue fund within the State Treasury. The 911 Board administers the Fund. The 911 Board must credit to the 911 Fund all revenues remitted to it from the service charge imposed by G.S. 62A-43 on voice communications service connections in the State. Revenue in the Fund may only be used as provided in this Article.

(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses up to one percent (1%) of the total service charges remitted to it under G.S. 62A-43 for deposit in the 911 Fund. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

(1) Fifty-three percent (53%) of the funds remitted by CMRS providers to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 62A-45.

(2) Forty-seven percent (47%) of the funds remitted by CMRS providers and all funds remitted by all other voice communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 62A-46 and grants to PSAPs pursuant to G.S. 62A-47.

(c) Report. – In February of each odd-numbered year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Joint Legislative Utility Review Committee. The report must contain complete information regarding receipts and expenditures of all funds received by the 911 Board during the period covered by the report, the status of the 911 system in North Carolina at the time of the report, and the results of any investigations by the Board of PSAPs that have been completed during the period covered by the report.

(d) Nature of Revenue. – The General Assembly finds that distributions of revenue from the 911 Fund are not State expenditures for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold revenue in the 911 Fund.

"**§ 62A-45. Fund distribution to CMRS providers.**

(a) Distribution. – CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

(1) Invoices must be sworn.

(2) All costs and expenses must be commercially reasonable.

(3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.

(4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:

a. One hundred percent (100%) of the eligible costs allowed under this section.

b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

(b) Payment Carry-Forward. – If the total amount of invoices submitted to the 911 Board and approved for payment in a month exceeds the amount available from the 911 Fund for reimbursements to CMRS providers, the amount payable to each CMRS provider is reduced proportionately so that the amount paid does not exceed the amount available for payment. The balance of the payment is deferred to the following month. A deferred payment accrues interest at a rate equal to the rate earned by the 911 Fund until it is paid.

(c) Grant Reallocation. – If the amount of reimbursements to CMRS providers approved by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may reallocate part or all of the excess amount to the PSAP Grant Account established under G.S. 62A-47. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than three million dollars ($3,000,000) to the PSAP Grant Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 62A-44 to reflect more accurately the underlying costs of providing 911 system services.

The 911 Board must make the following findings before it reallocates funds to the PSAP Grant Account:

(1) There is a critical need for additional funding for PSAPs in rural or high-cost areas to ensure that enhanced 911 service is deployed throughout the State.

(2) The reallocation will not impair cost recovery by CMRS providers.

(3) The reallocation will not result in the insolvency of the 911 Fund.

"**§ 62A-46. Fund distribution to PSAPs.**

(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. The amount to be distributed to each primary PSAP is the sum of the following:

(1) The PSAP's base amount. – The PSAP's base amount is the amount the PSAP received in the fiscal year ending June 30, 2007 and deposited in the Emergency Telephone System Fund of its local governing entity, as reported to the State Treasurer's Office, Local Government Division.

(2) The PSAP's per capita amount – The PSAP's per capita amount is the PSAP's per capita share of the amount designated by the Board under subsection (b) of this section for the per capita distribution. The 911

Board must use the most recent population estimates certified by the State Budget Officer in making the per capita distribution under this subdivision. A PSAP is not eligible for a distribution under this subdivision unless it provides enhanced 911 service.

(b) Percentage Designations. – The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in G.S. 62A-47. If the 911 Board does not designate an amount to be allocated to the PSAP Grant Account, the 911 Board must distribute all of the remaining funds on a per capita basis. The 911 Board may not change the percentage designation more than once each calendar year.

(c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

(1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system.

(2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, and training associated with call taking, and emergency medical, fire, or law enforcement procedures. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

(3) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the voice communications service provider for all 911 installation, service, equipment, operation, and maintenance charges owed to the voice communications service provider. A PSAP may contract with a voice communications service provider on terms agreed to by the PSAP and the provider.

(d) Local Fund. – The fiscal officer of a PSAP to whom a distribution is made under this section must deposit the funds in a special revenue fund, as defined in G.S. 159-26(b)(2), designated as the Emergency Telephone System Fund. The fiscal officer may invest money in the Fund in the same manner that other money of the local government may be invested. Income earned from the invested money in the Emergency Telephone System Fund must be credited to the Fund. Revenue deposited into the Fund must be used only as permitted in this section.

(e) Compliance. – A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

(1) A county or municipality that has one or more PSAPs must submit in writing to the 911 Board information that identifies the PSAPs in the manner required by the FCC Order.

(2) A participating PSAP must annually submit to the 911 Board a copy of its governing agency's proposed or approved budget detailing the revenues and expenditures associated with the operation of the PSAP. The PSAP budget must identify revenues and expenditures for eligible expense reimbursements as provided in this Article and rules adopted by the 911 Board.

(3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.

(4) A PSAP must comply with all requests by the 911 Board for financial information related to the operation of the PSAP.

"**§ 62A-47. PSAP Grant Account.**

(a) Account Established. – A PSAP Grant Account is established within the 911 Fund for the purpose of making grants to PSAPs in rural and other high cost areas. The Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and G.S. 62AB-46.

(b) Application. – A PSAP may apply to the 911 Board for a grant from the PSAP Grant Account. An application must be submitted in the manner prescribed by the 911 Board. The 911 Board may approve a grant application and enter into a grant agreement with a PSAP if it determines all of the following:

(1) The costs estimated in the application are reasonable and have been or will be incurred for the purpose of promoting a cost-effective and efficient 911 system.

(2) The expenses to be incurred by the applicant are consistent with the 911 State Plan.

(3) There are sufficient funds available in the fiscal year in which the grant funds will be distributed.

(4) The costs are authorized PSAP costs under G.S. 62A-46(c).

(c) Agreement. – A grant agreement between the 911 Board and a PSAP must include the purpose of the grant, the time frame for implementing the project or

program funded by the grant, the amount of the grant, and a provision for repaying grant funds if the PSAP fails to comply with any of the terms of the grant. The amount of the grant may vary among grantees. If the grant is intended to promote the deployment of enhanced 911 service in a rural area of the State, the grant agreement must specify how the funds will assist with this goal. The 911 Board must publish one or more notices each fiscal year advertising the availability of grants from the PSAP Grant Account and detailing the application process, including the deadline for submitting applications, any required documents specifying costs, either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant funds awarded to PSAPs under this section are in addition to any funds reimbursed under G.S. 62A-46.

"**§ 62A-48. Recovery of unauthorized use of funds.**

The 911 Board must give written notice of violation to any voice communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the voice communications service provider or PSAP must cease making any unauthorized expenditures. The voice communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the voice communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a voice communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken.

"**§ 62A-49. Conditions for providing enhanced 911 service.**

In accordance with the FCC Order, no CMRS provider is required to provide enhanced 911 service until all of the following conditions are met:

(1) The provider receives a request for the service from the administrator of a PSAP that is capable of receiving and utilizing the data elements associated with the service.

(2) Funds for reimbursement of the CMRS provider's costs are available pursuant to G.S. 62A-45.

(3) The local exchange carrier is able to support the requirements of enhanced 911 service.

"**§ 62A-50. Audit.**

The State Auditor may perform audits of the 911 Board pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds in the 911 Fund are being managed in accordance with the provisions of this Article. The State Auditor must perform an audit of the 911 Board at least every two years. The 911 Board must reimburse the State Auditor for the cost of an audit of the 911 Board.

"**§ 62A-51. Subscriber records.**

Each CMRS provider must provide its 10,000 number groups to a PSAP upon request. This information remains the property of the disclosing CMRS provider and

must be used only in providing emergency response services to 911 calls. CMRS voice communications service provider connection information obtained by PSAP personnel for public safety purposes is not public information under Chapter 132 of the General Statutes. No person may disclose or use, for any purpose other than the 911 system, information contained in the database of the telephone network portion of a 911 system.

"**§ 62A-52. Proprietary information.**

All proprietary information submitted to the 911 Board or the State Auditor is confidential. Proprietary information submitted pursuant to this Article is not subject to disclosure under Chapter 132 of the General Statutes, and it may not be released to any person other than to the submitting CMRS voice communications service provider, the 911 Board, and the State Auditor without the express permission of the submitting CMRS voice communications service provider. Proprietary information is considered a trade secret under the Trade Secrets Protection Act, Article 24 of Chapter 66 of the General Statutes. General information collected by the 911 Board or the State Auditor may be released or published only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS voice communications service provider."

"**§ 62A-53. Limitation of liability.**

Except in cases of wanton or willful misconduct, a voice communications service provider and its employees, directors, officers, and agents are not liable for any damages in a civil action resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating the 911 system or in complying with emergency related information requests from State or local government officials. This section does not apply to actions arising out of the operation or ownership of a motor vehicle.

SECTION 1(b). Article 19 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-111.4. Misuse of 911 system.**

It is unlawful for an individual who is not seeking public safety assistance, is not providing 911 service, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication. A person who knowingly violates this section commits a Class 3 misdemeanor. If a person knowingly accesses or attempts to access the 911 system for the purpose of avoiding a charge for voice communications service, as defined in G.S. 62A-40, and the value of the charge exceeds one hundred dollars ($100.00), the person commits a Class 1 misdemeanor."

SECTION 2(a). Article 1 of Chapter 62A of the General Statutes is repealed.

SECTION 2(b). Any funds remaining in the Emergency Telephone System Fund or required to be remitted by a service supplier to the local fiscal officer for deposit to the fund, collected pursuant to Article 1 of Chapter 62A of the General Statutes prior to the effective date of this act, are transferred to the General Fund of the local governing entity to be used for any lawful purpose. Any local governing entity is not relieved of any prior obligation incurred for uses authorized by G.S. 62A-8.

SECTION 3(a). Article 2 of Chapter 62A of the General Statutes is repealed.

SECTION 3(b). The records, personnel, property, and unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting and purchasing, of the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes and repealed by subsection (a) of this Section, are transferred to the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act. All rules, decisions, and actions adopted, made, or taken by the Wireless 911 Board created under Article 2 of Chapter 62A that have not been repealed or rescinded continue in effect until repealed or rescinded by the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act.

SECTION 3(c). The members of the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes, other than a member appointed by the General Assembly upon the recommendation of the Speaker of the House to represent CMRS providers, serve as 11 of the initial members of the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act, without reappointment by the Governor or the General Assembly. The State Chief Information Officer must designate which of the initial members who transfer to the 911 Board from the Wireless 911 Board serve four-year terms and which serve six-year terms so that the terms of half the members of the 911 Board, other than the State Chief Information Officer, will expire every two years.

The following membership positions for the 911 Board have no counterpart on the Wireless 911 Board and must be appointed in accordance with Article 3 of Chapter 62A of the General Statutes:

1. Of the appointments by the Governor, an individual representing a VoIP provider and an individual representing the North Carolina chapter of the National Emergency Number Association (NENA).
2. Of the appointments by the General Assembly upon the recommendation of the Speaker of the House of Representatives two individuals who represents local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.
3. Of the appointments by the General Assembly upon the recommendation of the President Pro Tempore of the Senate an individual who represents a local exchange carrier with less than 200,000 access lines.

SECTION 4. G.S. 62-157 reads as rewritten:

"**§ 62-157. Telecommunications relay service.**

(a) Finding. – The General Assembly finds and declares that it is in the public interest to provide access to public telecommunications services for hearing impaired or speech impaired persons, including those who also have vision impairment, and that a statewide telecommunications relay service for telephone service should be established.

(a1) Definitions. – For purposes of this section:

(1) "CMRS" is as defined in G.S. ~~62A-21.~~62A-40.

(2) "CMRS connection" is as defined in G.S. ~~62A-21.~~62A-40.

(3) "CMRS provider" is as defined in G.S. ~~62A-21.~~62A-40.

(4) "Exchange access facility" means the access from a particular telephone subscriber's premises to the telephone system of a local exchange telephone company, and includes local exchange company-provided access lines, private branch exchange trunks, and centrex network access registers, all as defined by tariffs of telephone companies as approved by the Commission.

(5) "Local service provider" means a local exchange company, competing local provider, or telephone membership corporation.

(b) Authority to Require Surcharge. – The Commission shall require local service providers to impose a monthly surcharge on all residential and business local exchange access facilities to fund a statewide telecommunications relay service by which hearing impaired or speech impaired persons, including those who also have vision impairment, may communicate with others by telephone. This surcharge, however, may not be imposed on participants in the Subscriber Line Charge Waiver Program or the Link-up Carolina Program established by the Commission. This surcharge, and long distance revenues collected under subsection (f) of this section, are not includable in gross receipts subject to the franchise tax levied under G.S. 105-120 or the sales tax levied under G.S. 105-164.4.

(c) Specification of Surcharge. – The Department of Health and Human Services shall initiate a telecommunications relay service by filing a petition with the Commission requesting the service and detailing initial projected required funding. The Commission shall, after giving notice and an opportunity to be heard to other interested parties, set the initial monthly surcharge based upon the amount of funding necessary to implement and operate the service, including a reasonable margin for a reserve. The surcharge shall be identified on customer bills as a special surcharge for provision of a telecommunications relay service for hearing impaired and speech impaired persons. The Commission may, upon petition of any interested party, and after giving notice and an opportunity to be heard to other interested parties, revise the surcharge from time to time if the funding requirements change. In no event shall the surcharge exceed twenty-five cents (25¢) per month for each exchange access facility.

(d) Funds to Be Deposited in Special Account. – The local service providers shall collect the surcharge from their customers and deposit the moneys collected with the State Treasurer, who shall maintain the funds in an interest-bearing, nonreverting account. After consulting with the State Treasurer, the Commission shall direct how and when the local service providers shall deposit these moneys. Revenues from this fund shall be available only to the Department of Health and Human Services to administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Commission may allow the Department of Health and Human Services to use up to four cents (4¢) per access line per month of the surcharge for the purpose of providing telecommunications devices for hearing impaired or speech impaired persons, including those who also have vision impairment, through a distribution program. The Commission shall prepare such guidelines for the distribution program as it deems appropriate and in the public interest. Both the Commission and the

Public Staff may audit all aspects of the telecommunications relay service program, including the distribution programs, as they do with any public utility subject to the provisions of this Chapter. Equipment paid for with surcharge revenues, as allowed by the Commission, may be distributed only by the Department of Health and Human Services.

(e) Administration of Service. – The Department of Health and Human Services shall administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Department may contract out the provision of this service for four-year periods to one or more service providers, using the provisions of G.S. 143-129.

(f) Charge to Users. – The users of the telecommunications relay service shall be charged their approved long distance and local rates for telephone services (including the surcharge required by this section), but no additional charges may be imposed for the use of the relay service. The local service providers shall collect revenues from the users of the relay service for long distance services provided through the relay service. These revenues shall be deposited in the special fund established in subsection (d) of this section in a manner determined by the Commission after consulting with the State Treasurer. Local service providers shall be compensated for collection, inquiry, and other administrative services provided by said companies, subject to the approval of the Commission.

(g) Reporting Requirement. – The Commission shall, after consulting with the Department of Health and Human Services, develop a format and filing schedule for a comprehensive financial and operational report on the telecommunications relay service program. The Department of Health and Human Services shall thereafter prepare and file these reports as required by the Commission with the Commission and the Public Staff. The Department shall also be required to report to the Revenue Laws Study Committee.

(h) Power to Regulate. – The Commission shall have the same power to regulate the operation of the telecommunications relay service program as it has to regulate any public utility subject to the provisions of this Chapter.

(i) Wireless Surcharge. – A CMRS provider, as part of its monthly billing process, must collect the same surcharge imposed on each exchange access facility under this section for each CMRS connection. A CMRS provider may deduct a one percent (1%) administrative fee from the total amount of surcharge collected. A CMRS provider shall remit the surcharge collected, less the administrative fee, to the ~~Wireless~~ 911 Board in the same manner and with the same frequency as the local service providers remit the surcharge to the State Treasurer. The ~~Wireless~~ 911 Board shall remit the funds collected from the surcharge to the special account created under subsection (d) of this section."

SECTION 5. G.S. 105-130.5(b)(17) reads as rewritten:

"(17) To the extent included in federal taxable income, 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.~~the following:~~

~~a. The amount of 911 charges collected under G.S. 62A-5 and remitted to a local government under G.S. 62A-6.~~

~~b. The amount of wireless Enhanced 911 service charges collected under G.S. 62A-23 and remitted to the Wireless Fund under G.S. 62A-24.~~"

SECTION 6. G.S. 105-164.13(54)c. reads as rewritten:

"c. 911 charges imposed under ~~G.S. 62A-4 or G.S. 62A-23~~ G.S. 62A-43 and remitted to the ~~Emergency Telephone System~~ 911 Fund under ~~G.S. 62A-7 or the Wireless Fund under G.S. 62A-24.~~that section."

SECTION 7(a). The Joint Legislative Utility Review Committee is directed to determine the best method for collecting the service charge imposed by G.S. 62A-43 from prepaid telephone wireless subscribers. The Committee is further directed to submit a final report of its findings and recommendations to the 2007 General Assembly, Regular Session 2008.

SECTION 7(b). Notwithstanding G.S. 62A-23, the charge imposed by that section does not apply to prepaid wireless telephone service effective August 1, 2007.

SECTION 7(c). Notwithstanding G.S. 62A-43, the charge imposed by that section does not apply to prepaid wireless telephone service for the 2008 calendar year.

SECTION 8. Sections 1 through 6 of this act become effective January 1, 2008. Section 1(b) of this act applies to offenses committed on or after January 1, 2008. The remaining sections of this act are effective when they become law.

HOUSE BILL 1755:
Coordinate Statewide Enhanced 911 System

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 16, 2007
Introduced by:	Reps. Saunders, Brubaker, Holliman, Howard	**Summary by:**	Heather Fennell
Version:	PCS to Fourth Edition H1755-CSTDf-24		Committee Counsel

SUMMARY: House Bill 1755 creates a new statewide administration system for the 911 system, by creating the 911 Board, and authorizing the new 911 Board to administer and distribute funds collected from voice communications providers to public safety answering points across the state. The PCS to House Bill 1755:

- ***Makes technical and clarifying changes to the bill.***
- ***Adds a moratorium on the collection of the 911 service charge on prepaid wireless service.***

CURRENT LAW: Currently, local government entities collect a 911 service charge from subscribers of local telephone providers (landline providers). The Wireless 911 Board collects a monthly service charge on each subscriber of "commercial mobile radio service," or "CMRS," providers (wireless providers). A portion of the fees collected by the Wireless 911 Board is distributed to "public safety answering points" (PSAP). Each PSAP is the public safety agency that receives incoming 911 calls and dispatches public safety agencies to respond to each call. Funds not distributed to PSAPs are distributed to CMRS providers to reimburse these providers for the costs in complying with an order of the Federal Communications Commission that directs CMRS providers to enable PSAPs to geographically locate individuals who call 911 from wireless phones. Currently, no fees for 911 services are collected from internet phone services including voice over internet protocol (VoIP).

BILL ANALYSIS: House Bill 1755 creates a new statewide 911 system removing the authority of local governing entities to collect local 911 charges, and reforming the Wireless 911 Board into the 911 Board. There will be a uniform fee across the state for all providers of voice communications, including local telephone companies, CMRS providers, and VoIP providers. The fee will be $0.70 per month for each service connection.

Sec. 1(a). Creates a new Article, Article 3 in Chapter 62A to provide for the statewide 911 system.

Definitions: Changes, clarifies, or provides new definitions for the statewide 911 system. The definitions remove references to repealed statues and substitutes new terms.

The Board: Creates the 911 Emergency Locating Board. The 911 Board will consist of 17 members including representatives of municipalities, counties, the National Emergency Number Association, the Association of Public Safety Communications Officials, a sheriff, a chief of police, local exchange carriers, CMRS providers, and VoIP providers. The State Chief Information Officer or his designee and twelve members of the Wireless 911 Board will serve as the initial members of the 911 Board with the additional five members being appointed by either the Governor, the Speaker of the House, or the President Pro Tempore of the Senate.

A Board member's term is 4 years. Members of the 911 Board fall within the definition of public servants, and are subject to Chapter 138A of the General Statutes, the State Government Ethics Act.

Service Charge: The rate of the monthly 911 service charge is set at $0.70 per month, per voice communications service connection. If the Board determines that the service charge produces revenues

in excess of the revenues needed by PSAPs and voice communication service providers, the Board must lower the service charge. The Board may adjust the service charge on July 1 of an even-numbered year. No other state agency or local government may collect an additional fee for 911 services.

Voice communication service providers remit service charges to the 911 Board monthly. A voice communication service provider has no obligation to take legal action to enforce the collection of the service charge but must report to the 911 Board the amount of uncollected service charges. Each voice communications service provider may deduct an administrative fee of the greater of $50 or 1% of service charges remitted to the Board.

The 911 Fund: The 911 Fund is created as an interest bearing special revenue fund. The 911 Board may deduct up to 1% of the total service charges remitted to the Board for administrative expenses. The remaining revenues from the Fund are allocated as follows:

- 53% of the funds remitted from CMRS providers are used to reimburse CMRS providers, for reimbursement of costs incurred in complying with the FCC Order mandating compliance with wireless 911 requirements.
- 47% of the funds remitted from CMRS providers, and all funds remitted from other providers are distributed to PSAPs.

The 911 Board must report to the General Assembly every two years on the receipts and expenditures of the Board.

Fund distributions to CMRS providers: CMRS providers are eligible for reimbursement for costs related to compliance with enhanced 911 service. CMRS providers must submit sworn invoices for commercially reasonable costs for reimbursement. The Board may reallocate funds originally allocated for the reimbursement of CMRS providers to the PSAP Grant Account, if the Board makes certain findings, including that the reallocation will not impair cost recovery of CMRS providers. If the Board reallocates more than $3,000,000 to the Grant Account in any one year, the Board must consider reducing the amount of the service charge.

Fund distribution to PSAPs: Each PSAP will receive the same amount of funds it received in the fiscal year ending June 30, 2007 from the Emergency Telephone System Fund of its local governing entity. Remaining funds are distributed to PSAPs that provide enhanced 911 service. A portion of remaining funds are allocated based on population served with the remaining portion allocated to the PSAP Grant Account for rural and other high-cost areas.

Funds distributed to PSAPs may not be used for real estate, remodeling of dispatch centers, compensation of telecommunicators, or the purchase of emergency vehicles. Funds distributed to PSAPs are restricted to the following:

- The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software and database provisioning, addressing, and nonrecurring costs of establishing a 911 system.
- Reasonable expenditures for training of 911 personnel.

PSAP Compliance: In order to receive monthly distributions from the 911 Fund, a PSAP, or the governing entity of a PSAP must comply will all of the following:

- Annually, each PSAP must submit its proposed or approved budget identifying revenues and expenditures for eligible expenses.

- Each PSAP must be included in its governing entity's annual audit. Pursuant to the Local Government Budget and Fiscal Control Act, each local government unit must be audited each year. The Local Government Commission will provide the 911 Board with a copy of the audit of each local government unit with a participating PSAP.

- Each PSAP must comply with requests from the 911 Board for financial information.

The Grant Account: A Grant Account is established for making grants to PSAPs in rural and other high cost areas. The 911 board may prescribe the manner in which a PSAP may apply for grants. Grants may be approved for reasonable costs for an efficient 911 system that are consistent with the 911 State Plan. Funds received by PSAPs in the form of grants are subject to the same restrictions on use as all other funds distributed to PSAPs.

62A-48 — 62A-53: These provisions including Unauthorized use of funds, Provisions of wireless services, Audit, Customer records, Proprietary information, Limitation of liability, and Misuse of 911 system, are taken directly from the existing statutes. Technical changes were made to each section to substitute new terms and include VoIP providers.

Sec. 1(b). Moves the existing section, G.S. 62A-32 to Chapter 14. This section provides a penalty for misuse of the 911 system. Knowingly violating of this section is a Class 3 misdemeanor; attempts to access the 911 system to avoid a charge for voice communications service exceeding $100 is a Class 1 misdemeanor.

Sec. 2(a). Repeals Article 1 of Chapter 62A.

Sec. 2(b). This section provides any funds remaining in the Emergency Telephone System Fund or required to be remitted by a service supplier to the local fiscal officer for deposit to the Fund, collected pursuant to Article 1 of Chapter 62A prior to the effective date of this act, shall be transferred to the General Fund of the governing entity to be used for any lawful purpose. Any local governing entity is not relieved of any prior obligation incurred for uses authorized by G.S.62A-8.

Sec. 3(a). Repeals Article 2 of Chapter 62A.

Sec. 3(b). Provides that the records, personnel, property, balance of funds of the Wireless 911 Board will convert to the new 911 Board upon the effective date of this Act.

Sec. 3(c). Provides that 11 of the existing members of the Wireless 911 Board will serve as the initial members of the 911 Board. Provides for the appointment of the additional members. Provides that the State Chief Information Officer will designate the terms of certain members in order for the members of the Board to serve in staggered terms.

Sec. 4, Sec. 5, and Sec. 6. Makes conforming changes to existing statues to provide new statutory references.

Sec. 7. Provides that the service fee for 911 will not be collected from the providers of prepaid wireless telephone service for the period of August 1, 2007 till December 31, 2008. The Joint Legislative Review Committee is directed to determine the best method for collecting the 911 service charge on providers of prepaid wireless telephone service and submit a final report of its findings and recommendations to the 2007 General Assembly, Regular Session 2008.

EFFECTIVE DATE: Sections 1 through 6 of this act become effective January 1, 2008. Section 1(b) of this act applies to offenses committed on or after January 1, 2008. The remaining sections of this act are effective when they become law.

H1755e4-SMTD-CSTDf-24

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1191

Committee Substitute Favorable 6/27/07

Short Title: Incorporate Eastover. (Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF EASTOVER.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Eastover is enacted to read:

"CHARTER OF THE TOWN OF EASTOVER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Eastover are a body corporate and politic under the name 'Town of Eastover'. The Town of Eastover has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Eastover are as follows:

Beginning at a point, said point being the intersection of the southeast corner of parcel 0458-43-9229 and the western right-of-way of Dobbin Holmes Rd., thence approximately 936 feet in a southwesterly direction with the southern boundary of said parcel, to the southeastern corner of parcel 0458-32-9686, thence approximately 1590 feet in a southwesterly direction with the southern boundary of said parcel, thence approximately 535 feet in a northwesterly direction with the boundary of said parcel, thence approximately 276 feet in a southwesterly direction with the boundary of said parcel, thence approximately 1178 feet in a northeasterly direction with the boundary of said parcel, thence approximately 90 feet in a northwesterly direction along the right-of-way of Terrell Creek Rd. to the southeast corner of parcel 0458-34-7125, thence approximately 180 feet in a northwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-24-6320, thence approximately 685 feet in a northwesterly direction along the boundary of said parcel, thence approximately 293 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-13-0405, thence approximately 2323 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel

0448-92-9940, thence approximately 1145 feet in a southwesterly direction along the boundary of said parcel to the eastern right-of-way of Middle Rd., thence across Middle Rd. to the western right-of-way of Middle Rd. to the southeast corner of parcel 0448-92-1743, thence approximately 562 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-82-8960, thence approximately 105 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-82-6942, thence approximately 244 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-83-5001, thence approximately 66 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-82-3909, thence approximately 304 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-83-0085, thence approximately 203 feet along the southern boundary of said parcel to the southwest corner of said parcel, thence approximately 175 feet in a northeasterly direction along the western boundary of said parcel to the southwest corner of parcel 0448-83-1224, thence approximately 274 feet along the boundary of said parcel to the northwest corner of said parcel, thence in an easterly direction approximately 100 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-3246, thence in a northeasterly direction approximately 98 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-4369, thence in a northeasterly direction approximately 229 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-6516, thence in a northeasterly direction approximately 224 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-7741, thence in a northeasterly direction approximately 152 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-8832, thence in a northeasterly direction approximately 150 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-9947, thence in a northeasterly direction approximately 293 feet along the boundary of said parcel to the northwest corner of parcel 0448-94-1028, thence in a northeasterly direction approximately 129 feet along the boundary of said parcel to the southwest corner of parcel 0448-94-1659, thence in a northwesterly direction approximately 546 feet along the boundary of parcel 0448-94-1659 to the northwest corner of said parcel, thence in a northeasterly direction approximately 343 feet along the boundary of said parcel to the northwest corner of parcel 0448-95-5005, thence in a northeasterly direction approximately 626 feet to the northeast corner of said parcel, thence in a southerly direction approximately 377 feet along the eastern boundary of said parcel, thence in a northeasterly direction approximately 902 feet along the northern boundary of parcel 0458-04-4981 to the northeast corner of parcel 0458-05-9445, thence in a northwesterly direction approximately 280 feet along the boundary of said parcel to the southernmost corner of parcel 0458-07-6181, thence in a northeasterly direction approximately 1122 feet to the northwest corner of parcel 0458-16-8569, thence in northeasterly direction approximately 575 feet to the western right-of-way margin of Underwood Road, thence in an easterly direction approximately 60 feet to the eastern right-of-way margin of Underwood Road being the northwest corner of parcel 0458-17-9210, thence in a northwesterly direction approximately 400 feet along the eastern right-of-way margin of Underwood Road to a point in the southern boundary of parcel 0458-17-5864, thence

northwesterly along said southern boundary approximately 239 feet to the southwest corner of said parcel, thence northwesterly approximately 30 feet along the southern boundary of parcel 0458-18-8142, said point being the southeast corner of parcel 0458-18-6724, thence along said parcel in a northwesterly direction approximately 30 feet to the southeast corner of parcel 0458-18-0200, thence in a northwesterly direction along the southern boundary of said parcel approximately 830 feet to the southwest boundary of said parcel, thence in a northeasterly direction approximately 119 feet to the southwest corner of parcel 0458-08-7481, thence in a northeasterly direction approximately 119 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 21 feet along the western boundary of parcel 0458-18-0200 to the southwestern corner of parcel 0458-08-9513, thence with the western boundary of said parcel approximately 164 feet to the southwestern corner of parcel 0458-18-0614, thence in a northeasterly direction approximately 308 feet to the western corner of parcel 0458-18-1918, thence in a northeasterly direction approximately 208 feet to the western corner of parcel 0458-19-3007, thence along said boundary in northeasterly direction approximately 174 feet to the western corner of parcel 0458-19-4211, thence along said boundary in a northeasterly direction approximately 176 feet to the western corner of parcel 0458-19-5325, thence along said boundary in a northeasterly direction approximately 183 feet to northern corner of said parcel, thence in a southeasterly direction approximately 393 feet along the boundary of said parcel to the northwest corner of parcel 0458-18-6724, thence in a southeasterly direction approximately 644 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-2631, thence in a southeasterly direction approximately 304 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-7262, thence in a southeasterly direction approximately1564 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-7729, thence in an easterly direction approximately 367 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-9855, thence in an easterly direction approximately 118 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-0876, thence in an easterly direction approximately 121 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-2849, thence in an easterly direction approximately 156 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-3986, thence in an easterly direction approximately 147 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-4996, thence in an easterly direction approximately 104 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-6948, thence in an easterly direction approximately 200 feet along the boundary of said parcel to the northwest corner of parcel 0458-48-8091, thence in an easterly direction approximately 329 feet along the boundary of said parcel to the northwest corner of parcel 0458-58-2068, thence in an easterly direction approximately 113 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4234, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4487, thence in a northeasterly direction approximately 269 feet along the boundary of said parcel to the southeast corner of parcel 0458-58-3635, thence in a

westerly direction approximately 291 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 146 feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 320 feet along the boundary of said parcel to the western boundary of parcel 0458-58-5675, thence in a northeasterly direction approximately 178 feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 130 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 1661 feet along the western right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 0459-60-2553, thence in a northwesterly direction approximately 593 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 641 feet along the boundary of said parcel to the southwest corner of parcel 0459-60-6819, thence in a northeasterly direction approximately 364 feet along the boundary of said parcel to the southwest corner of parcel 0459-61-7116, thence in a northwesterly direction approximately 200 feet along the boundary of said parcel to the corner of parcel 0459-61-4382, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 213 feet along the boundary of said parcel to the corner of said parcel, thence in a northwesterly direction approximately 136 feet along the boundary of said parcel to the corner of said parcel, thence in a northeasterly direction approximately 449 feet along the boundary of said parcel to the right-of-way of Tucker Rd., thence in a northwesterly direction approximately 34 feet along the right-of-way of Tucker Rd. to the eastern corner of parcel 0459-61-2476, thence in a southwesterly direction approximately 500 feet to the corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the corner of said parcel, thence in a northwesterly direction approximately 255 feet along the boundary of said parcel to a point in the southern boundary of parcel 0459-51-9893, thence in a northwesterly direction approximately 383 feet to the southwest corner of parcel 0459-51-7999, thence in a northwesterly direction approximately 525 feet to the northernmost corner of parcel 0459-52-9250, thence in a southeasterly direction approximately 375 feet to the easternmost corner of parcel 0459-62-1078, thence in a southwesterly direction approximately 215 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-2903, thence in a southeasterly direction approximately 59 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-3815, thence in a southeasterly direction approximately 211 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-4764, thence in a southeasterly direction approximately 170 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-5684, thence in a southeasterly direction approximately 134 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-8416, thence in a southeasterly direction approximately 417 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 180 feet along the right-of-way of Dobbin Holmes Rd., thence in a southeasterly direction approximately 70 feet across the right-of-way of Dobbin Holmes

Rd. to the northern corner of parcel 0459-71-1354, thence in a southeasterly direction approximately 154 feet along the boundary of said parcel to the northern corner of parcel 0459-71-2394, thence in a southeasterly direction approximately 149 feet along the boundary of said parcel to the eastern corner of said parcel, thence in a southwesterly direction approximately 207 feet along the boundary of said parcel to the southeast corner of parcel 0459-71-1354, thence in a southwesterly direction approximately 222 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 210 feet to a corner of said parcel, thence in a northwesterly direction approximately 51 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a southwesterly direction approximately 493 feet along the right-of-way of Dobbin Holmes Rd. to the northwest corner of parcel 0459-70-0727, thence in an easterly direction approximately 149 feet along the boundary of said parcel to a corner of said parcel, thence in a southeasterly direction approximately 301 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southwesterly direction approximately 280 feet along the boundary of said parcel to the northeast corner of parcel 0459-60-8680, thence in a southwesterly direction approximately 247 feet along the boundary of said parcel to the corner of parcel 0459-60-8334, thence in a southeasterly direction approximately 178 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 172 feet along the boundary of said parcel to the boundary of parcel 0458-69-8904, thence in a southwesterly direction approximately 558 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 430 feet along the boundary of said parcel to a corner of parcel 0458-69-5648, thence in a southwesterly direction approximately 283 feet along the boundary of said parcel to a corner of parcel 0458-69-3435, thence in a southwesterly direction approximately 475 feet along the boundary of said parcel to the northeast corner of parcel 0458-69-0031, thence in a southeasterly direction approximately 81 feet along the boundary of said parcel to the northeast corner of parcel 0458-68-0650, thence in a southeasterly direction approximately 702 feet along the boundary of said parcel to the boundary of parcel 0458-67-4970, thence in a northeasterly direction approximately 887 feet along the boundary of said parcel to the northwest corner of parcel 0458-78-8007, thence in a northeasterly direction approximately 506 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-1069, thence in a northeasterly direction approximately 110 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-2272, thence in a northeasterly direction approximately 220 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-3386, thence in a northeasterly direction approximately 120 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-5316, thence in a northeasterly direction approximately 108 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-7543, thence in a northeasterly direction approximately 448 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 105 feet along the boundary of said parcel to the northwest corner of parcel 0458-98-1966, thence in a northeasterly direction

approximately 700 feet along the boundary of said parcel to the northwest corner of parcel 0458-99-7126, thence in a northeasterly direction approximately 377 feet along the boundary of said parcel to the northwest corner of parcel 0458-99-6696, thence in a northeasterly direction approximately 210 feet along the boundary of said parcel to the right-of-way of Tom Geddie Rd., thence in a northeasterly direction approximately 1169 feet along the right-of-way of Tom Geddie Rd. to the southwest corner of parcel 0469-01-1665, thence in a northwesterly direction approximately 1454 feet along the boundary of said parcel to the western corner of said parcel, thence in a northeasterly direction approximately 1707 feet along the boundary of said parcel to the southern boundary of parcel 0469-02-2922, thence in a northwesterly direction approximately 254 feet along the boundary of said parcel to the southeast corner of parcel 0469-93-9138, thence in a northwesterly direction approximately 181 feet along the boundary of said parcel to a corner of parcel 0459-83-5047, thence in a southwesterly direction approximately 1297 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 939 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 168 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 129 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 530 feet along the boundary of said parcel and the right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 0459-73-7444, thence in a westerly direction approximately 65 feet to the western right-of-way of Dobbin Holmes Rd., thence in a northerly direction approximately 460 feet along the right-of-way of Dobbin Holmes Rd. to the southeast corner of parcel 0459-73-2816, thence in a westerly direction approximately 28 feet along the boundary of said parcel to the eastern corner of parcel 0459-73-2699, thence in a southwesterly direction approximately 106 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the boundary of parcel 0459-73-2816, thence in a southwesterly direction approximately 63 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 332 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 65 feet to the eastern right-of-way of Dobbin Holmes Rd. and the boundary of parcel 0459-74-4336, thence in a northwesterly direction approximately 407 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northwesterly direction approximately 480 feet along the right-of-way of Dobbin Holmes Rd. to the northern corner of parcel 0459-64-6403, thence in a southeasterly direction approximately 475 feet along the boundary of said parcel to a point in parcel 0459-74-4336, thence in a southeasterly direction approximately 462 feet along the boundary of said parcel to the northern corner of parcel 0459-74-6101, thence in a southeasterly direction approximately 148 feet along the boundary of said parcel to the right-of-way of Laurent Dr., thence in a southeasterly direction approximately 65 feet to the right-of-way of Laurent Dr. and

northern corner of parcel 0459-83-0996, thence in a southeasterly direction approximately 697 feet along the boundary of said parcel to the northern corner of parcel 0459-83-5047, thence in a southeasterly direction approximately 162 feet along the boundary of said parcel to the southwestern corner of parcel 0459-93-2912, thence in a northeasterly direction approximately 214 feet along the boundary of said parcel to the southwestern corner of parcel 0459-94-3379, thence in a northeasterly direction approximately 1393 feet along the boundary of said parcel to the right-of-way of Tom Geddie Rd., in a northeasterly direction approximately 113 feet along the right-of-way of Tom Geddie Rd. to the southeast corner of parcel 0459-95-6631, thence in a northwesterly direction approximately 300 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 154 feet along the boundary of said parcel to a corner of said parcel, thence northwesterly approximately 80 feet to a point in said parcel, thence in a northeasterly direction approximately 547 feet along the boundary of said parcel to the boundary of parcel 0459-96-8053, thence in a northwesterly direction approximately 133 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the boundary of parcel 0459-96-8329, thence in a northwesterly direction approximately 425 feet along the boundary of said parcel to the railroad right-of-way, thence in a southwesterly direction approximately 1052 feet along the railroad right-of-way, thence in a northwesterly direction approximately 110 feet to the railroad right-of-way and a corner of parcel 0459-86-8451, thence in a northwesterly direction approximately 288 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 376 feet along the boundary of said parcel to the southeastern corner of parcel 0459-86-5839, thence in a northwesterly direction approximately 284 feet along the boundary of said parcel to the southeastern corner of parcel 0459-87-1080, thence in a northwesterly direction approximately 581 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-8310, thence in a northwesterly direction approximately 212 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-4069, thence in a southwesterly direction approximately 356 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 237 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 78 feet to the western right-of-way of Dobbin Holmes Rd. and the southern corner of parcel 0459-77-1357, thence in a northwesterly direction approximately 497 feet along the boundary of said parcel to the corner of said parcel and the right-of-way of Beard Rd., thence in a southeasterly direction approximately 205 feet along the boundary of said parcel and the right-of-way of Beard Rd., thence in a northeasterly direction approximately 164 feet to the corner of parcel 0459-77-4377 and the right-of-way, thence in a northeasterly direction approximately 70 feet to the northern right-of-way of Beard Rd., thence in a northeasterly direction approximately 117 feet along the right-of-way of Beard Rd. and the corner of parcel 0459-77-6701, thence in a northerly direction approximately 50 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 296 feet along the boundary of

said parcel to the boundary of parcel 0459-78-5698, thence in a northwesterly direction approximately 841 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a northeasterly direction approximately 741 feet along the boundary of said parcel to the northwestern corner of said parcel 0459-88-1422, thence in a southeasterly direction approximately 570 feet along the boundary of said parcel to the northeastern corner of said parcel, thence in a southeasterly direction approximately 444 feet along the boundary of said parcel to the northeastern corner of parcel 0459-88-3120, thence in a southeasterly direction approximately 381 feet along the boundary of said parcel to the northern corner of parcel 0459-87-5822, thence in a southeasterly direction approximately 714 feet along the boundary of said parcel to the right-of-way of Beard Rd., thence in a southeasterly direction approximately 443 feet along the right-of-way of Beard Rd. to the southwest corner of parcel 0459-97-2635, thence in a northeasterly direction approximately 432 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 156 feet along the boundary of said parcel to the western boundary of parcel 0459-98-5036, thence in a northwesterly direction approximately 568 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 153 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 842 feet along the boundary of said parcel to a corner of said parcel and the right-of-way of Coleman Rd., thence in a southerly direction approximately 156 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-7545, thence in a southeasterly direction approximately 102 feet along the boundary of said parcel to the northeast corner of parcel 0499-98-7454, thence in a southeasterly direction approximately 98 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-7364, thence in a southeasterly direction approximately 98 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-7293, thence in a southeasterly direction approximately 111 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-8132, thence in a southeasterly direction approximately 113 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-8071, thence in a southeasterly direction approximately 114 feet along the boundary of said parcel to the northeast corner of parcel 0459-97-9828, thence in a southeasterly direction approximately 84 feet along the boundary of said parcel, thence in a northeasterly direction approximately 60 feet to the northwest corner of parcel 0469-07-5943, thence in a northeasterly direction approximately 1225 feet along the boundary of said parcel to a corner of said parcel, thence in a southerly direction approximately 65 feet along the boundary of said parcel to the northern corner of parcel 0469-18-0147, thence in a southerly direction approximately 81 feet along the boundary of said parcel to the northwestern railroad right-of-way, thence in a southerly direction approximately 205 feet to the southeastern railroad right-of-way, thence in a southwesterly direction approximately 1020 feet along the railroad right-of-way to the northeast corner of parcel 0469-07-4174, thence in a southeasterly direction approximately 462 feet along the boundary of said parcel to the eastern corner of said parcel, thence in a southwesterly direction approximately 332 feet along the boundary of said parcel to the right-of-way

of Coleman Rd., thence in a southeasterly direction approximately 265 feet along the right-of-way of Coleman Rd. to the right-of-way of Beard Rd., thence in a southeasterly direction approximately 650 feet along the right-of-way of Beard Rd. to the southwestern corner of parcel 0469-16-3544, thence in a northwesterly direction approximately 275 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a northeasterly direction approximately 606 feet along the boundary of said parcel to the northern corner of parcel 0469-16-6403, thence in a southeasterly direction approximately 278 feet along the boundary of said parcel to the northern corner of parcel 0469-16-7292, thence in a southeasterly direction approximately 618 feet along the boundary of said parcel to the right-of-way of Beard Rd., thence in a southeasterly direction approximately 110 feet along the right-of-way of Beard Rd. to the western corner of parcel 0469-25-3897, thence in a northeasterly direction approximately 364 feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 206 feet along the boundary of said parcel to a point in the boundary of parcel 0469-25-6892, thence in a northeasterly direction approximately 180 feet along the boundary of said parcel to the western corner of parcel 0469-36-8078, thence in a northeasterly direction approximately 1590 feet along the boundary of said parcel to the western corner of parcel 0469-56-4319, thence in a northeasterly direction approximately 1590 feet along the boundary of said parcel to the western corner of Meadowview Subdivision, thence in a northeasterly direction approximately 3550 feet along the boundary of said subdivision to the western corner of parcel 0469-78-3227, thence in a northeasterly direction approximately 919 feet along the boundary of said parcel to the western corner of parcel 0469-89-0270, thence in a northeasterly direction approximately 1025 feet along the boundary of said parcel, thence in a northerly direction approximately 763 feet along the boundary of said parcel to the boundary of parcel 0560-80-7287, thence in a northwesterly direction approximately 2182 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 1480 feet to the northwestern corner of parcel 0560-82-9682, thence in a northeasterly direction approximately 947 feet along the boundary of said parcel to the northwestern corner of parcel 0570-02-4348, thence in a northeasterly direction approximately 955 feet along the boundary of said parcel to the northernmost corner of said parcel, thence in a southeasterly direction approximately 4045 feet to the northernmost corner of parcel 0570-21-2560, thence in a southeasterly direction approximately 215 feet to the western right-of-way of Dunn Rd., thence in a northeasterly direction approximately 560 feet along the western right-of-way of Dunn Rd., thence in a southeasterly direction to the northernmost corner of parcel 0570-30-2981, thence in a southeasterly direction approximately 1624 feet along the boundary of said parcel to the western right-of-way of Interstate 95, thence in a southeasterly direction approximately 650 feet to the eastern right-of-way of Interstate 95 and the northernmost corner of parcel 0570-40-5214, thence in a southeasterly direction approximately 73 feet along the boundary of said parcel, thence in a southwesterly direction approximately 291 feet along the boundary of said parcel, thence in a southeasterly direction approximately 203 feet along the boundary of said parcel, thence in a southwesterly direction approximately 67 feet along

the boundary of said parcel to the northwest corner of parcel 0479-49-9992, thence in an easterly direction approximately 262 feet to the northeast corner of said parcel, thence in a southerly direction approximately 460 feet to the northern right-of-way of Goldsboro Rd., thence in an easterly direction approximately 500 feet along the northern right-of-way of Goldsboro Rd., thence in a southerly direction to the northeast corner of parcel 0479-59-2160, thence in a southerly direction approximately 355 feet along the boundary of said parcel, thence in a southwesterly direction approximately 740 feet along the boundary of said parcel to the boundary of parcel 0479-39-4024, thence in a southeasterly direction approximately 863 feet along the boundary of said parcel, thence in a southwesterly direction approximately 482 feet along the boundary of said parcel, thence in a southwesterly direction approximately 813 feet along the boundary of said parcel to the easternmost corner of parcel 0479-28-8759, thence in a southwesterly direction approximately 1558 feet along the boundary of said parcel to the northeast corner of parcel 0479-27-7508, thence in a southwesterly direction approximately 850 feet along the boundary of said parcel to the northeast corner of parcel 0479-26-2506, thence in a southwesterly direction approximately 1600 feet along the boundary of said parcel to the boundary of parcel 0479-15-5432, thence in a southeasterly direction approximately 345 feet along the boundary of said parcel, thence in a southwesterly direction approximately 370 feet along the boundary of said parcel, thence in a northeasterly direction approximately 2370 feet along the boundary of said parcel to the southeast corner of parcel 0479-05-2675, thence in a westerly direction approximately 82 feet along the boundary of said parcel, thence in a northwesterly direction approximately 348 feet to the eastern right-of-way of Interstate 95, thence in a southwesterly direction approximately 5090 feet to the northwest corner of parcel 0469-70-4794, thence in a southeasterly direction approximately 320 feet along the boundary of said parcel to the northwest corner of parcel 0469-70-7745, thence in a southeasterly direction approximately 156 feet along the boundary of said parcel to the north corner of parcel 0469-70-7600, thence in a northeasterly direction approximately 49 feet along the boundary of parcel 0468-89-3963, thence in an easterly direction approximately 877 feet along the boundary of said parcel to the northwest corner of parcel 0469-80-9779, thence in an easterly direction approximately 390 feet along the boundary of said parcel to the western right-of-way of Leanna Dr., thence approximately 30 feet to the eastern right-of-way of Leanna Dr. to the northwest corner of parcel 0469-90-2498, thence in an easterly direction approximately 208 feet along the boundary of said parcel to the northwest corner of parcel 0469-90-7574, thence in an easterly direction approximately 745 feet along the boundary of said parcel to the northwest corner of parcel 0479-00-4512, thence in an easterly direction approximately 426 feet along the boundary of said parcel to the northwest corner of parcel 0479-10-1661, thence in an easterly direction approximately 1068 feet along the boundary of said parcel to the northwest corner of parcel 0479-10-9670, thence in an easterly direction approximately 536 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 417 feet along the boundary of said parcel to the northwest corner of parcel 0479-20-5024, thence in an easterly direction approximately 220 feet along the boundary of said parcel

to the northwest corner of parcel 0479-20-8250, thence in an easterly direction approximately 471 feet along the boundary of said parcel to the northwest corner of parcel 0479-30-4316, thence in an easterly direction approximately 668 feet along the boundary of said parcel to the northwest corner of parcel 0479-90-8305, thence in an easterly direction approximately 199 feet along the boundary of said parcel to the northwest corner of parcel 0479-30-9378, thence in an easterly direction approximately 170 feet along the boundary of said parcel to the northwest corner of parcel 0479-40-1435, thence in an easterly direction approximately 268 feet along the boundary of said parcel to the western right-of-way of James Dail Rd., thence in a northeasterly direction approximately 138 feet along the western right-of-way of James Dail Rd. to the southwest corner of parcel 0479-41-2073, thence in a northwesterly direction approximately 1446 feet along the boundary of said parcel to a corner of parcel 0479-41-1791, thence in a northwesterly direction approximately 500 feet along the boundary of said parcel, thence in a northeasterly direction approximately 273 feet along the boundary of said parcel, thence in a southeasterly direction approximately 595 feet along the boundary of said parcel to the southwest corner of parcel 0479-42-5169 thence in a northeasterly direction approximately 570 feet along the boundary of said parcel to the right-of-way of Boykin Rd., thence in a westerly direction approximately 20 feet to the northeast corner of parcel 0479-42-2203, thence in a southwesterly direction approximately 501 feet along the boundary of said parcel, thence in a northwesterly direction approximately 375 feet along the boundary of said parcel to the southeast corner of parcel 0479-42-1845, thence in a northwesterly direction approximately 497 feet along the boundary of said parcel to the southeast corner of parcel 0479-32-6417, thence in a northwesterly direction approximately 109 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 105 feet along the boundary of said parcel to the southwest corner of parcel 0479-32-6672, thence in a northeasterly direction approximately 220 feet along the boundary of said parcel to the southwest corner of parcel 0479-32-7861, thence in a northeasterly direction approximately 209 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 209 feet to the western boundary line of parcel 0479-42-1845, thence in a northeasterly direction approximately 244 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 487 feet to the northeast corner of said parcel, thence in a southwesterly direction approximately 410 feet to the northern right-of-way of Boykin Rd., thence in an easterly direction approximately 905 feet along the northern right-of-way of Boykin Rd. to the southwest corner of parcel 0479-53-7215, thence in a northeasterly direction approximately 1316 feet along the boundary of said parcel to the southwest corner of parcel 0479-53-7984, thence in a northeasterly direction approximately 205 feet along the boundary of said parcel to the southwest corner of parcel 0479-64-0165, thence in a northeasterly direction approximately 86 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-6205, thence in a northwesterly direction approximately 379 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-4422, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the

southeast corner of parcel 0479-54-3425, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-2426, thence in a northwesterly direction approximately 104 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-0459, thence in a northwesterly direction approximately 288 feet along the boundary of said parcel to the southeast corner of parcel 0479-44-8552, thence in a northwesterly direction approximately 156 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 134 feet along the boundary of said parcel to the southwest corner of parcel 0479-44-9627, thence in a northeasterly direction approximately 278 feet along the boundary of said parcel to the southwest corner of parcel 0479-54-1894, thence in a northeasterly direction approximately 376 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 210 feet along the boundary of said parcel to the northwest corner of parcel 0479-54-6739, thence in a southeasterly direction approximately 712 feet along the boundary of said parcel to the western boundary of parcel 0479-64-4873, thence in a northeasterly direction approximately 505 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 708 feet to the northwest corner of parcel 0479-64-8888, thence in a southeasterly direction approximately 90 feet along the boundary of said parcel to the western right-of-way of James Dail Rd., thence in a southwesterly direction approximately 242 feet along the boundary of said parcel and the western right-of-way of James Dail Rd., thence in a southeasterly direction approximately 60 feet across James Dail Rd. to the northwest corner of parcel 0479-74-0616, thence in a southeasterly direction approximately 219 feet along the boundary of said parcel, thence in a southwesterly direction approximately 204 feet to the southeast corner of said parcel and the northern boundary of parcel 0479-74-0428, thence in a southeasterly direction approximately 210 feet along the boundary of said parcel to the northwest corner of parcel 0479-74-2280, thence in a southeasterly direction approximately 261 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southwesterly direction approximately 436 feet along the boundary of said parcel, thence in a northwesterly direction approximately 265 feet along the boundary of said parcel to the southeast corner of parcel 0479-64-8176, thence in a northwesterly direction approximately 136 feet along the boundary of said parcel to the northeast corner of parcel 0479-64-7170, thence in a southwesterly direction approximately 125 feet along the boundary of said parcel to the southeast corner of said parcel, thence in a northwesterly direction approximately 145 feet along the boundary of said parcel to the northeast corner of parcel 0479-64-6053, thence in a southwesterly direction approximately 98 feet to the northeast corner of parcel 0479-63-6904, thence in a southwesterly direction approximately 69 feet along the boundary of said parcel to the northwest corner of parcel 0479-63-7649, thence in a southeasterly direction approximately 277 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southwesterly direction approximately 198 feet along the boundary of said parcel to the northern corner of parcel 0479-63-8499, thence in a southeasterly direction approximately 226 feet along the boundary of said parcel to the eastern corner

of said parcel, thence in a southwesterly direction approximately 157 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 482 feet along the boundary of said parcel to the northeast corner of parcel 0479-63-3583, thence in a southwesterly direction approximately 159 feet along the boundary of said parcel to a corner in parcel 0479-63-3317, thence in a southeasterly direction approximately 20 feet to the northeast corner of said parcel, thence in a southwesterly direction approximately 214 feet along the boundary of said parcel to the southeast corner of said parcel, thence in a northwesterly direction approximately 230 feet along the boundary of said parcel to the southwest corner of said parcel and the eastern right-of-way of James Dail Rd., thence in a northwesterly direction approximately 60 feet to the western right-of-way of James Dail Rd., thence in a southwesterly direction approximately 696 feet along the western right-of-way of James Dail Rd., thence in an easterly direction approximately 60 feet to the eastern right-of-way of James Dail Rd., thence in a southeasterly direction approximately 130 feet to the northern corner of parcel 0479-52-8418 and the southern right-of-way of J Herbert Rd., thence in a southeasterly direction approximately 2405 feet along the southern right-of-way of J Herbert Rd. and the boundary of parcels 0479-52-8418, 0479-62-2381, 0479-61-9264, 0479-61-8121, thence in a southwesterly direction approximately 2905 feet along the northern right-of-way of J. Herbert Rd. and the boundary of parcels 0479-60-8775, 0479-60-8506, 0479-60-7458, 0479-60-6369, 0479-60-4378, 0479-60-3253, 0479-60-0321, 0479-50-3030, 0478-49-8928, thence in a southwesterly direction approximately 1256 feet along the western right-of-way of J Herbert Rd. and the boundary of parcels 0478-49-4568, 0478-49-2195, 0478-49-1065, 0478-48-0974, 0478-38-9809, 0478-38-8673, thence in a southwesterly direction approximately 72 feet along the boundary of parcel 0478-38-8673, thence in a northwesterly direction approximately 140 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-6661, thence in a northwesterly direction approximately 95 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-5792, thence in a westerly direction approximately 36 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-4651, thence in a southwesterly direction approximately 260 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-2599, thence in a southwesterly direction approximately 64 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-1562, thence in a southwesterly direction approximately 197 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-0549, thence in a southwesterly direction approximately 57 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-8578, thence in a southwesterly direction approximately 212 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-7511, thence in a southwesterly direction approximately 165 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-5560, thence in a southwesterly direction approximately 152 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-1487, thence in a southwesterly direction approximately 603 feet along the boundary of said parcel to the southeast corner of parcel 0478-18-8446, thence in a southwesterly direction approximately 24 feet along the boundary of said

parcel to the southeast corner of parcel 0478-18-7683, thence in a southwesterly direction approximately 58 feet along the boundary of said parcel to the southeast corner of parcel 0478-18-0589, thence in a southwesterly direction approximately 180 feet along the boundary of said parcel, thence in a southeasterly direction approximately 60 feet across the right-of-way of Draughon Rd. to the northeast corner of parcel 0478-18-4068, thence in a southeasterly direction approximately 165 feet along the boundary of said parcel to the southeast corner of said parcel, thence in a northeasterly direction approximately 169 feet along the boundary of parcel 0478-17-6708, thence in a southeasterly direction approximately 482 feet along the boundary of said parcel to the northeast corner of parcel 0478-17-8377, thence in a southeasterly direction approximately 279 feet along the boundary of said parcel to the northeast corner of parcel 0478-27-0134, thence in a southeasterly direction approximately 211 feet along the boundary of said parcel to the northeast corner of parcel 047-27-1042, thence in a southeasterly direction approximately 292 feet along the boundary of said parcel to the right-of-way of Clovelly St., thence in a southeasterly direction approximately 70 feet along the right-of-way of Clovelly St. to the northeast corner of parcel 0478-26-2714, thence in a southeasterly direction approximately 158 feet along the boundary of said parcel to the northeast corner of parcel 0478-26-2409, thence in a southeasterly direction approximately 357 feet along the boundary of said parcel to the northeast corner of parcel 0478-26-2195, thence in a southeasterly direction approximately 304 feet along the boundary of said parcel to the northeast corner of parcel 0478-25-3828, thence in a southeasterly direction approximately 277 feet along the boundary of said parcel to the northeast corner of parcel 0478-25-3672, thence in a southeasterly direction approximately 238 feet along the boundary of said parcel to the northeast corner of parcel 0478-25-6422, thence in a southeasterly direction approximately 255 feet along the boundary of said parcel to the northeast corner of parcel 0478-24-6977, thence in a southeasterly direction approximately 158 feet along the boundary of said parcel to the northwest corner of parcel 0478-25-9151, thence in a northeasterly direction approximately 308 feet along the boundary of said parcel, thence in a southeasterly direction approximately 179 feet along the boundary of said parcel, thence in a northeasterly direction approximately 710 feet along the boundary of said parcel, thence in a southeasterly direction approximately 20 feet along the boundary of said parcel to the northeast corner of parcel 0478-34-1914, thence in a southeasterly direction approximately 23 feet along the boundary of said parcel to the northeast corner of parcel 0478-34-8800, thence in a southeasterly direction approximately 674 feet along the boundary of said parcel, thence in a southwesterly direction approximately 129 feet along the boundary of said parcel to the southeast corner of parcel 0478-34-3771, thence in a southwesterly direction approximately 20 feet along the boundary of said parcel to the southeast corner of parcel 0478-34-2438, thence in a southwesterly direction approximately 20 feet along the boundary of said parcel to the southeast corner of parcel 0478-34-7349, thence in a southwesterly direction approximately 494 feet along the boundary of said parcel to the southwest corner of parcel 0478-34-2364, thence in a southwesterly direction approximately 449 feet along the boundary of said parcel, thence in a northwesterly direction approximately 210 feet

along the boundary of said parcel to the northwest corner of parcel 0478-34-2364, thence in a northwesterly direction approximately 60 feet along the boundary of said parcel to the southeast corner of parcel 0478-24-7577, thence in a southwesterly direction approximately 348 feet along the boundary of said parcel to the southeast corner of parcel 0478-24-4407, thence in a southwesterly direction approximately 430 feet along the boundary of said parcel, thence in a northwesterly direction approximately 460 feet along the boundary of said parcel to the southeast corner of parcel 0478-14-9752, thence in a southwesterly direction approximately 320 feet along the boundary of said parcel to the southeast corner of parcel 0478-14-7626, thence in a southwesterly direction approximately 160 feet along the boundary of said parcel to the southeast corner of parcel 0478-14-4670, thence in a southwesterly direction approximately 370 feet along the boundary of said parcel to the southeast corner of parcel 0478-14-2415, thence in a southwesterly direction approximately 247 feet along the boundary of said parcel to the eastern right-of-way of Baywood Rd., thence in a southwesterly direction approximately 70 feet across Baywood Rd. to the northeast corner of parcel 0478-04-7401, thence in a southwesterly direction approximately 139 feet to the northeast corner of parcel 0468-93-8406, thence in a southwesterly direction approximately 275 feet to the northeast corner of parcel 0478-03-7970, thence in a southwesterly direction approximately 165 feet to the northeast corner of parcel 0478-03-1716, thence in a southwesterly direction approximately 128 feet to the northeast corner of parcel 0478-03-4412, thence in a southwesterly direction approximately 249 feet to the northeast corner of parcel 0478-03-2191, thence in a southwesterly direction approximately 328 feet to the northeast corner of parcel 0478-02-2827, thence in a southwesterly direction approximately 180 feet to the northeast corner of parcel 0478-92-9698, thence in a southwesterly direction approximately 180 feet to the northeast corner of parcel 0478-02-0594, thence in a southwesterly direction approximately 458 feet along the eastern boundary of parcel 0478-02-0310 to the northwestern right-of-way of Murphy Rd., thence along said right-of-way in a southwesterly direction approximately 74 feet to a point in the southern boundary of said parcel, said point being in the northern right-of-way margin of Murphy Road, thence in a northeasterly direction along the southern boundary of said parcel approximately 227 feet to the southwestern corner of said parcel, thence in a northerly direction approximately 10 feet to the southeastern corner of parcel 0468-93-8406, thence along the southern boundary of said parcel in a northwesterly direction approximately 204 feet to the southwesterly corner of said parcel, thence in a southeasterly direction approximately 60 feet crossing Murphy Road to a point being in the southern right-of-way margin of Murphy Road, said point being the northeastern corner of parcel 0468-92-3192, thence in a southwestern direction approximately 290 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a northwesterly direction approximately 285 feet to the southwestern corner of said parcel, thence in a northeasterly direction approximately 263 feet to a point in the southern right-of-way margin of Murphy Road, thence along said margin approximately 90 feet to the northeastern corner of parcel 0468-92-0292, thence along the eastern boundary of said parcel in a southwesterly direction approximately 264 feet to the

southeastern corner of said parcel, thence along the southern boundary of said parcel in a northwesterly direction approximately 171 feet to the southeastern corner of parcel 0468-82-9238, thence along said southern boundary in northwesterly direction approximately 170 feet to the southeastern corner of parcel 0468-82-7373, thence along said southern boundary in a northwesterly direction approximately 170 feet to the southeastern corner of parcel 0468-82-6318, thence along said southern boundary in a northwesterly direction approximately 170 feet to the southwestern corner of said parcel, thence along the western boundary of said parcel in a northeasterly direction approximately 250 feet to a point in the southern right-of-way margin of Murphy Road, thence along said margin in a northwesterly direction approximately 198 feet to the northeast corner of parcel 0468-82-2660, thence in a southwesterly direction along the eastern boundary of said parcel approximately 165 feet to the southern corner of said parcel, thence in a northwesterly direction approximately 155 feet to the northwestern corner of said parcel said corner being in the southern right-of-way margin of Murphy Road, thence in northwesterly direction approximately 110 feet to the eastern corner of parcel 0468-72-9720, thence along the eastern boundary of said parcel in a southwesterly direction approximately 258 feet to the southern corner of said parcel, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-72-8801, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-72-6973, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-73-5054, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-73-4137, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-73-3209, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southeastern corner of parcel 0468-73-1358, thence along the southern boundary of said parcel in a southwesterly direction approximately 90 feet to the southwest corner of said parcel, thence with the western boundary of said parcel approximately 214 feet to the southeast corner of parcel 0468-63-8638, thence continuing along the southern boundary of said parcel in a northwesterly direction approximately 377 feet to the southwestern corner of said parcel, thence northerly along the western boundary of said parcel approximately 343 feet to the southern right-of-way margin of Murphy Road, thence with the margin of Murphy Road in a northwesterly direction approximately 22 feet to the northeastern corner of parcel 0468-63-4686, thence along the eastern boundary of said parcel in a southwesterly direction approximately 937 feet to the southeastern corner of said parcel, thence with the southern boundary of said parcel in a northwesterly direction approximately 78 feet to the southeastern corner of parcel 0468-63-3793, thence with southern boundary of said parcel in a northwesterly direction approximately 80 feet to the southeastern corner of parcel 0468-63-2789, thence with southern boundary of said parcel in a northwesterly direction approximately 105 feet to the southeastern corner of parcel 0468-63-1874, thence along the southern boundary of said parcel in a northwesterly direction

approximately 140 feet to the southeastern corner of parcel 0468-63-0951, thence along the southern boundary of said parcel in a northwesterly direction approximately 151 feet to the southeastern boundary of parcel 0468-53-8949, thence continuing along the southern boundary of said parcel in a northwesterly direction approximately 327 feet to the southeastern corner of parcel 0468-54-6056, thence northwesterly along the boundary of said parcel approximately 419 feet to the southeastern corner of parcel 0468-54-3373, thence along the southern boundary of said parcel in a northwesterly direction approximately 442 feet to the eastern margin of Creek Bottom Trail, thence crossing Creek Bottom Trail in a northwesterly direction approximately 75 feet to the southeastern corner of parcel 0468-44-9465, thence along the southern boundary of said parcel approximately 360 feet to the southwestern corner of said parcel, thence along the western boundary of said parcel in a northeasterly direction approximately 115 feet to the southern right-of-way margin of Murphy Road, thence along the said margin in a northwesterly direction approximately 123 feet to the northeastern corner of parcel 0468-44-5545, thence along the eastern boundary of said parcel in a southwesterly direction approximately 209 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a northwesterly direction approximately 80 feet to the southwestern corner of said parcel, thence along the western boundary in a northeasterly direction approximately 160 feet to the eastern right-of-way of Sanderosa Road where it intersects with Murphy Road, thence along the eastern right-of-way of Sanderosa Road and the western boundary of parcel 0468-53-6023 in a southwesterly direction approximately 173 feet, thence continuing with the western boundary of said parcel in a southwesterly direction approximately 205 feet to the northwestern corner parcel of 0468-44-1177 said point also being in the eastern right-of-way margin of Sanderosa Road, thence along the western boundary of said parcel in a southwesterly direction approximately 567 feet to a point the eastern right-of-way margin of Sanderosa Road, thence continuing along the margin in a southwesterly direction approximately 101 feet to the northeast corner of parcel 0468-43-2118, thence along the western boundary of said parcel in a southwesterly direction approximately 400 feet, thence in a southwesterly direction crossing Sanderosa Road to the northern corner of parcel 0468-32-3840, thence along the western boundary of said parcel in a southwesterly direction, also being the eastern right-of-way margin of I-95 North, approximately 660 feet to the northern corner of parcel 0468-32-0243, thence with the western boundary of said parcel in a southwesterly direction approximately 1167 feet to the northwestern corner of parcel 0468-21-9783, thence along the western boundary of said parcel and continuing with the eastern right-of-way margin of I-95 North in a southwesterly direction approximately 360 feet to the northwestern corner of parcel 0468-31-2414, thence with the western boundary of said parcel in a southwesterly direction approximately 401 feet to the northwestern corner of parcel 0468-31-2137, thence with the western boundary of said parcel also being the eastern right-of-way margin of I-95 North in a southwesterly direction approximately 310 feet to the northeastern corner of parcel 0468-31-5006, thence along the western boundary of said parcel in a southwesterly direction approximately 137 feet to a point in the eastern right-of-way margin of I-95 North, said point also being the northwestern corner of

parcel 0467-49-1752, thence with the western boundary of said parcel in a southwesterly direction approximately 484 feet to northwestern corner of parcel 0467-39-4168, thence continuing with the western boundary of said parcel in a southwesterly direction approximately 465 feet to the southwestern corner of said parcel, thence in an easterly direction approximately 51 feet to the northwest corner of parcel 0467-29-3578, thence along the western boundary of said parcel also being the eastern right-of-way of White Plains Drive in a southwesterly direction approximately 75 feet to the northern right-of-way of Sara Lane, thence crossing said right-of-way in a southwesterly direction approximately 50 feet to the northwestern corner of parcel 0467-29-3442, thence along the western boundary of said parcel in a southwesterly direction approximately 79 feet to the northwestern corner of parcel 0467-29-3322, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-29-3202, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-29-2182, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-29-2062, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-28-2942, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-28-2823, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-28-2701, thence along the western boundary of said parcel in a southwesterly direction approximately 147 feet to the northwestern corner of parcel 0467-28-1549, thence along the western boundary of said parcel in a southwesterly direction approximately 130 feet to the southwestern corner of said parcel, thence in an easterly direction along the southern boundary of said parcel approximately 30 feet, to the northwestern corner of parcel 0467-28-1446, thence along the western boundary of said parcel in a southwesterly direction approximately 121 feet to the northwestern corner of parcel 0467-28-1314, thence along the western boundary of said parcel in a southwesterly direction approximately 125 feet to the northwestern corner of parcel 0467-28-0282, thence along the western boundary of said parcel in a southwesterly direction approximately 137 feet to the northern margin of Mercedes Drive, thence crossing Mercedes Drive in a southwesterly direction approximately 50 feet to the northwestern corner of parcel 0467-28-0045, thence along the western boundary of said parcel in a southwesterly direction approximately 137 feet to the northwestern corner of parcel 0467-27-0913, thence along the western boundary of said parcel in a southwesterly direction approximately 125 feet to the northwestern corner of parcel 0467-17-9881, thence along the western boundary of said parcel in a southwesterly direction approximately 134 feet to the southwestern corner of said parcel, said point also being in the eastern right-of-way margin of White Plains Drive, thence in a westerly direction crossing White Plains Drive, I-95 North and I-95 South approximately 550 feet to the southeastern corner of parcel 0457-98-3830, thence with the southern boundary of said parcel in a westerly direction approximately 1222 feet to the eastern right-of-way margin of Rock Hill Road, thence crossing said right-of-way in

an easterly direction approximately 50 feet to the southeastern corner of parcel 0457-98-3830, thence with the southern boundary of said parcel in a westerly direction approximately 1463 feet to the southwestern corner of said parcel, thence northerly along the western boundary of said parcel approximately 1940 feet to the southwestern corner of parcel 0457-89-5961, thence along the western boundary of said parcel in a northerly direction approximately 379 feet to a point in the western boundary of parcel 0458-90-5360, thence with western boundary of said parcel in a northwesterly direction approximately 543 feet to the northwestern corner of said parcel, thence along the northern boundary of said parcel in an easterly direction approximately 327 feet to a point in the western boundary of parcel 0458-91-3073, thence with said western boundary in a northerly direction approximately 688 feet to the southeastern corner of parcel 0458-81-3678, thence with the southern boundary of said parcel in a southwesterly direction approximately 435 feet to the southeastern corner of parcel 0458-81-0757, thence along southern boundary of said parcel approximately 10 feet to the southwestern corner of said parcel, continuing along the western boundary of said parcel approximately 652 feet to a point in the southern boundary of parcel 0458-71-5934, thence with southern boundary in a westerly direction approximately 601 feet to the southeastern corner of parcel 0458-72-0025, thence with southern boundary of said parcel in a westerly direction approximately 179 feet to the southeastern corner of parcel 0458-61-9831, thence with southern boundary of said parcel in a westerly direction approximately 310 feet to a point in the eastern boundary of parcel 0458-61-7782, thence crossing said parcel in a westerly direction approximately 60 feet to the southeastern corner of parcel 0458-61-7967, thence with the southern boundary of said parcel in a westerly direction approximately 161 feet to a point in the eastern boundary of parcel 0458-61-4648, thence continuing with the eastern boundary of said parcel in a southerly direction approximately 95 feet to the northeastern corner of parcel 0458-61-3440, thence with the eastern boundary of said parcel in a southerly direction approximately 330 feet to the northeastern corner of parcel 0458-61-4240, thence with the eastern boundary of said parcel in a southerly direction approximately 105 feet to the northeast corner of parcel 0458-61-4049, thence with the eastern boundary of said parcel in a southerly direction approximately 105 feet to a point in the eastern boundary of parcel 0458-61-3005, thence continuing with said eastern boundary in a southerly direction approximately 112 feet to the northeast corner of parcel 0458-60-3788, thence along the eastern boundary of said parcel in a southerly direction approximately 363 feet to the northeast corner of parcel 0458-60-3592, thence along the eastern boundary of said parcel in a southerly direction approximately 293 feet to the northeast corner of parcel 0458-60-4204, thence along the eastern boundary of said parcel in a southerly direction approximately 286 feet to the northeast corner of parcel 0458-60-4021, thence along the eastern boundary of said parcel in a southerly direction approximately 178 feet to the northeast corner of parcel 0457-69-4724, thence along the eastern boundary of said parcel in a southerly direction approximately 368 feet to the northeast corner of parcel 0457-69-3083, thence along the eastern boundary of said parcel in a southerly direction approximately 758 feet, thence westerly along said parcel approximately 88 feet to a point in the eastern boundary of said parcel,

thence continuing southerly along the eastern boundary approximately 295 feet to the southeastern corner of said parcel, thence westerly along the southern boundary of said parcel approximately 169 feet to the southeastern corner of parcel 0457-68-1651, thence in a westerly direction approximately 220 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-9621, thence in a westerly direction approximately 202 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-7559, thence in a westerly direction approximately 199 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-6620, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-5529, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-4529, thence in a westerly direction approximately 122 feet along the boundary of said parcel to the southeastern right-of-way of Jimree Ave., thence in a westerly direction approximately 210 feet along the right-of-way of Jimree Ave., thence in a northeasterly direction approximately 60 feet along the right-of-way of Jimree Ave. to the southern boundary of parcel 0457-58-1614, thence in an easterly direction approximately 10 feet to the southwestern corner of parcel 0457-58-2633, thence along the western boundary of said parcel in a northeasterly direction approximately 152 feet to the southwest corner of parcel 0457-58-2767, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-58-2981, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3004, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3128, thence along the western boundary of said parcel in a northerly direction approximately 140 feet to the southwest corner of parcel 0457-59-3323, thence along the western boundary of said parcel in a northerly direction approximately 144 feet to the southwest corner of parcel 0457-59-3409, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2684, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2769, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2945, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-2110, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1296, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1461, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1537, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-0792, thence along the western boundary of said parcel in a northwesterly direction approximately 151 feet to the southwest corner of parcel 0458-50-0866, thence in a southerly direction approximately 446 feet to the

southernmost corner of parcel 0458-41-7092, thence in a northerly direction along the western boundary of said parcel approximately 228 feet to a point in the western boundary of said parcel, thence continuing along said boundary in a northwesterly direction approximately 775 feet to a point in the western boundary of said parcel, thence in a northeasterly direction approximately 115 feet to the southern right-of-way margin of Dunn Road said point also being located in the northern boundary of parcel 0457-49-4668, thence in a southwesterly direction along said northern boundary approximately 347 feet to the northeastern corner of parcel 0458-41-2053, thence along the eastern boundary of said parcel in a southeasterly direction approximately 209 feet to the northeast corner of parcel 0458-40-3840, thence along the eastern boundary of said parcel in a southeasterly direction approximately 300 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 119 feet to the southwest corner of said parcel, thence along the western boundary of said parcel in a northwesterly direction approximately 282 feet to a point in the southern boundary of parcel 0458-40-1966, thence in a southwesterly direction along said southern boundary approximately 80 feet to the southeastern corner of parcel 0458-40-0825, thence with the southern boundary of said parcel in southwesterly direction approximately 280 feet to a point in the eastern boundary of parcel 0458-30-8598, thence continuing along the eastern boundary of said parcel in a southeasterly direction approximately 315 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 189 feet to the southeast corner of parcel 0458-30-7348, thence with the southern boundary of said parcel in a southwesterly direction approximately 88 feet to the northeast corner of parcel 0458-30-7230, thence with the eastern boundary of said parcel in a southerly direction approximately 112 feet to the southeast corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 192 feet to the eastern right-of-way margin of Al Ray Road, thence along the western boundary of said parcel in a northerly direction approximately 112 feet to the southwestern corner of parcel 0458-30-7348, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northerly direction approximately 250 feet to the southwestern corner of parcel 0458-30-6680, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northwesterly direction approximately 196 feet to the southern right-of-way margin of Dunn Road, thence in a northwesterly direction crossing said right-of-way approximately 60 feet to a point in the southern boundary of parcel 0458-30-5803, thence along the southern boundary of said parcel in a southwesterly direction approximately 210 feet to the southwest corner of said parcel, thence along the western boundary of said parcel in a northeasterly direction approximately 350 feet to the northwest corner of said parcel, thence along the northern boundary of said parcel in a northeasterly direction approximately 257 feet to the northeast corner of said parcel, thence in a northerly direction along the western boundary of parcel 0458-31-6159 approximately 171 feet to a point, thence along said parcel boundary in a westerly direction approximately 65 feet to a point, thence along the westernmost boundary of said parcel in a northerly direction approximately 203 feet

to the southern right-of-way of I-95 North said point also being the northwest corner of said parcel, thence in a northeasterly direction approximately 205 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-7293, thence in a northeasterly direction approximately 110 feet to the northwest corner of parcel 0458-31-9312, thence in a northeasterly direction approximately 103 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-9490, thence in a northeasterly direction approximately 90 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-0499, thence in a northeasterly direction approximately 184 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-4905, thence in a northeasterly direction approximately 522 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-7807, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southerly direction approximately 20 feet to the northwest corner of parcel 0458-52-1268, thence in a northeasterly direction approximately 719 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a northwesterly direction approximately 935 feet across the right-of-way of Interstate 95 to the point of BEGINNING, said point being the southeast corner of parcel 0458-43-9229 and the western right-of-way of Dobbin Holmes Rd.

"Section 2.2. **Annexation Restrictions.** (a) The Town of Eastover shall not extend its boundaries by annexation or otherwise into any of the following described property: Beginning at a point, in the eastern right-of-way margin of Rich Walker Road and the center line of I-295, thence in a northwesterly direction approximately 10533 feet to the western bank of the Cape Fear River, thence in a southerly direction as the River meanders to the existing Fayetteville City limit line, said point being the southeastern boundary of parcel 0530-91-3792, thence crossing said Cape Fear River to the eastern bank, said point being in the line of parcel 0449-49-3093, thence meandering in a southerly direction with the eastern bank of the Cape Fear River to the northwest corner of parcel 0448-26-3099, said point being the Fayetteville City limit line, thence in a northeasterly direction along boundary line and Fayetteville City limit line approximately 1750 feet to the northeast corner of said parcel, thence in a southerly direction along the boundary of said parcel and Fayetteville City limit line approximately 2600 feet to the southwest corner of parcel 0448-36-0682, thence in a northeasterly direction along Fayetteville City limit line approximately 2225 feet to the southwest corner of parcel 0448-57-2157, thence continuing along Fayetteville City limit line in a northerly direction approximately 420 feet to the northwest corner of said parcel, thence in a northeasterly direction approximately 425 feet to the northeast corner of said parcel, thence along Fayetteville City limit line in a southerly direction approximately 1115 feet to the northeast corner of parcel 0448-56-3152, thence in a southwesterly direction approximately 300 feet to the northwest corner of said parcel, thence in a southerly direction approximately 200 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 300 feet to the western right-of-way margin of River Road, thence in a southerly direction along said right-of-way margin approximately 55 feet to the northern right-of-way margin of the railroad, thence in a southwesterly direction along Fayetteville City limit line and the

right-of-way margin of the railroad to the southeastern corner of parcel 0448-23-4912, thence in a northwesterly direction approximately 150 feet to the northeastern corner of said parcel, thence in a southwesterly direction approximately 100 feet to the northwest corner of said parcel, thence in a southeasterly direction approximately 150 feet to the northern right-of-way margin of the railroad, thence along Fayetteville City limit line and said right-of-way margin in a southwesterly direction to the eastern bank of the Cape Fear River, thence in southerly direction as the River meanders to the southwestern boundary of parcel 0447-36-7656, said point also being the Fayetteville City limit line, thence in an easterly direction along Fayetteville City Limit line and northern right-of-way margin of Middle River Lp approximately 1542 feet to the southwest corner of parcel 0447-57-2140, thence in a northwesterly direction approximately 383 feet to the northwest corner of said parcel, thence in a northeasterly direction approximately 530 feet to the northeastern corner of said parcel, thence continuing along said boundary line in a southeasterly direction approximately 650 feet to the northern right-of-way of Middle River Loop, thence continuing along Fayetteville City limit line in an easterly direction crossing Middle River LP, I-95 Business S on ramp, Middle Road and I-95 Business S off ramp approximately 2072 feet to the southeast corner of parcel 0447-77-6665, said point being in the northern right-of-way margin of I-95 and the western right-of-way margin of Hollywood Boulevard, thence continuing along Fayetteville City limit line and the northern right-of-way margin of I-95 in an easterly direction approximately 1300 feet to a point in the boundary of parcel 0447-89-9033, thence continuing to follow Fayetteville City limit line in a southeasterly direction crossing the right-of-way margin of I-95 to a point in the southern right-of-way margin of Dunn Road, thence continuing to follow Fayetteville City limit line and the southern right-of-way margin of Dunn Road in a southwesterly direction to the northeast corner of parcel 0447-75-4904, thence in a southerly direction along Fayetteville City limit line to a point in the northwest corner of parcel 0447-74-2116, thence continuing in a southeasterly direction approximately 50 feet to the western margin of N. Plymouth Street, thence in an easterly direction crossing N. Plymouth Street to the eastern right-of-way following Fayetteville City limit line, thence in a southerly direction along the eastern right-of-way margin of N. Plymouth Street to the intersection of the eastern right-of-way margin of N. Plymouth Street and the southern right-of-way margin of NC Hwy 24, said point being the northwest corner of parcel 0447-72-3017, thence in an easterly direction to the northeast corner of said parcel continuing to follow Fayetteville City limit line, thence along the southern right-of-way margin of NC Hwy 24 in an easterly direction approximately 381 feet to the northeast corner of said parcel, thence in a southeasterly direction approximately 171 feet to a point in said parcel, thence in a westerly direction approximately 210 feet to a point in said parcel, thence in a southeasterly direction approximately 342 feet to the southeastern boundary of said parcel, thence in a southwesterly direction approximately 406 feet to the eastern right-of-way margin of N. Plymouth Street, thence in a southerly direction approximately 968 feet to the northern right-of-way margin of Clinton Road, thence following the Fayetteville City limit line to a point in the southern boundary of parcel 0447-71-3194, thence crossing the right-of-way margin of Clinton Road and the

right-of-way of railroad to the northwestern corner of parcel 04556-79-9546, thence in a southwesterly direction approximately 943 feet to a point in said parcel, thence in a southeasterly direction approximately 425 feet to a point in said parcel, thence in southwesterly direction approximately 105 feet to the southwestern corner of said parcel, thence in northwesterly direction approximately 210 feet to the northwestern corner of parcel 0446-88-5562, thence in a southerly direction approximately 327 feet to a point in parcel 0446-78-4625, thence in a northeasterly direction approximately 113 feet to a point in said parcel, thence in a southerly direction approximately 94 feet to a point in said parcel, thence in a southwesterly direction approximately 79 feet to a point in said parcel, thence in a southerly direction approximately 46 feet to the southeastern corner of said parcel, thence in a southeasterly direction approximately 751 feet to the eastern corner of parcel 0446-78-9081, thence in a southwesterly direction approximately 200 feet to the eastern right-of-way margin of Sapona Road, thence in southeasterly direction approximately 250 feet along said margin, thence crossing said right-of-way in a westerly direction approximately 60 feet to the southeast corner of parcel 0446-77-8796, thence in a southeasterly direction approximately 75 feet to the southeast corner of parcel 0446-87-0609, thence in a southwesterly direction approximately 155 feet to the southwest corner of said parcel, thence in a southwesterly direction approximately 2750 feet to a point in the northern margin of parcel 0446-74-3948, thence in northeasterly direction approximately 525 feet to the northeastern corner of said parcel, thence in a southerly direction approximately 310 feet to a point in Twin Ponds Drive, thence in a westerly direction approximately 20 feet to the northeastern corner of parcel 0446-74-3678, thence in a southerly direction along the western right-of-way margin of Twin Ponds Drive approximately 265 feet to the northeast corner of parcel 0446-74-6442, thence in a southwesterly direction approximately 170 feet to the northeast corner of parcel 0446-74-4386, thence in a westerly direction approximately 210 feet to the northwest corner of said parcel, thence in a southeasterly direction approximately 200 feet to the southwest corner of parcel 0446-74-5266, thence in northeasterly direction approximately 315 feet to the western right-of-way margin of Twin Ponds Drive, thence with said right-of-way margin in a southerly direction approximately 175 feet to the southeast corner of parcel 0446-74-5131, thence in a westerly direction approximately 325 feet to a point in said parcel, thence in a southeasterly direction approximately 375 feet to a point in parcel 0446-73-5588, thence in an easterly direction approximately 90 feet to the northeast corner of said parcel, thence in a southerly direction approximately 130 feet to the southeast corner of said parcel, thence along the southern boundary of said parcel in a westerly direction approximately 70 feet to a point in the northern right-of-way margin of Peteland Drive, thence in a southerly direction crossing said right-of-way approximately 60 feet to the northeast corner of parcel 0446-73-6338, thence with the Fayetteville City limit line in a southeasterly direction approximately 1633 feet to a point in the northern boundary of parcel 0446-81-4825, thence in a northeasterly direction with the Fayetteville City limit line 386 feet to a point in the western boundary of parcel 0446-94-3030, thence in a southerly direction approximately 450 feet to the southeastern corner of parcel 0446-81-4559, thence in a southwesterly direction

approximately 200 feet to the northeast corner of parcel 0446-81-4471, thence in a southeasterly direction approximately 325 feet to the southern right-of-way margin of L A Dunham Road, thence following Fayetteville City limit line and the southern right-of-way margin of L A Dunham Road to the northeast corner of parcel 0456-11-0651, thence in a southerly direction approximately 839 feet to a point in said parcel, thence in a northeasterly direction approximately 660 feet to the southeast corner of parcel 0456-12-8048, thence in a northeasterly direction approximately 902 feet to the northwestern corner of parcel 0456-32-1403, thence in a northeasterly direction to the southwest corner of parcel 0456-45-1358, thence continuing along the Fayetteville City limit line in a northerly direction approximately 2140 feet to a point, thence in a northeasterly direction approximately 150 feet to the southwest corner of parcel 0456-24-3901, thence in a southeasterly direction approximately 600 feet to the southeastern corner of parcel 0456-24-6763, thence in a northeasterly direction to the northern right-of-way margin of Sunnyside School Road, thence in a southeasterly direction with the northern margin of said right-of-way to a point in the western boundary of parcel 0456-45-1358, thence in a northerly direction approximately 1120 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 2400 feet to the northeast corner of said parcel, thence following Fayetteville City limit line and the eastern boundary of said parcel in a southerly direction to the northern right-of-way margin of Sunnyside School Road, thence along said right-of-way margin in an easterly direction approximately 500 feet to a point, thence crossing said right-of-way margin in a southerly direction approximately 60 feet to a point in the southern right-of-way margin, thence in an easterly direction along right-of-way margin approximately 200 feet to the northeast corner of parcel 0456-53-1890, thence in a southerly direction approximately 620 feet to the southwestern corner of parcel 0456-53-4620, thence in an easterly direction approximately 470 feet to the southeast corner of parcel 0456-53-6554, thence in a southerly direction approximately 530 feet to the southwest corner of parcel 0456-53-8141, thence with the Fayetteville City limit line and the southern boundary of said parcel to the northeast corner of parcel 0456-21-4388, thence in a southerly direction approximately 50 feet to the southeastern corner of said parcel, thence along southern boundary of said parcel in a southwesterly direction to the northwest corner of parcel 0456-42-5491, thence in northwesterly direction to a point in the boundary of parcel 0456-31-2266, thence in a northwesterly direction to the northernmost point of said parcel, thence in a southwesterly direction to the southwest corner of parcel 0456-20-9898, thence in a northeasterly direction to the northwest corner of parcel 0456-20-8003, thence along the western boundary of said parcel to the northeastern corner of parcel 0455-19-5394, thence in a westerly direction along the northern boundary of said parcel to the eastern right-of-way margin of Cedar Creek Road, thence continuing in a southeasterly direction with the Fayetteville City limit line and the eastern right-of-way margin of Cedar Creek Road to the southwest corner of parcel 0455-08-9918, thence in a northeasterly direction to the northwest corner of said parcel, thence in a southeasterly direction approximately 2609 feet to the western right-of-way margin of Jim Johnson Road, thence along the western margin of said right-of-way in a

northerly direction approximately 435 feet following the Fayetteville City limit line, thence crossing said right-of-way in a southeasterly direction to the western right-of-way margin of the I-95 S "off ramp", thence in a northeasterly direction approximately 745 feet to the northeast corner of parcel 0455-39-8107, thence crossing I-95 in a southeasterly direction to a point in the western boundary of parcel 0455-49-8027, thence continuing with the Fayetteville City limit line in a southwesterly direction to the southwest corner of parcel 0455-47-1944, thence in a southeasterly direction to the southwestern corner of parcel 0455-47-7725, thence continuing Fayetteville City limit line in a northeasterly direction to the northwest corner of parcel 0455-58-0008, thence in a southeasterly direction approximately 420 feet to the northeast corner of parcel 0455-57-0862, thence in a southwesterly direction to the northwest corner of parcel 0455-57-1567, thence in a southeasterly direction approximately 339 feet to a point in the western boundary of parcel 0455-57-6565, thence in a southwesterly direction to the northwest corner of parcel 0455-57-2351, thence in a southeasterly direction approximately 175 feet to the northeast corner of said parcel, thence in a northeasterly direction to the northwest corner of parcel 0455-57-4223, thence in a southwesterly direction to the northern right-of-way margin of Cedar Creek Road, thence in a southeasterly direction approximately 451 feet to a point in the northern margin of said right-of-way, thence crossing said right-of-way in southwesterly direction approximately 400 feet to the southernmost corner of parcel 0455-56-4731, thence along the Fayetteville City limit line approximately 682 feet to the southwestern corner of parcel 0455-56-0956, thence in a northeasterly direction to the southeastern corner of parcel 0455-47-9067, thence along the Fayetteville City limit line in a northwesterly direction approximately 293 feet to the northwestern corner of parcel 0455-46-7872, thence in a southwesterly direction approximately 450 feet to the southwest corner of said parcel, thence in a northwesterly direction approximately 552 feet to the eastern right-of-way margin of I-95 N "off ramp," thence in a southwesterly direction along the said eastern right-of-way margin approximately 1718 feet to a point in the western boundary of parcel 0455-34-5949, thence crossing the right-of-way of I-95 in a northwesterly direction to a point in the western margin of I-95, thence along said western right-of-way margin approximately 865 feet to the southernmost corner of parcel 0455-27-9181, thence in a northwesterly direction approximately 357 feet to the eastern right-of-way margin of Jim Johnson Road, thence crossing said right-of-way in a westerly direction to a point in the eastern boundary of parcel 0455-27-3309, thence in a southerly direction along said eastern boundary approximately 110 feet to the southeast corner of said parcel, thence in a northwesterly direction approximately 1000 feet to the eastern right-of-way margin of Bureau Drive, thence in a southwesterly direction along said right-of-way margin approximately 197 feet to a point in said eastern right-of-way, thence in a northwesterly direction approximately 320 feet to the southwest corner of parcel 0455-17-6410, thence continuing along Fayetteville City limit line to the southeastern corner of parcel 0455-18-5042, thence in a northwesterly direction approximately 1413 feet to the southwest corner of parcel 0455-08-7444, thence with the western boundary of said parcel to the southern right-of-way margin of Cedar Creek Road, thence along said right-of-way margin in a northwesterly direction

approximately 760 feet to a point in parcel 0445-99-2413, thence in a southwesterly direction to the eastern right-of-way margin Fields Road, thence in southwesterly direction along said margin to the northernmost corner of parcel 0445-97-3707, thence continuing along the northern margin of said parcel and the Fayetteville City limit line approximately 2200 feet to the northeast corner of said parcel, thence in a southeasterly direction to a point in the western boundary of parcel 0455-07-8478, thence in a southwesterly direction to the southernmost corner of parcel 0445-97-3707, thence in a northwesterly direction approximately 2273 feet to the western right-of-way margin of Fields Road, thence along the western right-of-way margin of Fields Road to the southwestern corner of parcel 0445-89-8657, thence in a northwesterly direction along Fayetteville City limit line approximately 875 feet to the northwest corner of parcel 0446-80-5098, thence in a northeasterly direction to the southwest corner of parcel 0446-80-6222, thence a northerly direction to the northwest corner of said parcel, thence in a northeasterly direction along the northern boundary of said parcel to the western right-of-way margin of Cedar Creek Road, thence in a northwesterly direction along said right-of-way margin approximately 200 feet to the southeast corner of parcel 0446-80-4596, thence in a southwesterly direction approximately 183 feet to the southwest corner of said parcel, thence in a northwesterly direction along the Fayetteville City limit line approximately 2190 feet to the northwest corner of parcel 0446-72-5488, thence in an easterly direction approximately 400 feet to the western right-of-way margin of Cedar Creek Road, thence along said right-of-way margin to the southeast corner of parcel 0446-63-9772, thence in a southwesterly direction approximately 597 feet to the southwest corner of said parcel, thence in a northwesterly direction approximately 542 feet to the northwest corner of parcel 0446-63-8905, thence along Fayetteville City limit line in southwesterly direction to the western bank of the Cape Fear River, thence as the River meanders to a point in the boundary of parcel 0464-66-7978, thence along the boundary of said parcel in a northeasterly direction to the western right-of-way margin of Cedar Creek Road said point being in the eastern right-of-way margin of railroad, thence continuing with the right-of-way margin of the railroad in a northeasterly/northerly direction to the southern right-of-way margin of Old Vander Road, thence continuing in a northerly direction along said railroad right-of-way to a point in the western boundary of parcel 0476-30-3574, thence in a northeasterly direction to the northwest corner of said parcel, thence in a northeasterly direction to a point in the western boundary of parcel 0476-64-1000, thence in a northwesterly direction to another point in said boundary, thence in a northeasterly direction to a point in said boundary, thence in southeasterly direction to the southwest corner of parcel 0476-45-9857, thence along the western boundary of said parcel in a northeasterly direction to the southeastern corner of parcel 0476-46-4179, thence in a northwesterly direction approximately 700 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 1800 feet to the northeast corner of parcel 0476-36-8586, thence in a northwesterly direction approximately 165 feet to a point in the northern margin of said parcel, thence crossing right-of-way of Clinton Road in a northerly direction to the southeast corner of parcel 0476-47-5726, thence in a northwesterly direction to the southernmost corner of parcel 0476-47-2998, thence

along southern boundary of said parcel approximately 154 feet to the southeast corner of said parcel, thence in a northerly direction approximately 260 feet to a point in parcel 0476-48-1256, thence in a northeasterly direction to the easternmost corner of parcel 0476-38-8607, thence in a northerly direction to the southernmost corner of parcel 0476-49-2088, thence in a northwesterly direction crossing right-of-way margin of Hummingbird Place to the southwest corner of parcel 0476-49-5316, thence in a northeasterly direction approximately 460 feet to the southeast corner of said parcel, thence in a northwesterly direction approximately 312 feet to the northeast corner of parcel 0476-49-4406, thence in a southwesterly direction approximately 460 feet to the eastern right-of-way margin of Hummingbird Place, thence continuing with eastern right-of-way margin in a northwesterly direction to the southwest corner of parcel 0477-40-1047, thence in a northeasterly direction approximately 555 feet to the southeast corner of said parcel, thence in a northwesterly direction to the northeast corner of said parcel, thence in a southwesterly direction approximately 502 feet to the eastern right-of-way margin of Hummingbird Place, thence in a northwesterly direction approximately 60 feet to the southwest corner of parcel 0477-30-9391, thence in a northeasterly direction approximately 1120 feet to the southwestern corner of parcel 0477-50-5792, thence in a northeasterly direction to a point in the western boundary of said parcel, thence in a northwesterly direction to the westernmost corner of said parcel, thence crossing parcel 0477-41-7122 in a northerly direction to the southwest corner of parcel 0477-51-0886, thence in a northerly direction to the easternmost corner of parcel 0477-42-4626, thence in a northwesterly direction for approximately 206 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-3637, thence in a northwesterly direction for approximately 98 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-2751, thence in a northwesterly direction for approximately 88 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-2840, thence in a northwesterly direction for approximately 81 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-1863, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0895, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0839, thence in a northwesterly direction for approximately 26 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-9868, thence in a northwesterly direction for approximately 74 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-8889, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-8910, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7931, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7901 thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-6912, thence in a northwesterly direction for approximately 80 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-5942, thence in a northwesterly direction for approximately 59 feet along the boundary of said parcel to

the southeast corner of parcel 0477-32-4962, thence in a northwesterly direction for approximately 165 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-3957, thence in a northwesterly direction for approximately 83 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northerly direction for approximately 130 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3150, thence in a northerly direction for approximately 214 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3262, thence in a northerly direction for approximately 132 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3465, thence in a northerly direction for approximately 242 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3549, thence in a northerly direction for approximately 35 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3679, thence in a northerly direction for approximately 183 feet along the boundary of said parcel to a southwest corner of parcel 0477-35-3203, thence in a northerly direction for approximately 85 feet along the boundary of said parcel, thence in a northwesterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 1130 feet along the boundary of said parcel to a southeast corner of parcel 0477-25-9270, thence in a westerly direction approximately 210 feet to the eastern right-of-way of Bobby Jones Dr., thence in a westerly direction to the western right-of-way of Bobby Jones Dr. to the southeastern corner of parcel 0477-25-7255, thence in a westerly direction approximately 178 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-6205, thence in a westerly direction approximately 149 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-4274, thence in a westerly direction approximately 121 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-3254, thence in a westerly direction approximately 125 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-2213, thence in a westerly direction approximately 171 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-0276, thence in a northwesterly direction approximately 152 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-9340, thence in a northwesterly direction approximately 127 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-8334, thence in a northwesterly direction approximately 119 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-7318, thence in a northwesterly direction approximately 139 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-5492, thence in a northwesterly direction approximately 50 feet along the southern boundary of said parcel to the northeastern corner of parcel 0477-15-3242, thence in a southwesterly direction approximately 345 feet along the eastern boundary of said parcel to the northeastern corner of parcel 0477-14-3597, thence in a southwesterly direction approximately 895 feet along the eastern boundary of said parcel to the southeastern corner of said parcel and the northern right-of-way of Hummingbird Pl., thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of

parcel 0477-14-3221, thence in a northwesterly direction approximately 92 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-3600, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-1657, thence in a northwesterly direction approximately 249 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-0736, thence in a northwesterly direction approximately 28 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-8591, thence in a northwesterly direction approximately 155 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-8752, thence in a northwesterly direction approximately 23 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-7547, thence in a northwesterly direction approximately 132 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7676, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7418, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-4579, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-5664, thence in a northwesterly direction approximately 158 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-4702, thence in a northwesterly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-2778, thence in a northwesterly direction approximately 119 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1861, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1625, thence in a northwesterly direction approximately 77 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-0865, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-9877, thence in a northwesterly direction approximately 94 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-8862, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-7703, thence in a northwesterly direction approximately 256 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 57 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-4732, thence in a northwesterly direction approximately 183 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-2765, thence in a northwesterly direction approximately 169 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-84-9738, thence in a northwesterly direction approximately 147 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a southwesterly direction approximately 125 feet across the intersection of Baywood Rd. and Hummingbird Pl. to the northeastern corner of parcel 0467-84-5548, thence in a southerly direction approximately 224 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-5317, thence in a

southerly direction approximately 250 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-6034, thence in a southwesterly direction approximately 325 feet along the boundary of said parcel to the southeast corner of said parcel and right-of-way of Sulky Circle, thence in a southwesterly direction approximately 80 feet across Sulky Circle to the northeast corner of parcel 0467-83-4633, thence in a southwesterly direction approximately 410 feet along the boundary of said parcel to the northeast corner of parcel 0467-83-1337, thence in a southwesterly direction approximately 364 feet along the boundary of said parcel to the northeast corner of parcel 0467-83-0021, thence in a southwesterly direction approximately 320 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9797, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9687, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9566, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9456, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-82-0236, thence in a southwesterly direction approximately 238 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9042, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-81-0908, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the southeast corner of said parcel and the northern right-of-way of West Frontier Ave., thence in a southwesterly direction approximately 65 feet across West Frontier Ave. to the southern right-of-way of West Frontier Ave. and the northeast corner of parcel 0467-71-9891, thence in a southwesterly direction approximately 90 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-9602, thence in a southwesterly direction approximately 113 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8581, thence in a southwesterly direction approximately 112 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8471, thence in a southwesterly direction approximately 107 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8291, thence in a southwesterly direction approximately 214 feet along the boundary of said parcel to the southeast corner of said parcel and northern right-of-way of Pleasant View Dr., thence in a southwesterly direction approximately 90 feet to the southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 410 feet along the right-of-way of Pleasant View Dr. to the northeast corner of parcel 0467-71-3142, thence in a southwesterly direction approximately 405 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a northwesterly direction approximately 188 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-1136, thence in a northwesterly direction approximately 178 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-0353, thence in a northwesterly direction approximately 135 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-9450, thence in a northwesterly direction approximately 117 feet along

the boundary of said parcel to the southeastern corner of parcel 0467-61-8596, thence in a northwesterly direction approximately 26 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-7506, thence in a northwesterly direction approximately 274 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-6713, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-5769, thence in a northwesterly direction approximately 10 feet along the boundary of said parcel to a point in the eastern boundary of parcel 0467-61-1721, thence in a southerly direction along the boundary of said parcel to the southeastern corner of said parcel, thence in a westerly direction approximately 574 feet along the boundary of said parcel to the southeastern corner of parcel 0467-52-8171, thence in a westerly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of parcel 0467-52-6174, thence in a westerly direction approximately 188 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 639 feet along the boundary of said parcel to the southern boundary of parcel 0467-52-3563, thence in a southwesterly direction approximately 230 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8194, thence in a southwesterly direction approximately 48 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8070, thence in a southwesterly direction approximately 241 feet along the boundary of said parcel to the northeast corner of parcel 0467-41-7863, thence in a southwesterly direction approximately 463 feet along the boundary of said parcel to a corner of parcel 0467-41-4676, thence in a southwesterly direction approximately 432 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northwesterly direction approximately 215 feet along the boundary of said parcel to the southwest corner of parcel 0467-41-3941, thence in a northwesterly direction approximately 482 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3146, thence in a northwesterly direction approximately 190 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3318, thence in a northwesterly direction approximately 327 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-2692, thence in a northwesterly direction approximately 269 feet along the boundary of said parcel to the southeast corner of parcel 0467-33-9030, thence in a westerly direction approximately 225 feet along the boundary of said parcel to the southeast corner of parcel 0467-32-6967, thence in a westerly direction approximately 270 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Pleasant View Dr., thence in a westerly direction approximately 65 feet across the right-of-way of Pleasant View Dr. to the southeast corner of parcel 0467-32-3985, thence in a southwesterly direction approximately 539 feet along the western right-of-way of Pleasant View Dr to the boundary of parcel 0467-22-9726, thence in a southeasterly direction approximately 117 feet across the western right-of-way of Pleasant View Dr. to the eastern right-of-way of Pleasant View Dr. and a corner of parcel 0467-22-9726, thence in a southeasterly direction approximately 1227 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a southwesterly direction approximately 354 feet along the

boundary of said parcel to the southeast corner of parcel 0467-22-6379, thence in a southwesterly direction approximately 390 feet along the boundary of said parcel to the southeast corner of parcel 0467-22-3161, thence in a southwesterly direction approximately 442 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-7795, thence in a southwesterly direction approximately 125 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-4671, thence in a southwesterly direction approximately 289 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 410 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-0546, thence in a northwesterly direction approximately 198 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-8544, thence in a northwesterly direction approximately 179 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-6543, thence in a northwesterly direction approximately 228 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northwesterly direction approximately 160 feet to the southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 175 feet across the right-of-way of Pleasant View Dr. to the northern right-of-way of Pleasant View Dr. and southeast corner of parcel 0467-10-1980, thence in a westerly direction approximately 267 feet along the boundary of said parcel to the southwest corner of said parcel and the eastern right-of-way of Rock Hill Rd., thence in a southwesterly direction approximately 155 feet across the right-of-way of Rock Hill Rd. to the western right-of-way of Rock Hill Rd. and the southeast corner of parcel 0467-00-8637, thence in a southwesterly direction approximately 242 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 110 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Poplar Hill Rd., thence in a westerly direction approximately 130 feet across the right-of-way of Poplar Hill Rd. to the southeastern corner of parcel 0467-00-4718, thence in a northwesterly direction approximately 324 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a southeasterly direction approximately 241 feet along the boundary of said parcel to the northeastern corner of said parcel and western right-of-way of Poplar Hill Rd., thence in a northwesterly direction approximately 535 feet along the western right-of-way of Poplar Hill Rd., thence in a northeasterly direction approximately 344 feet along the western right-of-way of Poplar Hill Rd., to the southeastern corner of parcel 0467-01-2835, thence in a southwesterly direction approximately 418 feet along the boundary of said parcel to the southeastern corner of parcel 0457-92-9476, thence in a southwesterly direction approximately 453 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 523 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 70 feet along the boundary of said parcel to the westernmost corner of said parcel, thence in a northeasterly direction approximately

1091 feet along the boundary of said parcel to the southwestern corner of parcel 0457-83-9229, thence in a northeasterly direction approximately 200 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a westerly direction approximately 570 feet across the right-of-way of Interstate 95 to the southeastern corner of parcel 0457-84-7040, thence in a westerly direction approximately 835 feet along the boundary of said parcel to the southeastern corner of parcel 0457-84-3036, thence in a westerly direction approximately 373 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-9036, thence in a westerly direction approximately 456 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-4018, thence in a westerly direction approximately 641 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 1111 feet along the boundary of said parcel to the boundary line of parcel 0457-75-3060, thence in a westerly direction approximately 76 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 688 feet along the boundary of said parcel to a point in the southern boundary of parcel 0457-75-2756, thence in a northerly direction approximately 200 feet to a point in the boundary of said parcel, thence in a westerly direction approximately 343 feet along the boundary of said parcel, thence in a northerly direction approximately 273 feet along the boundary of said parcel, thence in an easterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 196 feet along the boundary of said parcel to the southwestern corner of parcel 0457-76-2501, thence in a northerly direction approximately 362 feet along the boundary of said parcel to the southeastern corner of parcel 0457-66-6642, thence in a westerly direction approximately 265 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 478 feet along the boundary of said parcel to the southwest corner of parcel 0457-66-6917, thence in a northerly direction approximately 185 feet along the boundary of said parcel to the southwest corner of parcel 0457-67-8466, thence in a northerly direction approximately 890 feet along the boundary of said parcel to the southwest corner of parcel 0457-78-5347, thence in a northerly direction approximately 527 feet along the boundary of said parcel, thence in a westerly direction approximately 109 feet along the boundary of said parcel to the southeast corner of parcel 0457-69-3083, thence westerly along the southern boundary of said parcel approximately 169 feet to the southeastern corner of parcel 0457-68-1651, thence in a westerly direction approximately 220 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-9621, thence in a westerly direction approximately 202 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-7559, thence in a westerly direction approximately 199 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-6620, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-5529, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-4529, thence in a westerly direction approximately 122 feet along the boundary of said parcel to the southeastern right-of-way of Jimree Ave., thence in a westerly

direction approximately 210 feet along the right-of-way of Jimree Ave., thence in a northeasterly direction approximately 60 feet along the right-of-way of Jimree Ave. to the southern boundary of parcel 0457-58-1614, thence in an easterly direction approximately 10 feet to the southwestern corner of parcel 0457-58-2633, thence along the western boundary of said parcel in a northeasterly direction approximately 152 feet to the southwest corner of parcel 0457-58-2767, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-58-2981, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3004, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3128, thence along the western boundary of said parcel in a northerly direction approximately 140 feet to the southwest corner of parcel 0457-59-3323, thence along the western boundary of said parcel in a northerly direction approximately 144 feet to the southwest corner of parcel 0457-59-3409, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2684, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2769, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2945, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-2110, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1296, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1461, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1537, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-0792, thence along the western boundary of said parcel in a northwesterly direction approximately 151 feet to the southwest corner of parcel 0458-50-0866, thence in a southerly direction approximately 446 feet to the southernmost corner of parcel 0458-41-7092, thence in a northerly direction along the western boundary of said parcel approximately 228 feet to a point in the western boundary of said parcel, thence continuing along said boundary in a northwesterly direction approximately 775 feet to a point in the western boundary of said parcel, thence in a northeasterly direction approximately 115 feet to the southern right-of-way margin of Dunn Road said point also being located in the northern boundary of parcel 0457-49-4668, thence in a southwesterly direction along said northern boundary approximately 347 feet to the northeastern corner of parcel 0458-41-2053, thence along the eastern boundary of said parcel in a southeasterly direction approximately 209 feet to the northeast corner of parcel 0458-40-3840, thence along the eastern boundary of said parcel in a southeasterly direction approximately 300 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 119 feet to the southwest corner of

said parcel, thence along the western boundary of said parcel in a northwesterly direction approximately 282 feet to a point in the southern boundary of parcel 0458-40-1966, thence in a southwesterly direction along said southern boundary approximately 80 feet to the southeastern corner of parcel 0458-40-0825, thence with the southern boundary of said parcel in southwesterly direction approximately 280 feet to a point in the eastern boundary of parcel 0458-30-8598, thence continuing along the eastern boundary of said parcel in a southeasterly direction approximately 315 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 189 feet to the southeast corner of parcel 0458-30-7348, thence with the southern boundary of said parcel in a southwesterly direction approximately 88 feet to the northeast corner of parcel 0458-30-7230, thence with the eastern boundary of said parcel in a southerly direction approximately 112 feet to the southeast corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 192 feet to the eastern right-of-way margin of Al Ray Road, thence along the western boundary of said parcel in a northerly direction approximately 112 feet to the southwestern corner of parcel 0458-30-7348, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northerly direction approximately 250 feet to the southwestern corner of parcel 0458-30-6680, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northwesterly direction approximately 196 feet to the southern right-of-way margin of Dunn Road, thence in a northwesterly direction crossing said right-of-way approximately 60 feet to a point in the southern boundary of parcel 0458-30-5803, thence along the southern boundary of said parcel in a southwesterly direction approximately 210 feet to the southwest corner of said parcel, thence along the western boundary of said parcel in a northeasterly direction approximately 350 feet to the northwest corner of said parcel, thence along the northern boundary of said parcel in a northeasterly direction approximately 257 feet to the northeast corner of said parcel, thence in a northern direction along the western boundary of parcel 0458-31-6159 approximately 171 feet to a point, thence along said parcel boundary in a westerly direction approximately 65 feet to a point, thence along the westernmost boundary of said parcel in a northerly direction approximately 203 feet to the southern right-of-way of I-95 North said point also being the northwest corner of said parcel, thence in a northeasterly direction approximately 110 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-9312, thence in a northeasterly direction approximately 103 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-9490, thence in a northeasterly direction approximately 90 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-0499, thence in a northeasterly direction approximately 184 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-4905, thence in a northeasterly direction approximately 522 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-7807, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the northwest corner of parcel 0458-52-1268, thence in a northeasterly direction approximately 719 feet along the boundary of said parcel to the

northeast corner of said parcel, thence in a northwesterly direction approximately 935 feet across the right-of-way of Interstate 95 to a point being the southeast corner of parcel 0458-43-9229 and the western right-of-way of Dobbin Holmes Rd., thence approximately 936 feet in a southwesterly direction with the southeastern boundary of said parcel to the southeastern corner of parcel 0458-32-9686, thence approximately 1590 feet in a southwesterly direction with the southeastern boundary of said parcel, thence approximately 535 feet in a northwesterly direction to a point in said parcel, thence approximately 276 feet in a southwesterly direction to a point in said parcel, thence approximately 1178 feet in a northeasterly direction to the northwest corner of said parcel, thence approximately 90 feet in a northwesterly direction along the right-of-way of Terrell Creek Rd. to the southeast corner of parcel 0458-34-7125, thence approximately 180 feet in a northwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-24-6320, thence approximately 685 feet in a northwesterly direction along the boundary of said parcel, thence approximately 293 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-13-0405, thence approximately 2323 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel 0448-92-9940, thence approximately 1145 feet in a southwesterly direction along the boundary of said parcel to the eastern right-of-way of Middle Rd., thence across Middle Rd. to the western right-of-way of Middle Rd. to the southeast corner of parcel 0448-92-1743, thence approximately 562 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-82-8960, thence approximately 105 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-82-6942, thence approximately 244 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-83-5001, thence approximately 66 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-82-3909, thence approximately 304 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-83-0085, thence approximately 203 feet along the southwestern boundary of said parcel to the southwest corner of said parcel, thence approximately 175 feet in a northeasterly direction along the western boundary of said parcel to the southwest corner of parcel 044-83-1224, thence approximately 274 feet along the boundary of said parcel to the northwest corner of said parcel, thence approximately 100 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-3246, thence in a northeasterly direction approximately 84 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-4369, thence in a northeasterly direction approximately 229 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-6516, thence in a northeasterly direction approximately 224 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-7741, thence in a northeasterly direction approximately 152 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-8832, thence in a northeasterly direction approximately 150 feet along the boundary of said parcel to the northwest comer of parcel 0448-83-9947, thence in a northeasterly direction approximately 293 feet along the boundary of said parcel to the northwest corner of parcel 0448-94-1028, thence in a northeasterly direction approximately 129 feet along

the boundary of said parcel to the southwest corner of parcel 0448-94-3456 and parcel 0448-94-1659, thence in a northwesterly direction approximately 546 feet along the boundary of parcel 0448-94-1659 to the southwest corner of parcel 0448-86-1424, thence in a northwesterly direction approximately 2658 feet to the southern right-of-way of Underwood Road, thence continuing with said right-of-way in a westerly direction to the southern right-of-way margin of the railroad, thence in a northeasterly direction approximately 5760 feet to a point in the southern right-of-way margin of the railroad, thence in a westerly direction crossing said right-of-way to the northern right-of-way margin of railroad, said point being the southeast corner of parcel 0459-11-6062, thence in a southwesterly direction along northern right-of-way margin to a corner in parcel 0459-00-8872 said point being the Fayetteville City limit line, thence continuing in a northwesterly direction along Fayetteville City limit line to the eastern right-of-way margin of Custer Avenue, thence in a northeasterly direction with said right-of-way margin approximately 1233 feet to the southwest margin of parcel 0459-01-8688, thence in an easterly direction approximately 570 feet to a point in parcel 0459-00-8872, thence following said Fayetteville City limit line and continuing along the boundary of said parcel to a point in the eastern right-of-way margin of Custer Avenue, thence along said right-of-way in a northeasterly direction approximately 20 feet to the southwestern corner of parcel 0459-12-1180, thence in a southeasterly direction approximately 335 feet to the southeastern corner of said parcel, thence leaving Fayetteville City limit line in a northerly direction approximately 592 feet to the northeastern corner of parcel 0459-12-2384, thence in northwesterly direction approximately 148 feet to the eastern right-of-way margin of Custer Avenue, thence in a northerly direction approximately 1200 feet to the southern right-of-way margin of Albertha Lane, thence crossing said right-of-way in a northerly direction approximately 30 feet to the northern margin of said right-of-way, thence continuing with the eastern right-of-way margin of Custer Avenue in a northerly direction approximately 1420 feet to the northwest corner of parcel 0459-24-0844, thence in a northwesterly direction crossing said right-of-way approximately 60 feet to the southeastern corner of parcel 0459-15-8382, thence in a northwesterly direction approximately 250 feet to the southeastern corner of parcel 0459-16-5754, thence in a northeasterly direction approximately 1375 feet to the southwestern corner of said parcel, thence in a northeasterly direction approximately 910 feet to the southernmost corner of parcel 0459-07-9324, thence in northwesterly direction approximately 630 feet to a point, thence in westerly direction approximately 100 feet to the southern right-of-way margin of Beard Road, thence in a westerly direction approximately 25 feet to the northeastern corner of parcel 0459-07-2204, thence in a southerly direction approximately 216 feet to the southeast corner of said parcel, thence in a westerly direction approximately 417 feet to the southwest corner of said parcel, thence in a northerly direction approximately 209 feet to the southern right-of-way margin of Beard Road, thence crossing said right-of-way in a northerly direction approximately 60 feet to the northern margin of Beard Road, thence along the northern right-of-way margin of Beard Road in an easterly direction approximately 277 feet to the southeastern corner of parcel 0449-97-9608, thence in a northerly direction approximately 1265 feet to the southwestern corner of parcel 0459-19-2508, thence in a

northeasterly direction approximately 5326 feet to the northeastern corner of parcel 0550-23-9439, thence in a northeasterly direction approximately 760 feet to the northwestern corner of parcel 0550-24-5213, thence in an easterly direction approximately 890 feet to the easternmost corner of said parcel, thence in northerly direction approximately 1775 feet to northeastern corner of parcel 0550-34-7419, thence in northeasterly direction approximately 939 feet to a point in the eastern boundary of parcel 0550-25-1550, thence continuing in said boundary in a northeasterly direction approximately 747 feet to the southern right-of-way margin of Callie Road, thence in a northeasterly direction crossing said right-of-way approximately 60 feet to the southwestern corner of parcel 0550-67-4025, thence in a southeasterly direction approximately 120 feet to the eastern right-of-way margin of Rich Walker Road, thence in a northeasterly direction along the eastern right-of-way margin of Rich Walker Road to the Beginning, less and except those parcels annexed into the City limits of Fayetteville, which are identified as follows:

Parcel	Annexation Ordinance Number
0457-11-4779	2005-01-477
0457-11-6881	2005-01-477
0457-21-1811	2005-01-477
0466-46-5692	2007-02-500

(b) For a period of 15 years, beginning on the date the Town of Eastover is incorporated, the Town of Eastover shall not extend its boundaries by annexation or otherwise into any of the following described property:

Area 1- Beginning at a point where the southern right-of-way of the railroad intersects with the southern right-of-way margin of Underwood Road, thence continuing along the southern right-of-way of Underwood Road in an easterly direction approximately 762 feet to a point in the northern boundary of parcel 0448-96-1424, thence in a southerly direction approximately 2658 feet to the northwestern corner of parcel 0448-94-1659, thence in a northeasterly direction approximately 343 feet along the boundary of said parcel to the northwest corner of parcel 0448-95-5005 thence in a northeasterly direction approximately 626 feet to the northeast corner of said parcel, thence in a southerly direction approximately 377 feet along the eastern boundary of said parcel, thence in a northeasterly direction approximately 902 feet along the northern boundary of parcel 0458-04-4981 to the northeast corner of parcel 0458-05-9445 thence in a northeasterly direction approximately 280 feet along the boundary of said parcel to the southwest corner of parcel 0458-07-6181 thence in a northeasterly direction approximately 1122 feet to the northwest corner of parcel 0458-16-8569, thence in northeasterly direction approximately 575 feet to the western right-of-way margin of Underwood Road, thence in an easterly direction approximately 60 feet to the eastern right-of-way margin of Underwood Road being the southwest corner of parcel 0458-07-6181, thence in a northwesterly direction approximately 400 feet along the western boundary of said parcel to a point in the southern boundary of parcel 0458-17-5864, thence northwesterly along said southern boundary approximately 239 feet to the southwest corner of said parcel, thence northwesterly approximately 30 feet

along the southern boundary of parcel 0458-18-8142, said point being the southeast corner of parcel 0458-18-6724, thence along said parcel in a northwesterly direction approximately 30 feet to the southeast corner of parcel 0458-18-0200, thence in a northwesterly direction along the southern boundary of said parcel approximately 830 feet to the southwest boundary of said parcel, thence in a northeasterly direction approximately 119 feet to the southwest corner of parcel 0458-08-7481, thence in a northeasterly direction approximately 119 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 21 feet along the western boundary of parcel 0458-18-0200 to the southwestern corner of parcel 0458-08-9513 thence with the western boundary of said parcel approximately 164 feet to the southwestern corner of parcel 0458-18-0614, thence in a northeasterly direction approximately 308 feet to the western corner of parcel 0458-18-1918, thence in a northeasterly direction approximately 208 feet to the western corner of parcel 0458-19-3007, thence along said boundary in northeasterly direction approximately 174 feet to the western corner of parcel 0458-19-4211, thence along said boundary in a northeasterly direction approximately 176 feet to the western corner of parcel 0458-19-5325, thence along said boundary in a northeasterly direction approximately 183 feet to northern corner of said parcel, thence in a southeasterly direction approximately 393 feet along the boundary of said parcel to the northwest corner of parcel 0458-18-6724, thence in a southeasterly direction approximately 644 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-2631, thence in a southeasterly direction approximately 304 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-7262, thence in a southeasterly direction approximately 1564 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-7729, thence in an easterly direction approximately 367 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-9855, thence in an easterly direction approximately 118 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-0876, thence in an easterly direction approximately 121 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-2849, thence in an easterly direction approximately 156 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-3986, thence in an easterly direction approximately 147 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-4996, thence in an easterly direction approximately 104 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-6948, thence in an easterly direction approximately 200 feet along the boundary of said parcel to the northwest corner of parcel 0458-48-8091, thence in an easterly direction approximately 329 feet along the boundary of said parcel to the northwest corner of parcel 0458-58-2068, thence in an easterly direction approximately 113 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4234, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4487, thence in a northeasterly direction approximately 269 feet along the boundary of said parcel to the southeast corner of parcel 0458-58-3635, thence in a westerly direction approximately 291 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction 146 approximately

feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 320 feet along the boundary of said parcel to the western boundary of parcel 0458-58-5675, thence in a northeasterly direction approximately 178 feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 130 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 1661 feet along the western right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 0459-60-2553, thence in a northwesterly direction approximately 593 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 641 feet along the boundary of said parcel to the southwest corner of parcel 0459-60-6819, thence in a northeasterly direction approximately 364 feet along the boundary of said parcel to the southwest corner of parcel 0459-61-7116, thence in a northwesterly direction approximately 200 feet along the boundary of said parcel to the corner of parcel 0459-61-4382, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 213 feet along the boundary of said parcel to the corner of said parcel, thence in a northwesterly direction approximately 136 feet along the boundary of said parcel to the corner of said parcel, thence in a northeasterly direction approximately 449 feet along the boundary of said parcel to the right-of-way of Tucker Rd., thence in a northwesterly direction approximately 34 feet along the right-of-way of Tucker Rd. to the eastern corner of parcel 0459-61-2476, thence in a southwesterly direction approximately 500 feet to the corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the corner of said parcel, thence in a northwesterly direction approximately 255 feet along the boundary of said parcel to a point in the southern boundary of parcel 0459-51-9893, thence in a northwesterly direction approximately 383 feet to the southwest corner of parcel 0459-51-7999, thence in a northwesterly direction approximately 525 feet to the northern most corner of parcel 0459-52-9250, thence in a southeasterly direction approximately 375 feet to the eastern most corner of parcel 0459-62-1078, thence in a southwesterly direction approximately 215 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-2903, thence in a southeasterly direction approximately 59 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-3815, thence in a southeasterly direction approximately 211 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-4764, thence in a southeasterly direction approximately 170 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-5684, thence in a southeasterly direction approximately 134 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-8416, thence in a southeasterly direction approximately 417 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 180 feet along the right-of-way of Dobbin Holmes Rd., thence in a southeasterly direction approximately 70 feet across the right-of-way of Dobbin Holmes Rd. to the northern corner of parcel 0459-71-1354, thence in a southeasterly direction approximately 154 feet along the boundary of said parcel to the northern corner of

parcel 0459-71-2394, thence in a southeasterly direction approximately 149 feet along the boundary of said parcel to the eastern corner of said parcel, thence in a southwesterly direction approximately 207 feet along the boundary of said parcel to the southeast corner of parcel 0459-71-1354, thence in a southwesterly direction approximately 222 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 210 feet to a corner of said parcel, thence in a northwesterly direction approximately 51 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a southwesterly direction approximately 493 feet along the right-of-way of Dobbin Holmes Rd. to the northwest corner of parcel 0459-70-0727, thence in an easterly direction approximately 149 feet along the boundary of said parcel to a corner of said parcel, thence in a southeasterly direction approximately 301 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southwesterly direction approximately 280 feet along the boundary of said parcel to the northeast corner of parcel 0459-60-8680, thence in a southwesterly direction approximately 247 feet along the boundary of said parcel to the corner of parcel 0459-60-8334, thence in a southeasterly direction approximately 178 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 172 feet along the boundary of said parcel to the boundary of parcel 0458-69-8904, thence in a southwesterly direction approximately 558 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 430 feet along the boundary of said parcel to the corner of parcel 0458-69-5648, thence in a southwesterly direction approximately 283 feet along the boundary of said parcel to a corner of parcel 0458-69-3435, thence in a southwesterly direction approximately 475 feet along the boundary of said parcel to the northeast corner of parcel 0458-69-0031, thence in a southeasterly direction approximately 81 feet along the boundary of said parcel to the northeast corner of parcel 0458-68-0650, thence in a southeasterly direction approximately 702 feet along the boundary of said parcel to the boundary of parcel 0458-67-4970, thence in a northeasterly direction approximately 887 feet along the boundary of said parcel to the northwest corner of parcel 0458-78-8007, thence in a northeasterly direction approximately 506 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-1069, thence in a northeasterly direction approximately 110 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-2272, thence in a northeasterly direction approximately 220 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-3386, thence in a northeasterly direction approximately 120 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-5316, thence in a northeasterly direction approximately 108 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-7543, thence in a northeasterly direction approximately 448 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 105 feet along the boundary of said parcel to the northwest corner of parcel 0458-98-1966, thence in a northeasterly direction approximately 700 feet along the boundary of said parcel to the northwest corner of parcel 0458-99-7126, thence in a northeasterly direction approximately 377 feet along

the boundary of said parcel to the northwest corner of parcel 0458-99-6696, thence in a northeasterly direction approximately 210 feet along the boundary of said parcel to the right-of-way of Tom Geddie Rd., thence in a northeasterly direction approximately 1169 feet along the right-of-way of Tom Geddie Rd. to the southwest corner of parcel 0469-01-1665, thence in a northwesterly direction approximately 1454 feet along the boundary of said parcel to the western corner of said parcel, thence in a northeasterly direction approximately 1707 feet along the boundary of said parcel to the southern boundary of parcel 0469-02-2922, thence in a northwesterly direction approximately 254 feet along the boundary of said parcel to the southeast corner of parcel 0469-93-9138, thence in a northwesterly direction approximately 181 feet along the boundary of said parcel to a corner of parcel 0459-83-5047, thence in a southwesterly direction approximately 1297 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 939 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 168 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 129 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 530 feet along the boundary of said parcel and the right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 059-73-7444, thence in a westerly direction approximately 65 feet the western right-of-way of Dobbin Holmes Rd., thence in a northerly direction approximately 460 feet along the right-of-way of Dobbin Holmes Rd. to the southeast corner of parcel 0459-73-2816, thence in a westerly direction approximately 28 feet along the boundary of said parcel to the eastern corner of parcel 0459-73-2699, thence in a southwesterly direction approximately 106 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the boundary of parcel 0459-73-2816, thence in a southwesterly direction approximately 63 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 332 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 65 feet to the eastern right-of-way of Dobbin Holmes Rd. and the boundary of parcel 0459-74-4336, thence in a northwesterly direction approximately 407 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northwesterly direction approximately 480 feet along the right-of-way of Dobbin Holmes Rd. to the northern corner of parcel 0459-64-6403, thence in a southeasterly direction approximately 475 feet along the boundary of said parcel to a point in parcel 0459-74-4336, thence in a southeasterly direction approximately 462 feet along the boundary of said parcel to the northern corner of parcel 0459-74-6101, thence in a southeasterly direction approximately 148 feet along the boundary of said parcel to the right-of-way of Laurent Dr., thence in a southeasterly direction approximately 65 feet to the right-of-way of Laurent Dr. and northern corner of parcel 0459-83-0996, thence in a southeasterly direction approximately 697 feet along the boundary of said parcel to the northern corner of

parcel 0459-83-5047, thence in a southeasterly direction approximately 162 feet along the boundary of said parcel to the southwestern corner of parcel 0459-93-2912, thence in a northeasterly direction approximately 214 feet along the boundary of said parcel to the southwestern corner of parcel 0459-94-3379, thence in a northeasterly direction approximately 1393 feet along the boundary of said parcel to the right-of-way of Tom Geddie Rd., thence in a northeasterly direction approximately 113 feet along the right-of-way of Tom Geddie Rd. to the southeast corner of parcel 0459-95-6631, thence in a northwesterly direction approximately 300 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 154 feet along the boundary of said parcel to a corner of said parcel, thence northwesterly approximately 80 feet to a point in said parcel, thence in a northeasterly direction approximately 547 feet along the boundary of said parcel to the boundary of parcel 0459-96-8053, thence in a northwesterly direction approximately 133 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the boundary of parcel 0459-96-8329, thence in a northwesterly direction approximately 425 feet along the boundary of said parcel to the railroad right-of-way, thence in a southwesterly direction approximately 1052 feet along the railroad right-of-way, thence in a northwesterly direction approximately 110 feet to the railroad right-of-way and a corner of parcel 0459-86-8451, thence in a northwesterly direction approximately 288 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 376 feet along the boundary of said parcel to the southeastern corner of parcel 0459-86-5839, thence in a northwesterly direction approximately 284 feet along the boundary of said parcel to the southeastern corner of parcel 0459-87-1080, thence in a northwesterly direction approximately 581 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-8310, thence in a northwesterly direction approximately 212 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-4069, thence in a southwesterly direction approximately 356 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 237 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 78 feet to the western right-of-way of Dobbin Holmes Rd. and the southern corner of parcel 0459-77-1357, thence in a northwesterly direction approximately 497 feet along the boundary of said parcel to the corner of said parcel to the right-of-way of Beard Rd., thence in a southeasterly direction approximately 205 feet along the boundary of said parcel to the right-of-way of Beard Rd., thence in a northeasterly direction approximately 164 feet to the corner of parcel 0459-77-4377, thence in a northeasterly direction approximately 70 feet to the northern right-of-way of Beard Rd., thence in a northeasterly direction approximately 117 feet along the right-of-way of Beard Rd. to the corner of parcel 0459-77-6701, thence in a northerly direction approximately 50 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 296 feet along the boundary of said parcel to the boundary of parcel 0459-78-5698, thence in a northwesterly direction approximately 841 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a

northeasterly direction approximately 741 feet along the boundary of said parcel to the northwestern corner of said parcel 0459-88-1422, thence in a northeasterly direction approximately 2164 feet to a point in parcel 0550-91-3559, thence in a northwesterly direction approximately 30 feet to a point in said parcel, thence in a northeasterly direction approximately 1400 feet to the western right-of-way margin of Callie Road, thence crossing said right-of-way in a northeasterly direction approximately 60 feet to a point in the eastern right-of-way of Callie Road, thence along the eastern right-of-way of said Callie Road in a northwesterly direction approximately 2782 feet, thence continuing along said right-of-way in a northwesterly direction approximately 962 feet to the southeastern corner of parcel 0550-86-1065, thence along the southern line of said parcel in a northwesterly direction approximately 1410 feet to a corner of 0550-74-5949, thence continuing with the northern boundary of Callie Road in a northwesterly direction approximately 610 feet to the southeastern corner of parcel 0550-67-4025, thence in northwesterly direction approximately 1176 feet to a point in the eastern right-of-way of Callie Road, thence in a southwesterly direction crossing said right-of-way approximately 60 feet to a point, thence in a southwesterly direction approximately 747 feet to a point, said point being in the eastern boundary of parcel 0550-25-1550, thence continuing in a southwesterly direction along said eastern boundary approximately 939 feet to the northeastern corner of parcel 0550-34-7419, thence in southerly direction approximately 1775 feet to the eastern most corner of parcel 0550-24-5213, thence in a northwesterly direction approximately 890 feet to the northern most corner of said parcel, thence in a southerly direction approximately 760 feet to the northwest corner of parcel 0550-23-9439, thence in a southerly direction approximately 5326 feet to the southwestern corner of parcel 0459-19-2508, thence in a southerly direction approximately 1265 feet to the northern right-of-way of Beard Road said point being the southeastern corner of parcel 0449-97-9608, thence along the northern right-of-way margin of Beard Road in a westerly direction approximately 277 feet to a point in the southern boundary of said parcel, thence crossing Beard Road in a southerly direction approximately 60 feet to the northwestern corner of parcel 0459-07-2204, thence in a southerly direction approximately 209 feet to the southwest corner of said parcel, thence in an easterly direction approximately 416 feet to the southeast corner of said parcel, thence north approximately 216 feet to the right-of-way margin of Beard Road, continuing along the southern right-of-way margin of Beard Road in an easterly direction approximately 25 feet to the northwest corner of parcel 0459-07-9324, thence in an easterly direction approximately 100 feet to a point in the boundary of said parcel, thence in a southeasterly direction approximately 630 feet along the western boundary line of said parcel to a point in the western boundary line of parcel 0459-16-5754, thence along the western boundary line of said parcel in a southwesterly direction approximately 910 feet to the southwest corner of said parcel, thence along the southern boundary line of said parcel in a southeasterly direction approximately 1375 feet to the southwest corner of parcel 0459-15-8382, thence along the southern boundary of said parcel in a southeasterly direction approximately 250 feet to the western right-of-way margin of Custer Avenue, thence easterly crossing the right-of-way of Custer Avenue approximately 60 feet to the eastern right-of-way of

Custer Avenue, said point being the northwest corner of parcel 0459-24-0844, thence along the eastern right-of-way of Custer Avenue in a southwesterly direction approximately 1420 feet to the northern right-of-way margin of Albertha Lane said point in the eastern margin of Custer Avenue, thence in a southwesterly direction crossing said right-of-way approximately 30 feet to the northwestern corner of parcel 0459-13-8651, thence along right-of-way of Custer Avenue in a southwesterly direction approximately 1200 feet to a point in the western boundary of parcel 0459-12-9051, thence in a southeasterly direction approximately 148 feet to the northeastern corner of parcel 0459-12-2384, thence in a southwesterly direction approximately 1162 feet to a point in the southern boundary of parcel 0459-12-9051, thence in a northwesterly direction approximately 117 feet to the northwest corner of parcel 0459-11-1417, thence in a southwesterly direction approximately 116 feet to the southwest corner of said parcel, thence in a southeasterly direction approximately 200 feet to a point in the western boundary of parcel 0459-11-6062, thence in a southeasterly direction approximately 410 feet to a corner in said parcel, thence in southwesterly direction approximately 506 feet to a corner in the southern boundary of said parcel, thence in a southeasterly direction approximately 540 feet to the northern right-of-way of the railroad, thence in a northeasterly direction approximately 300 feet to the northern most corner of parcel 0458-09-5196 said point also being in the southern right-of-way of railroad, thence in a southwesterly direction along the southern right-of-way margin of railroad approximately 5760 feet to the Beginning.

Area 2 – Beginning at a point, said point being the intersection of the northern right-of-way of Murphy Road with the western right-of-way margin of Baywood Road, thence in a southerly direction approximately 200 feet crossing right-of-way of Murphy Road to the northeast corner of parcel 0468-91-7627, thence in a southwesterly direction approximately 408 feet to the northeast corner of parcel 0468-91-9494, thence in a southerly direction approximately 300 feet to the northeast corner of parcel 0468-91-9087, thence in a southerly direction approximately 400 feet along the western right-of-way of Baywood Rd., thence in an easterly direction to the northwest corner of parcel 0478-00-3637, thence in an easterly direction approximately 400 feet along the northern boundary of said parcel, thence in a southerly direction approximately 290 feet along the easterly boundary of said parcel, thence in a southwesterly direction approximately 150 feet along the southeasterly boundary of said parcel, thence in a northwesterly direction approximately 55 feet to the northeast corner of parcel 0478-00-2411, thence in a southwesterly direction approximately 218 feet along the eastern boundary of said parcel, thence in a northwesterly direction approximately 200 feet along the southern boundary of said parcel to the eastern right-of-way of Baywood Rd., thence in a westerly direction approximately 60 feet to the western right-of-way of Baywood Rd. to the northeast corner of parcel 0468-90-9226, thence in a southwesterly direction approximately 218 feet along the eastern boundary of said parcel to the corner of parcel 0468-90-4773, thence in a southwesterly direction approximately 267 feet along the eastern boundary of said parcel to the northeast corner of parcel 0468-99-7621, thence approximately 60 feet in a northeasterly direction to the northwest corner of parcel 0477-09-1605, thence in a northeasterly direction

approximately 295 feet along the boundary of said parcel to the northwest corner of parcel 0477-09-4389, thence in a northeasterly direction approximately 320 feet along the boundary of said parcel to the northwest corner of parcel 0477-09-9650, thence in a northeasterly direction approximately 397 feet along the boundary of said parcel to the northwest corner of parcel 0477-19-3770, thence in a northeasterly direction approximately 478 feet along the boundary of said parcel to the northwest corner of parcel 0478-10-7001, thence in a northeasterly direction approximately 318 feet along the boundary of said parcel to the northwest corner of parcel 0478-20-2237, thence in a northeasterly direction approximately 414 feet along the boundary of said parcel to the northwest corner of parcel 0478-20-5046, thence in a northeasterly direction approximately 528 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 977 feet along the boundary of said parcel to the northeast corner of parcel 0477-29-8523, thence in a southeasterly direction approximately 209 feet along the boundary of said parcel to the northeast corner of parcel 0477-29-9412, thence in a southeasterly direction approximately 36 feet along the boundary of said parcel to the northeastern right-of-way of Sanderosa Rd., thence approximately 70 feet in a southeasterly direction to the southern right-of-way of Sanderosa Rd. and corner of parcel 0477-29-9412, thence in a southeasterly direction approximately 1155 feet along the boundary of said parcel to a point in the northern boundary of parcel 0477-38-3113, thence in a southeasterly direction for approximately 191 feet along the boundary of said parcel to the northwest corner of parcel 0477-38-4190, thence in a southeasterly direction for approximately 167 feet along the boundary of said parcel to the northwest corner of parcel 0477-37-5080, thence in a southeasterly direction for approximately 158 feet to the northeast corner of said parcel, thence in a southerly direction for approximately 115 feet along the boundary of said parcel to the northwest corner of parcel 0477-37-7998, thence in an easterly direction for approximately 129 feet along the boundary of said parcel to the northwest corner of parcel 0477-37-9926, thence in an easterly direction for approximately 148 feet along the boundary of said parcel to the northwest corner of parcel 0477-47-0963, thence in an easterly direction for approximately 213 feet along the boundary of said parcel to the north corner of parcel 0477-47-1866, thence in a southeasterly direction for approximately 168 feet along the boundary of said parcel to the north corner of parcel 0477-47-2703, thence in a southeasterly direction for approximately 146 feet along the boundary of said parcel to the north corner of parcel 0477-47-2631, thence in a southeasterly direction for approximately 140 feet along the boundary of said parcel to the north corner of parcel 0477-47-2449, thence in a southeasterly direction for approximately 119 feet along the boundary of said parcel to the north corner of parcel 0477-47-2378, thence in a southeasterly direction for approximately 112 feet along the boundary of said parcel to the north corner of parcel 0477-47-2296, thence in a southeasterly direction for approximately 115 feet along the boundary of said parcel to the north corner of parcel 0477-47-3125, thence in a southeasterly direction for approximately 115 feet along the boundary of said parcel to the north corner of parcel 0477-47-3044, thence in a southeasterly direction for approximately 117 feet along the boundary of said parcel to the north corner of parcel 0477-46-3972, thence in a

southeasterly direction for approximately 154 feet along the boundary of said parcel to the north corner of parcel 0477-46-3799, thence in a southerly direction for approximately 121 feet along the boundary of said parcel to the north corner of parcel 0477-46-4607, thence in a southeasterly direction for approximately 118 feet along the boundary of said parcel to the north corner of parcel 0477-46-4505, thence in a southeasterly direction for approximately 117 feet along the boundary of said parcel to the north corner of parcel 0477-46-4412, thence in a southeasterly direction for approximately 153 feet along the boundary of said parcel to a point in the northern boundary of parcel 0477-46-4234, thence in an easterly direction for approximately 25 feet along the boundary of said parcel to the northwest corner of parcel 0477-46-5254, thence in an easterly direction for approximately 131 feet along the boundary of said parcel to the northwest corner of parcel 0477-46-6275, thence in an easterly direction for approximately 162 feet along the boundary of said parcel to the northwest corner of parcel 0477-46-7178, thence in an easterly direction for approximately 50 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southerly direction for approximately 254 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7959, thence in a southerly direction for approximately 186 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7757, thence in a southerly direction for approximately 206 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7557, thence in a southerly direction for approximately 226 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7257, thence in a southerly direction for approximately 360 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-6041, thence in a southerly direction for approximately 145 feet along the boundary of said parcel to the northeast corner of parcel 0477-44-8801, thence in a southerly direction for approximately 56 feet along the boundary of said parcel to another corner of said parcel, thence in an easterly direction for approximately 68 feet along the boundary of said parcel to the northwest corner of parcel 0477-44-9820, thence in an easterly direction for approximately 107 feet along the boundary of said parcel to the northwest corner of parcel 0477-54-0830, thence in an easterly direction for approximately 47 feet along the boundary of said parcel to the northwest corner of parcel 0477-54-1852, thence in an easterly direction for approximately 192 feet along the boundary of said parcel to the northwest corner of parcel 0477-54-3708, thence in an easterly direction for approximately 120 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southerly direction for approximately 210 feet along the boundary of said parcel to the northeast corner of parcel 0477-54-3509, thence in a southerly direction for approximately 245 feet along the boundary of said parcel to the northeast corner of parcel 0477-54-2333, thence in a southerly direction for approximately 124 feet along the boundary of said parcel to the northeast corner of parcel 0477-54-2175, thence in a southerly direction for approximately 335 feet along the boundary of said parcel to a corner of parcel 0477-54-1072, thence in a southerly direction for approximately 46 feet along the eastern boundary of said parcel to the southeast corner of said parcel, thence in a westerly direction for approximately 301 feet along the boundary of said parcel to the southeast corner of parcel 0477-54-0006, thence in a

westerly direction for approximately 112 feet along the boundary of said parcel to the southeast corner of parcel 0477-44-8087, thence in a westerly direction for approximately 119 feet along the boundary of said parcel to the southeast corner of parcel 0477-44-7077, thence in a westerly direction for approximately 47 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6887, thence in a southwesterly direction for approximately 170 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6688, thence in a southwesterly direction for approximately 308 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6415, thence in a southwesterly direction for approximately 54 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6343, thence in a southwesterly direction for approximately 214 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6117, thence in a southwesterly direction for approximately 208 feet along the boundary of said parcel to the northeast corner of parcel 0477-42-5823, thence in a southwesterly direction for approximately 187 feet along the boundary of said parcel to the northeast corner of parcel 0477-42-5710, thence in a southwesterly direction for approximately 206 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-4626, thence in a northwesterly direction for approximately 206 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-3637, thence in a northwesterly direction for approximately 98 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-2751, thence in a northwesterly direction for approximately 88 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-2840, thence in a northwesterly direction for approximately 81 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-1863, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0895, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0839, thence in a northwesterly direction for approximately 26 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-9868, thence in a northwesterly direction for approximately 74 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-8889, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-8910, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7931, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7901 thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-6912, thence in a northwesterly direction for approximately 80 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-5942, thence in a northwesterly direction for approximately 59 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-4962, thence in a northwesterly direction for approximately 165 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-3957, thence in a northwesterly direction for approximately 83 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northerly direction for approximately

130 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3150, thence in a northerly direction for approximately 214 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3262, thence in a northerly direction for approximately 132 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3465, thence in a northerly direction for approximately 242 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3549, thence in a northerly direction for approximately 35 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3679, thence in a northerly direction for approximately 183 feet along the boundary of said parcel to a southwest corner of parcel 0477-35-3203, thence in a northerly direction for approximately 85 feet along the boundary of said parcel, thence in a northwesterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 1130 feet along the boundary of said parcel to a southeast corner of parcel 0477-25-9270, thence in a westerly direction approximately 260 feet to the western right-of-way of Bobby Jones Dr., thence in a westerly direction approximately 169 feet to the southwestern corner of parcel 0477-25-7255, thence in a westerly direction approximately 149 feet along the southern boundary of parcel 0477-25-6205 to the southeastern corner of parcel 0477-25-4274, thence in a westerly direction approximately 121 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-3254, thence in a westerly direction approximately 125 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-2213, thence in a westerly direction approximately 171 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-0276, thence in a northwesterly direction approximately 152 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-9340, thence in a northwesterly direction approximately 127 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-8334, thence in a northwesterly direction approximately 119 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-7318, thence in a northwesterly direction approximately 139 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-5492, thence in a northwesterly direction approximately 50 feet along the southern boundary of said parcel to the northeastern corner of parcel 0477-15-3242, thence in a southwesterly direction approximately 345 feet along the eastern boundary of said parcel to the northeastern corner of parcel 0477-14-3597, thence in a southwesterly direction approximately 895 feet along the eastern boundary of said parcel to the southeastern corner of said parcel and the northern right-of-way of Hummingbird Pl., thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-3221, thence in a northwesterly direction approximately 92 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-3600, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-1657, thence in a northwesterly direction approximately 262 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-0736, thence in a northwesterly direction approximately 28 feet along

the boundary of said parcel to the southeastern corner of parcel 0477-04-8591, thence in a northwesterly direction approximately 155 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-8752, thence in a northwesterly direction approximately 23 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-7547, thence in a northwesterly direction approximately 132 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7676, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7418, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-4579, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-5664, thence in a northwesterly direction approximately 158 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-4702, thence in a northwesterly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-2778, thence in a northwesterly direction approximately 119 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1861, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1625, thence in a northwesterly direction approximately 77 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-0865, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-9877, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-8862, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-7703, thence in a northwesterly direction approximately 245 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 57 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-4732, thence in a northwesterly direction approximately 183 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-2765, thence in a northwesterly direction approximately 176 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-84-9738, thence in a northwesterly direction approximately 147 feet along the boundary of said parcel to the southwestern corner of said parcel, thence on a southwesterly direction approximately 125 feet across the intersection of Baywood Rd. and Hummingbird Pl. to the northeastern corner of parcel 0467-84-5548, thence in a southerly direction approximately 224 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-5317, thence in a southerly direction approximately 250 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-6034, thence in a southwesterly direction approximately 325 feet along the boundary of said parcel to the southeast corner of said parcel and right-of-way of Sulky Circle, thence in a southwesterly direction approximately 80 feet across Sulky Circle to the northeast corner of parcel 0467-83-4633, thence in a southwesterly direction approximately 410 feet along the

boundary of said parcel to the northeast corner of parcel 0467-83-1337, thence in a southwesterly direction approximately 364 feet along the boundary of said parcel to the northeast corner of parcel 0467-83-0021, thence in a southwesterly direction approximately 320 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9797, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9687, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9566, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9456, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-82-0236, thence in a southwesterly direction approximately 238 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9042, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-81-0908, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the southeast corner of said parcel and the northern right-of-way of West Frontier Ave., thence in a southwesterly direction approximately 65 feet across West Frontier Ave. to the southern right-of-way of West Frontier Ave. and the northeast corner of parcel 0467-71-9891, thence in a southwesterly direction approximately 90 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-9602, thence in a southwesterly direction approximately 113 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8581, thence in a southwesterly direction approximately 112 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8471, thence in a southwesterly direction approximately 107 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8291, thence in a southwesterly direction approximately 197 feet along the boundary of said parcel to the southeast corner of said parcel and northern right-of-way of Pleasant View Dr., thence in a southwesterly direction approximately 90 feet to the southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 410 feet along the right-of-way of Pleasant View Dr. to the northeast corner of parcel 0467-71-3142, thence in a southwesterly direction approximately 405 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a northwesterly direction approximately 188 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-1136, thence in a northwesterly direction approximately 178 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-0353, thence in a northwesterly direction approximately 135 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-9450, thence in a northwesterly direction approximately 117 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-8596, thence in a northwesterly direction approximately 26 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-7506, thence in a northwesterly direction approximately 274 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-6713, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-5769, thence in

a northwesterly direction approximately 10 feet along the boundary of said parcel to a point in the eastern boundary of parcel 0467-61-1721, thence in a southerly direction along the boundary of said parcel to the southeastern corner of said parcel, thence in a westerly direction approximately 574 feet along the boundary of said parcel to the southeastern corner of parcel 0467-52-8171, thence in a westerly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of parcel 0467-52-6174, thence in a westerly direction approximately 188 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 639 feet along the boundary of said parcel to the southeastern boundary of parcel 0467-52-3563, thence in a southwesterly direction approximately 230 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8194, thence in a southwesterly direction approximately 48 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8070, thence in a southwesterly direction approximately 241 feet along the boundary of said parcel to the northeast corner of parcel 0467-41-7863, thence in a southwesterly direction approximately 463 feet along the boundary of said parcel to the southeast corner of parcel 0467-41-4676, thence in a southwesterly direction approximately 432 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northwesterly direction approximately 215 feet along the boundary of said parcel to the southwest corner of parcel 0467-41-3941, thence in a northwesterly direction approximately 482 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3146, thence in a northwesterly direction approximately 190 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3318, thence in a northwesterly direction approximately 327 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-2692, thence in a northwesterly direction approximately 269 feet along the boundary of said parcel to the southeast corner of parcel 0467-33-9030, thence in a westerly direction approximately 225 feet along the boundary of said parcel to the southeast corner of parcel 0467-32-6967, thence in a westerly direction approximately 270 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Pleasant View Dr., thence in a westerly direction approximately 65 feet across the right-of-way of Pleasant View Dr. to the southeast corner of parcel 0467-32-3985, thence in a southwesterly direction approximately 539 feet along the western right-of-way of Pleasant View Dr to the boundary of parcel 0467-22-9726, thence in a southeasterly direction approximately 117 feet across the right-of-way of Pleasant View Dr. to the eastern right-of-way of Pleasant View Dr. and a corner of parcel 0467-22-9726, thence in a southeasterly direction approximately 1227 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a southwesterly direction approximately 354 feet along the boundary of said parcel to the southeast corner of parcel 0467-22-6379, thence in a southwesterly direction approximately 390 feet along the boundary of said parcel to the southeast corner of parcel 0467-22-3161, thence in a southwesterly direction approximately 442 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-7795, thence in a southwesterly direction approximately 125 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-4671, thence in a

southwesterly direction approximately 289 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 410 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-0546, thence in a northwesterly direction approximately 198 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-8544, thence in a northwesterly direction approximately 179 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-6543, thence in a northwesterly direction approximately 156 feet along the boundary of said parcel to the northwest corner of said parcel and southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 175 feet across the right-of-way of Pleasant View Dr. to the northern right-of-way of Pleasant View Dr. and southeast corner of parcel 0467-10-1980, thence in a westerly direction approximately 257 feet along the boundary of said parcel to the southwest corner of said parcel and the eastern right-of-way of Rock Hill Rd., thence in a southwesterly direction approximately 155 feet across the right-of-way of Rock Hill Rd. to the western right-of-way of Rock Hill Rd. and the southeast corner of parcel 0467-00-8637, thence in a southwesterly direction approximately 242 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 110 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Poplar Hill Rd., thence in a westerly direction approximately 130 feet across the right-of-way of Poplar Hill Rd. to the southeastern corner of parcel 0467-00-4718, thence in a northwesterly direction approximately 324 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northeasterly direction approximately 215 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a southeasterly direction approximately 280 feet along the boundary of said parcel to the northeastern corner of said parcel and western right-of-way of Poplar Hill Rd., thence in a northwesterly direction approximately 535 feet along the western right-of-way of Poplar Hill Rd., thence in a northeasterly direction approximately 344 feet along the western right-of-way of Poplar Hill Rd., to the southeastern corner of parcel 0467-01-2835, thence in a southwesterly direction approximately 418 feet along the boundary of said parcel to the southeastern corner of parcel 0457-92-9476, thence in a southwesterly direction approximately 453 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 523 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 70 feet along the boundary of said parcel to the westernmost corner of said parcel, thence in a northeasterly direction approximately 1091 feet along the boundary of said parcel to the southwestern corner of parcel 0457-83-9229, thence in a northeasterly direction approximately 200 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a westerly direction approximately 570 feet across the right-of-way of Interstate 95 to the southeastern corner of parcel 0457-84-7040, thence in a westerly direction approximately 835 feet along the boundary of said parcel to the southeastern corner of parcel 0457-84-3036, thence in a westerly direction

approximately 373 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-9036, thence in a westerly direction approximately 456 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-4018, thence in a westerly direction approximately 641 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 1111 feet along the boundary of said parcel to the boundary line of parcel 0457-75-3060, thence westerly approximately 76 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 688 feet along the boundary of said parcel to a point in the southern boundary of parcel 0457-75-2756, thence in a northerly direction approximately 200 feet to a point in the boundary of said parcel, thence in a westerly direction approximately 343 feet along the boundary of said parcel, thence in a northerly direction approximately 273 feet along the boundary of said parcel, thence in a easterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 196 feet along the boundary of said parcel to the southwestern corner of parcel 0457-76-2501, thence in a northerly direction approximately 362 feet along the boundary of said parcel to the southeastern corner of parcel 0457-66-6642, thence in a westerly direction approximately 265 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 478 feet along the boundary of said parcel to the southwest corner of parcel 0457-66-6917, thence in a northerly direction approximately 185 feet along the boundary of said parcel to the southwest corner of parcel 0457-67-8466, thence in a northerly direction approximately 890 feet along the boundary of said parcel to the southwest corner of parcel 0457-78-5347, thence in a northerly direction approximately 527 feet along the boundary of said parcel, thence in a westerly direction approximately 109 feet along the boundary of said parcel to the southeast corner of parcel 0457-69-3083, thence in a northerly direction along the eastern boundary of said parcel approximately 295 feet to a point in said parcel, thence in an easterly direction approximately 88 feet to a point in the eastern boundary of said parcel, thence in a northerly direction along the eastern boundary of said parcel approximately 758 feet to the southeast corner of parcel 0457-69-4724, thence along the eastern boundary of said parcel in a northerly direction approximately 368 feet to the southeast corner of parcel 0458-60-4021, thence along the eastern boundary of said parcel in a northerly direction approximately 178 feet to the southeastern corner of parcel 0458-60-4204, thence along the eastern boundary of said parcel in a northerly direction approximately 286 feet to the southeastern corner of parcel 0458-60-3592, thence along the eastern boundary of said parcel in a northerly direction approximately 293 feet to the southeastern corner of parcel 0458-60-3788, thence along the eastern boundary of said parcel in a northerly direction approximately 268 feet to the southeastern corner of parcel 0458-61-3005, thence along the eastern boundary of said parcel in a northerly direction approximately 112 feet to the southeastern corner of parcel 0458-61-4049, thence along the eastern boundary of said parcel in a northerly direction approximately 105 feet to the southeastern corner of parcel 0458-61-4240, thence along the eastern boundary of said parcel in a northerly direction approximately 105 feet to the southeastern corner of parcel 0458-61-3440, thence along the eastern

boundary of said parcel in a northerly direction approximately 330 feet to the southeastern corner of parcel 0458-61-4648, thence along the eastern boundary of said parcel in a northerly direction approximately 95 feet to the southwestern corner of parcel 0458-61-7967, thence in an easterly direction approximately 161 feet to the southeastern corner of said parcel, thence crossing parcel 0458-61-7782 in an easterly direction approximately 60 feet to the southwestern corner of parcel 0458-61-9831, thence in an easterly direction approximately 310 feet to the southwestern corner of parcel 0458-72-0025, thence in an easterly direction approximately 179 feet to the southwestern corner of parcel 0458-71-5934, thence in an easterly direction approximately 601 feet to a point in the western boundary of parcel 0458-81-0757, thence in a southeasterly direction approximately 652 feet to a point in the southern boundary of said parcel, thence along the southern boundary of said parcel in an easterly direction approximately 10 feet to the southwestern corner of parcel 0458-81-3678, thence in a northeasterly direction approximately 435 feet to the northwestern corner of parcel 0458-91-3073, thence in a southerly direction approximately 688 feet to a point in the western boundary of said parcel, thence in a westerly direction approximately 327 feet to the northwestern corner of parcel 0458-90-5360, thence in a southeasterly direction along western boundary of said parcel approximately 543 feet to the northern corner of parcel 0457-89-5961, thence in a southerly direction approximately 379 feet to the southwest corner of said parcel, thence in a southerly direction approximately 1940 feet to the southwestern corner of parcel 0457-98-3830, thence in an easterly direction approximately 1463 feet to the western right-of-way margin of Rock Hill Road, thence crossing in an easterly direction said right-of-way approximately 50 feet to a point in the southern boundary of said parcel, thence in an easterly direction approximately 1222 feet to the western right-of-way margin of I-95 South, thence crossing in an easterly direction right-of-way of I-95 South, I-95 North and White Plains Drive approximately 550 feet to the southwest corner of parcel 0467-17-9881, thence in a northeasterly direction along the eastern right-of-way margin of White Plains Drive approximately 445 feet to the southwestern corner of parcel 0467-28-0282, thence continuing along said right-of-way in a northeasterly direction approximately 383 feet to the northwestern corner of parcel 0467-28-1446, thence in a westerly direction approximately 30 feet to the southwestern corner of parcel 0437-28-1549, thence in a northeasterly direction along the right-of-way of White Plains Drive approximately 1120 feet to a point in the southern boundary of parcel 0467-39-4168, thence in a westerly direction approximately 51 feet to the southwest corner of said parcel, thence in northeasterly direction approximately 465 feet to the southwest corner of parcel 0467-49-1752, thence in northeasterly direction approximately 484 feet to a point in the western boundary of parcel 0468-31-5006, thence in a northeasterly direction approximately 137 feet to the southwestern corner of parcel 0468-31-2137, thence in a northeasterly direction approximately 310 feet to the southwestern corner of parcel 0468-31-2414, thence in a northeasterly direction approximately 401 feet to the southwestern corner of parcel 0468-21-9783, thence in a northeasterly direction approximately 360 feet to the southwestern corner of parcel 0468-32-0243, thence in a northeasterly direction approximately 1167 feet to the northwestern corner of parcel 0468-32-3840, thence in a

northeasterly direction approximately 660 feet to a point in the northernmost corner of said parcel, thence in a northeasterly direction crossing Sanderosa Road to a point in the western boundary of parcel 0468-43-2118, thence in a northeasterly direction approximately 400 feet to the southwest corner of parcel 0468-44-1177, thence along the western boundary of said parcel in a northeasterly direction approximately 101 feet to a point in the western boundary of said parcel, thence in a northeasterly direction along the right-of-way margin of Sanderosa Road approximately 567 feet to the northwest corner of said parcel, thence in a northeasterly direction approximately 205 feet to a point in the western boundary of parcel 0468-53-6023, thence in a northeasterly direction approximately 173 feet to the intersection of Murphy Road and Sanderosa Road, thence in southwesterly direction approximately 160 feet to the southwestern corner of parcel 0468-44-5545, thence in southeasterly direction approximately 80 feet to the southeastern corner of said parcel, thence in a northeasterly direction approximately 209 feet to a point in the southern right-of-way margin of Murphy Road, thence continuing in a southeasterly direction approximately 123 feet to the northwest corner of parcel 0468-44-9465, thence in a southwesterly direction approximately 115 feet to the southwest corner of said parcel, thence in a southeasterly direction approximately 360 feet to the western right-of-way margin of Creek Bottom Trail, thence crossing said right-of-way in an easterly direction approximately 75 feet to the southwestern corner of parcel 0468-54-3373, thence in an easterly direction approximately 442 feet to the northern corner of parcel 0468-54-6056, thence in a southeasterly direction approximately 419 feet to the southwestern corner of parcel 0468-53-8949, thence in a southeasterly direction approximately 327 feet to the southwest corner of parcel 0468-63-0951, thence in a southeasterly direction approximately 151 feet to the southwest corner of parcel 0468-63-1874, thence in a southeasterly direction approximately 140 feet to the southwest corner of parcel 0468-63-2789, thence in a southeasterly direction approximately 105 feet to the southwest corner of parcel 0468-63-3793, thence in a southeasterly direction approximately 80 feet to the southwest corner of parcel 0468-63-4686, thence in a southeasterly direction approximately 78 feet to a corner of parcel 0468-61-9999, thence in a northeasterly direction approximately 937 feet to a point in the southern right-of-way margin of Murphy Road, thence continuing along said right-of-way in a southeasterly direction approximately 22 feet to the northwest corner of parcel 0468-63-8638, thence in a southerly direction approximately 343 feet to the southwest corner of said parcel, thence in a southeasterly direction approximately 377 feet to the southeast corner of said parcel, thence southeasterly direction approximately 214 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 90 feet to a corner of parcel 0468-73-3209, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-73-4137, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-73-5054, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-72-6973, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-72-8801, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-72-9720, thence in a southeasterly direction approximately 170 feet to a

point in the boundary of parcel 0468-81-0994, thence in a northeasterly direction approximately 258 feet to a point in the southern right-of-way margin of Murphy Road, thence along said right-of-way in a southeasterly direction approximately 110 feet to the northernmost corner of parcel 0468-82-2660, thence in a southeasterly direction approximately 155 feet to the southern most corner of said parcel, thence in a northeasterly direction approximately 165 feet to the southern right-of-way margin of Murphy Road, thence along said right-of-way margin in a southeasterly direction approximately 198 feet to the northeastern corner of parcel 0468-82-6318, thence in a southwesterly direction approximately 250 feet to the southwestern corner of said parcel, thence in a southeasterly direction approximately 170 feet to the southwestern corner of parcel 0468-82-7373, thence in a southeasterly direction approximately 170 feet to the southwestern corner of parcel 0468-82-9238, thence in a southeasterly direction approximately 170 feet to the southwestern corner of parcel 0468-92-0292, thence in a southeasterly direction approximately 171 feet to the southeastern corner of said parcel, thence in a northeasterly direction approximately 225 feet to the southern right-of-way margin of Murphy Road, thence with said right-of-way margin approximately 90 feet to the northwestern corner of parcel 0468-92-3192, thence in a southwesterly direction approximately 224 feet to the southwestern corner of said parcel, thence in southeasterly direction approximately 285 feet to the southeastern corner of said parcel, thence in a northeasterly direction approximately 290 feet to the southern right-of-way margin of Murphy Road, thence crossing right-of-way of Murphy Road approximately 60 feet to the southwestern corner of parcel 0468-93-8406, thence in a southeasterly direction approximately 204 feet to a point in the western boundary of parcel 0478-02-0310, thence in a southerly direction approximately 10 feet to the southwestern corner of said parcel, thence in a southeasterly direction approximately 227 feet to a point, thence in a northeasterly direction approximately 74 feet to the point of Beginning.

(c) The Town of Eastover acknowledges that, notwithstanding the provisions of G.S. 160A-58.1(b)(2), the City of Fayetteville may annex all or any portion of the property described in subsections (a) and (b) of this section without entering into an annexation agreement with the Town of Eastover.

(d) The Town of Eastover does not object to the property described in subsections (a) and (b) of this section being included in the City of Fayetteville's Municipal Influence Area to the extent any Municipal Influence Area is created by agreement of the City of Fayetteville and Cumberland County.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Eastover is the Mayor and the Town Council, which shall have six members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2007 provided for by Section 4.1 of this Charter, Charles G. McLaurin is hereby appointed Mayor and Benny Pearce, Sara Piland, Rupert Tatum, Jr., Lawrence Buffaloe, Cheryl Hudson, and Willie Geddie are appointed council members of the Town of Eastover, and they shall possess and exercise the powers granted to the

governing body until their successors are elected or appointed and qualified pursuant to this Charter. The temporary officers shall elect one of their members to serve as Mayor Pro Tempore until the organizational meeting after the initial election in 2007. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2007.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2007, the three candidates receiving the highest numbers of votes shall be elected to four-year terms and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2009, and quadrennially thereafter, three members shall be elected to four-year terms. In 2011, and quadrennially thereafter, three members shall be elected to four-year terms. To be eligible for election to the Town Council, an individual must reside in the Town of Eastover. Vacancies on the Town Council shall be filled in accordance with G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Town shall elect the Mayor. In 2007, and biennially thereafter, the Mayor shall be elected for a term of two years. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to matters involving the Town of Eastover, and shall have the right to vote as a member of the Town Council on all matters before the Council, but shall have no right to break a tie vote in which the Mayor has participated.

"Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The Mayor Pro Tempore shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2007, and shall serve for a term of two years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of the Town Council present may elect a temporary chair to preside in the absence. The Mayor Pro Tempore shall have the right to vote on all matters before the Town Council and shall be considered a member of the Town Council for all purposes.

"Section 3.6. **Compensation of Mayor and Town Council.** The Mayor and members of the Town Council shall be reimbursed for ordinary and necessary expenses.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager plan as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Manager; Appointment; Power and Duties.** The Town Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government, except as otherwise directed by the Town Council. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Town Council, so far as authorized by general law.

"Section 5.3. **Town Manager's Authority Over Personnel; Role of Elected Officials.** As chief administrator of the Town, the Town Manager shall have the power to appoint, suspend, and remove all Town officers, department heads, and employees, except the Town Attorney, Town Clerk, and any other official whose appointment or removal is vested in the Town Council by this Charter or by general law. Neither the Town Council nor any of its members shall take part in the appointment or removal of officers or employees in the administrative service of the Town of Eastover, except as provided by this Charter. Except for purposes of inquiry, or for consultation with the Town Attorney, the Town Council and its members shall deal with Town employees solely through the Town Manager or Acting Town Manager, and neither the Town Council nor any of its members shall give any specific orders to any subordinates of the Town Manager or Acting Town Manager, either publicly or privately.

"Section 5.4. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Town Council may direct.

"Section 5.5. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Town Council may direct.

"Section 5.6. **Other Administrative Officers and Employees.** The Town Council may authorize other offices and positions and appoint persons to fill the offices and positions, or the Council may authorize the offices and positions to be filled by appointment by the Town Manager. The Town Council may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.7. **Consolidation of Functions.** Where positions are not incompatible, the Town Council may combine in one person the powers and duties of two or more officers created or authorized by this Charter.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and fees authorized by general law. An affirmative vote equal to a majority of all the members of the Town Council shall be required to change the ad valorem tax rate from the rate established during the prior fiscal year.

"Section 6.2. **Budget.** From and after July 1, 2007, the citizens and property in the Town of Eastover shall be subject to municipal taxes levied for the year beginning July

1, 2007, and for that purpose the Town shall obtain from Cumberland County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2007. The Town may adopt a budget ordinance for fiscal year 2007-2008 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2007-2008, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 2007.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Eastover is authorized to adopt such ordinances as the Town Council deems necessary for the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** No person, or a member of the person's immediate family, who is employed by or is an official of the Town of Eastover, shall do business with the Town unless the activity is approved by the Town Council. All appointed officials of the Town shall inform the Town Council of any conflicts of interest, and the failure to so inform shall constitute grounds for immediate dismissal for cause. No official of the Town may accept any gratuity from any business, person, or other official if the gratuity is related to his or her official duties.

"Section 8.2. **Enlargement of Town Council.** The qualified voters of the Town of Eastover may seek to enlarge the number of members of the Town Council by submitting a petition to that effect signed by twenty percent (20%) of the qualified voters. Upon passage of a resolution as provided in G.S. 160A-102 or upon receipt of a valid petition, the Town Council shall immediately take steps as provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by referendum whether the number of members of the Town Council should be increased. If a majority of the votes cast in the referendum are in the affirmative, a special election shall be held at the earliest possible date to elect the additional members required to enlarge the Town Council to the number set forth in the referendum.

"Section 8.3. **Amendments to Charter.** The Town Council may propose and enact amendments to this Charter in accordance with Part 4 of Article 5 of Chapter 160A of the General Statutes. No amendment to this Charter shall become effective until public notice is given and a public hearing is held to receive comments on the proposed Charter amendment. Notwithstanding G.S. 160A-103, upon receipt of a referendum petition bearing the signatures and residence addresses of twenty percent (20%) of the qualified voters of the Town, the Town Council shall submit ordinances adopted under G.S. 160A-102 to a vote of the people.

"Section 8.4. **Provision of Services and Administration of Functions.** The Town Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide the services and administer the functions in the most efficient and cost-effective manner.

"Section 8.5. **Sales Tax Reimbursement.** The Town of Eastover shall comply with the terms of the Sales Tax Interlocal Agreement between Cumberland County and the municipalities within Cumberland County with regard to the Town of Eastover's incorporation until the Agreement expires on June 30, 2013, or the Agreement is terminated, whichever occurs first.

"ARTICLE IX. SPECIAL PROVISIONS.

"Section 9.1. **Fire Protection.** The Town of Eastover may contract with the Eastover Volunteer Fire Department, Inc., and the Vander Volunteer Fire Department, Inc., to provide fire protection for the Town. The contract terms and the amount paid by the Town of Eastover to the Eastover Volunteer Fire Department, Inc., and the Vander Volunteer Fire Department, Inc., shall be mutually agreed upon and annually renewed by the Board of Directors for the Eastover Volunteer Fire Department, Inc., and the Town Council and the Board of Directors for the Vander Volunteer Fire Department, Inc., and the Town Council."

SECTION 2. Section 1 of this act shall become effective only if the Charter of the Town of Eastover is approved under section 5 of the Voting Rights Act of 1965 by the United States Department of Justice. If the Charter is not approved, Section 1 of this act shall have no force and effect.

SECTION 3. Upon approval of the Charter by the United States Department of Justice, the Cumberland County Board of Elections, in consultation with the State Board of Elections, shall set and publicize a schedule for the election of Town Officers for the Town of Eastover at the earliest convenient date, but the election shall be held no later than 150 days after the Charter has been approved. The schedule shall include a filing period of two weeks.

SECTION 4. The persons named as members of the Interim Board in Section 3.2 of the Charter of the Town of Eastover, as enacted in Section 1 of this act, being Charles G. McLaurin, Benny Pearce, Sara Piland, Rupert Tatum, Jr., Lawrence Buffaloe, Cheryl Hudson, and Willie Geddie, shall be responsible for submitting any information required by G.S. 120-30.9F to the Attorney General of the United States.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 1191: Incorporate Eastover

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Reps. Glazier, Dickson, Brisson, Lucas	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 1191 would incorporate the Town of Eastover in Cumberland County, effective upon preclearance by the U.S. Department of Justice.

CURRENT LAW: Municipalities may be created by the General Assembly and may give such powers and duties to those cities and towns as it may deem advisable. The General Assembly cannot incorporate, as a city or town, any territory meeting any of the following criteria:

- Lying within 1 mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census.
- Lying within 3miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census.
- Lying within 4 miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census.
- Lying within 5 miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census.

Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by a 3/5 vote of all the members of each chamber. Article VII, Section 1, North Carolina Constitution.

Rule 35.1(b) of the House Rules requires that a legislative proposal proposing incorporation must have attached to its bill jacket a report of the Joint Municipal Incorporations Commission prior to a favorable report by a committee of the House. Article 20 of Chapter 120 creates the Joint Municipal Incorporation Commission and sets forth the constitutional and statutory criteria for review of a proposed incorporation.

BILL ANALYSIS: HB 1191 would incorporate a specified area into the Town of Eastover, including the following:

- The Town would have six council members and a mayor.
- The Mayor would have the ability to vote on all matters before the council, but could not break a tie on a vote in which the Mayor participated.
- Elections would be non-partisan plurality.
- The Town would operate under the council manager plan.
- The Town would not have the authority to annex into certain described territory.
- The Town would not have the authority to annex into certain described territory for a period of 15 years.

EFFECTIVE DATE: Effective when it becomes law, but cannot take effect until precleared by the U.S. Department of Justice.

BACKGROUND: The Joint Municipal Incorporations Commission found that the proposed Town of Eastover did not meet the standards required by Article 20 of Chapter 120, and did not recommend incorporation. The specific standard not met was the development density requirement of G.S. 120-168. That statute requires a density of 40% of the area to be incorporated is developed for residential, commercial, industrial, institutional, or governmental uses.

H1191e2-SMRE

Erika Churchill, counsel to House Local Government I Committee, substantially contributed to this summary.

PRO FORMA ESTIMATE OF REVENUES FOR THE POSSIBLE INCORPORATION OF EASTOVER (CUMBERLAND COUNTY) FOR FISCAL YEAR 2005-06

Proposed Property Tax Rate per $100 valuation	0.21
Estimated Permanent Resident Population	5,693
Roads - Locally Maintained	104.0

Pro Forma Revenue, Fiscal Year 2004-05

1. Sales & use tax *	$1,504,000
2. Electric power franchise tax***	$168,000
3. Beer & wine excise taxes *,**	$25,000
4. Piped natural gas excise tax***	$0
5. Telecommunications sales tax*,***	$83,000
6. Powell Bill*	$304,000
TOTAL	$2,084,000

* Items 1, 3, 5, and 6 require a mimimum tax rate of $0.05 per $100 valuation.

** A newly incorporated municipality in Cumberland County would share in the beverage tax revenues only after holding a referendum in which the sales of beer and/or wines are approved.

*** The electric power franchise tax distribution is equal to 3.09% of the gross receipts from the sale, within the corporate limits of the municipality, of electricity. Effective July 1, 1999, the utility franchise tax on piped natural gas was repealed and replaced with the piped natural gas excise tax. Effective January 1, 2002, the telephone franchise tax was repealed and replaced with a sales & use tax.

THIS DOCUMENT REPRESENTS A PUBLIC RECORD WHICH MAY BE DISTRIBUTED TO ANYONE REQUESTING IT.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 555*
PROPOSED SENATE COMMITTEE SUBSTITUTE H555-PCS50733-LBx-71

Short Title: Carrboro/Roanoke Rapids Assessments. (Local)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO PROVIDE GREATER FLEXIBILITY IN THE PAYMENT OF SPECIAL ASSESSMENTS AND THE COLLECTION OF DELINQUENT SPECIAL ASSESSMENT PAYMENTS, AND TO ALLOW THE CITY OF ROANOKE RAPIDS TO ASSESS BENEFITED PROPERTIES FOR MAINTENANCE OF PARKING LOTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 5 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, is amended by adding the following new section to read:

"**Section 5-4. Collection of Special Assessment Liens.** (a) In addition to the payment methods provided in G.S. 160A-232, the Board of Aldermen may provide in the resolution directing the project giving rise to the assessment that assessments may be paid in whatever periodic installments, including annually, semiannually, quarterly, or monthly, that are authorized in the resolution. The interest rate applicable to the installments shall be the same without regard to the installment period.

(b) Notwithstanding the provisions of G.S. 160A-233(b), the Board of Aldermen may authorize the town manager or the manager's designee to waive the automatic acceleration of delinquent special assessment payments and to design and establish installment plans for the repayment of special assessments.

(c) To collect delinquent special assessment payments, the town may use any and all of the remedies authorized for the collection of unpaid property taxes under Article 26 of Chapter 105 of the General Statutes."

SECTION 1.(b) This section applies to all special assessments levied by the town under the provisions of its Charter or Article 10 of Chapter 160A of the General Statutes before and after this section's effective date.

SECTION 2.(a) G.S. 160A-216 is amended by adding a new subdivision to read:

"**§ 160A-216. Authority to make special assessments.**

Any city is authorized to make special assessments against benefited property within its corporate limits for:

...

(6) Repair and maintenance of parking lots, including, but not limited to, lighting, drainage, and appropriate traffic signage."

SECTION 2.(b) Article 10 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-219.1. Parking lot assessments.**

Assessments for repair and maintenance of parking lots as authorized by G.S. 160A-216(6) may be made only for shopping center parking lots where the parking lot property was acquired by the city either as a result of foreclosure for nonpayment of city property taxes or by transfer of title to the city from another taxing unit that acquired the property as a result of foreclosure for nonpayment of property taxes. Assessments may be made only as to benefited property within the shopping center as defined by the city, and the basis for such assessments shall be made in accordance with G. S. 160A-218."

SECTION 2.(c) This section applies only to the City of Roanoke Rapids.

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

HOUSE BILL 555:
Carrboro/Special Assessments

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Rep. Insko	**Summary by:**	Trina Griffin
Version:	PCS to First Edition H555-PCS50733-LBx-71		Committee Counsel

SUMMARY: House Bill 555 amends the Charter of the Town of Carrboro to authorize the Town to use alternate methods to collect special assessments.

The Proposed Committee Substitute would also allow the City of Roanoke Rapids to assess benefited properties for the repair and maintenance of certain shopping center parking lots.

CURRENT LAW: Article 10 of 160A governs how cities make special assessments. Cities are authorized to make special assessments against benefited properties within its corporate limits for enumerated purposes including the construction and maintenance of streets and sidewalks, and water, sewage and drainage systems.

The procedure for imposing assessments includes the publication of a preliminary assessment roll, a public hearing, and final confirmation of the assessment roll. Once the assessments are confirmed, the assessments are a lien on the benefited property until paid.[1]

Payments of special assessments must be made in cash, or in not more than 10 annual installments. If an assessment installment payment is not paid on time, then all remaining installments immediately become due. Installment payments cannot be reinstated until the property owner has paid all installments in arrears with interest.

If an assessment is delinquent, the only remedy for the collection of the assessment is to foreclose the assessment lien under the procedures of G.S. 160A-233.

The additional remedies allowed under Article 26 of Chapter 105 of the General Statutes include remedies against personal property (105-366) and attachment and garnishment (105-368).

BILL ANALYSIS: House Bill 555:

- Authorizes the Town of Carrboro to provide for assessments to be paid in periodic installments, including annually, semiannually, quarterly, or monthly. The interest rate applicable to the installments is to be the same, without regard to the installment period.
- Authorizes the Town Manager to waive automatic acceleration of delinquent assessments, and to design installment plans for payment.
- Authorizes the Town to collect delinquent special assessments using all of the remedies for collection of unpaid property taxes under Article 26 of Chapter 105 of the General Statutes.

The Proposed Committee Substitute would also authorize the City of Roanoke Rapids to make special assessments against benefited property for the repair and maintenance of parking lots, including lighting, drainage, and traffic signage. However, this authority would be limited to shopping center parking lots where the property was acquired by the city either as the result of foreclosure for nonpayment of city

[1] The lien of special assessments is inferior to all prior and subsequent liens for State, local, and federal taxes, and superior to all other liens.

property taxes or by transfer of title to the city from another taxing unit that acquired the property as a result of foreclosure.

EFFECTIVE DATE: This act is effective when it becomes law, and applies to all special assessments levied by the Town before and after the act's effective date.

BACKGROUND:

Local modifications to the statute directing the payment of special assessments in cash or in no more than 10 annual installments include:

The City of Fayetteville – S.L. 1995-718 authorized up to 20 annual installments.

The Village of Pinehurst – S.L. 2003-259 authorized up to 15 annual installments, but only with regard to assessments for repair and rehabilitation of a dam in the Village of Pinehurst.

Giles S. Perry and Heather Fennell contributed substantially to this summary.

H0555e1-SMSV-PCS50733-LBx-71

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 1321

Committee Substitute Favorable 5/17/07

Senate Transportation Committee Substitute Adopted 7/11/07

Short Title: Weight and Size Exemption for Fire Response. (Public)

Sponsors:

Referred to:

April 5, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A WEIGHT AND SIZE EXCEPTION TO STATE AND LOCAL FIREFIGHTING AGENCIES TRANSPORTING OVERWEIGHT AND OVERSIZED VEHICLES BEING USED TO COMBAT FOREST FIRES, WILDFIRES, AND OTHER EMERGENCIES OR DISASTERS, TO AUTHORIZE THE ISSUANCE OF AN ANNUAL OR SINGLE TRIP PERMIT FOR OVERSIZE AND OVERWEIGHT COMMERCIAL VEHICLES USED IN EMERGENCY RESPONSE, AND TO AUTHORIZE THE ISSUANCE OF A SINGLE TRIP PERMIT FOR OVERSIZE OR OVERWEIGHT VEHICLES OR VEHICLE COMBINATIONS RESPONDING TO AN EMERGENCY EVENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-118.4. Firefighting equipment exempt from size and weight restrictions while transporting or moving heavy equipment in an emergency; permits.**

(a) Exemption From Weight and Size Restrictions During Emergency Response. – Any overweight or oversize vehicle owned and operated by a State or local government or cooperating federal agency is exempt from the weight and size restrictions of this Chapter and implementing rules while it is actively engaged in (i) a response to a fire under the authority of a forest ranger pursuant to G.S. 113-55(a); (ii) a county request for forest protection assistance pursuant to G.S. 113-59; (iii) a request for assistance under a state of emergency declared pursuant to G.S. 14-288.12, 14-288.13, 14-288.14, 14-288.15, and any other applicable statutes and provisions of common law; (iv) a request for assistance under a disaster declared pursuant to G.S 166A-6 or G.S. 166A-8, when the vehicle meets the following conditions:

(1) The vehicle weight does not exceed the manufacturer's GVWR or 90,000 pounds gross weight, whichever is less.

(2) The tri-axle grouping weight does not exceed 50,000 pounds, tandem axle weight does not exceed 42,000 pounds, and the single axle weight does not exceed 22,000 pounds.

(3) A vehicle/vehicle combination does not exceed 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

(b) Marking, Lighting, and Bridge Requirements. – Vehicle/vehicle combinations subject to an exemption or permit under this section shall not be exempt from the requirement of a yellow banner on the front and rear measuring a total length of seven feet by 18 inches bearing the legend "Oversize Load" in 10 inch black letters 1.5 inches wide, and red flags measuring 18 inches square to be displayed on all sides at the widest point of load. In addition, when operating between sunset and sunrise, flashing amber lights shall be displayed on each side of the load at the widest point. Vehicle/vehicle combinations subject to an exemption or permit under this section shall not exceed posted bridge limits without prior approval from the Department of Transportation.

(c) Definition of 'Response'. – A response lasts from the time an overweight or oversize vehicle is requested until the vehicle is returned to its base location and restored to a state of readiness for another response.

(d) Discretionary Annual or Single Trip Permit for Emergency Response by a Commercial Vehicle. – The Department of Transportation may, in its discretion, issue an annual or single trip special use permit waiving the weight and size restrictions of this Chapter and implementing rules for a commercial overweight or oversize vehicle actively engaged in a response to a fire or a request for assistance from a person authorized to direct emergency operations. The Department of Transportation may condition the permit with safety measures that do not unreasonably delay a response. The Department of Transportation may issue the single trip special use permit upon verbal communication, provided the requestor submits appropriate documentation and fees on the next business day.

(e) No Liability for Issuance of Permit Under This Section. – The action of issuing a permit by the Department of Transportation under this section is a governmental function and does not subject the Department of Transportation to liability for injury to a person or damage to property as a result of the activity."

SECTION 2. G.S. 20-119 reads as rewritten:

"§ 20-119. Special permits for vehicles of excessive size or weight; fees.

(a) The Department of Transportation may, in its discretion, upon application, for good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size or weight exceeding a maximum specified in this Article upon any highway under the jurisdiction and for the maintenance of which the body granting the permit is responsible. However, the Department is not authorized to issue any permit to operate or move over the State highways twin trailers, commonly referred to as double bottom trailers. Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer. The authorities in any incorporated city or town may grant permits in writing and for good cause shown, authorizing the applicant to move a vehicle over

the streets of such city or town, the size or weight exceeding the maximum expressed in this Article. The Department of Transportation shall issue rules to implement this section.

(a1) Where permitted by the posted road and bridge limits, the Department may issue a single trip permit for a vehicle or vehicle combination responding to an emergency event that could result in severe damage, injury, or loss of life or property resulting from any natural or man-made emergency as determined by either the Secretary of Crime Control and Public Safety or the Secretary of Transportation or their designees. A permit issued under this subsection may allow for travel from a specific origin to destination and return 24 hours a day, seven days a week, including holidays. Permits issued under this subsection shall include a requirement for banners, flags, and other safety devices, as determined by the Department, and a requirement for a law enforcement escort or a vehicle being operated by a certified escort vehicle operator if traveling between sunset and sunrise. To obtain authorization to travel during restricted times, application shall be made with any required documentation to the proper officials as designated by the Department. If an emergency permit is issued under this subsection, the requestor shall contact the Department of Transportation's central permit office on the next business day to complete any further documentation and pay the applicable fees.

(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of twelve dollars ($12.00) for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars ($3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

Commodity:	Annual Fee:
Annual Permit to Move House Trailers	$200.00
Annual Permit to Move Other Commodities	$100.00

In addition to the fees set out in this subsection, applications for permits that require an engineering study for pavement or structures or other special conditions or considerations shall be accompanied by a nonrefundable application fee of one hundred dollars ($100.00).

This subsection does not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions, or municipalities if the vehicle is registered in the name of the agency.

(b1) Neither the Department nor the Board may require review or renewal of annual permits, with or without fee, more than once per calendar year.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 1321 (Third Edition)

SHORT TITLE: Weight and Size Exemption for Fire Response.

SPONSOR(S): Representatives Clary and Moore

FISCAL IMPACT	Yes ( )	No (x)	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES	-	-	-	-	-
EXPENDITURES	-	-	-	-	-
POSITIONS (cumulative):	-	-	-	-	-
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	-	-	-	-	-

EFFECTIVE DATE: When act becomes law.

BILL SUMMARY: Creates GS 20-118.4 to exempt federal, state, and local government owned and operated overweight and oversized vehicles responding to fires, emergencies, or other disasters as determined by the Secretary of Crime Control and Public Safety or the Secretary of Transportation.

ASSUMPTIONS AND METHODOLOGY: There are no costs or loss of revenues associated with this act. Government entities currently do not pay a fee for the permit for their overweight and oversized vehicles responding to emergencies. These vehicles were required to have a permit; however, there was no fee associated with permitting. Through this act, these vehicles will be exempt from permitting and there will no loss of revenue.

SOURCES OF DATA: Department of Transportation

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Lisa Hollowell

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Fiscal Research Division

Official Fiscal Research Division Publication

DATE: July 18, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1598*

Committee Substitute Favorable 6/12/07
Third Edition Engrossed 6/13/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H1598-CSRB-54 [v.9]

7/18/2007 12:05:12 PM

Short Title: Extend Qualified Business Venture Tax Credit. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS AND TO EXTEND THE TIME FOR FILING AN APPLICATION TO OCTOBER 15.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-163.015 reads as rewritten:

"**§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2008.~~2011."

SECTION 2. G.S. 105-163.011(c) reads as rewritten:

"(c) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the ~~Secretary~~ Secretary. The application should be filed on or before April 15 of the year following the calendar year in which the investment was made. ~~The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15~~ The Secretary may not accept an application filed after October 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity."

SECTION 3. Section 2 of this act becomes effective January 1, 2008, and applies to applications filed on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 1598:
Extend Qualified Business Venture Tax Credit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 16, 2007
Introduced by:	Reps. Gibson, Owens, Daughtridge, Wainwright	**Summary by:**	Cindy Avrette Committee Counsel
Version:	PCS to Third Edition H1598-CSRB-54		

SUMMARY: ***House Bill 1598 would extend the sunset on the tax credits for qualified business investments from January 1, 2008, to January 1, 2011.[1] The bill would become effective when it becomes law. The proposed Senate committee substitute does two things:***

- ***It removes the provision added in the House that would have required a married couple who wanted to claim the credit to file a joint return.***
- ***It allows an application for the tax credit to be filed on or before October 15.***

CURRENT LAW: The qualified business investment tax credit is allowed for an individual taxpayer who invests in a qualifying small business. A qualifying small business is one of the following:

- A business that engages primarily in manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry. Its annual gross revenues may not exceed $5,000,000. *(qualified business venture)*
- A business that has received during the current year or any of the preceding three years a grant, an investment, or other funding from a federal agency under the Small Business Innovation Research Programs. Its annual gross revenues may not exceed $1,000,000. *(qualified grantee business)*
- A business that has been certified by a constituent institution of The University of North Carolina or a research university as currently performing under a licensing agreement with the institution or university for the purpose of commercializing technology developed at the institution or university. *(qualified licensee business)*

The credit is equal to 25% of the amount invested and may not exceed $50,000 per individual in a single taxable year. If the investor is a husband and wife, the $50,000 limitation applies to the couple as one entity if the investment is made from joint funds and the stock certificate is issued in both names. However, if the couple made separate investments, as indicated by the use of separate funds and by the issuance of stock certificates in separate names, then the $50,000 limitation applies to each individual.

An individual investor may also claim the allocable share of credits obtained by "pass-through entities" of which the investor is an owner. Pass-through entities include limited partnerships, general partnerships, S corporations, and limited liability companies. The credit may not be taken in the year the investment is made. Instead, the credit is taken in the year following the calendar year in which the investment was made, but only if the taxpayer files an application with the Secretary of Revenue. Any unused credit may be carried forward for the next five years. The total amount of credits allowed to all taxpayers for investments made in a calendar year may not exceed $7 million.[2] The Secretary of

[1] This bill is identical to Senate Bill 762, introduced by Sen. Hoyle. SB 762 is in Senate Finance.
[2] The General Assembly increased the cap fro $6 million to $7 million in 2004, S.L. 2004-124, Part 32C.

Revenue calculates the total amount of tax credits claimed from applications filed. If the amount exceeds the cap, then the Secretary allows a portion of the tax credits claimed by allocating the total of $7 million in tax credits in proportion to the size of the credit claimed by each taxpayer. In general, a taxpayer forfeits the credit if the taxpayer transfers the securities within one year or the qualified business redeems the securities purchased by the taxpayer within five years after the investment was made. The credit is currently set to expire as of January 1, 2008.

An application for the credit must be filed on or before April 15 of the year following the calendar year in which the investment is made. The Secretary may grant extensions of this deadline, so long as the application is filed on or before September 15. The Secretary may not accept an application for the credit filed after September 15.

BILL ANALYSIS: House Bill 1598 would extend the sunset for three years so that the credit would expire in 2011, rather than 2008. The proposed Senate committee substitute does two things:

- It removes the provision added by the House that would require a husband and wife who claim the credit to file a joint return. The intent of the House provision was to eliminate the marriage penalty, if one existed. Such a penalty does not exist under current law. Furthermore, the language added by the House would require a married couple to determine a year in advance how it would like to file its return.
- It provides that an application should be filed by April 15, but may be filed on or before October 15. This amendment would remove the requirement that a taxpayer request an extension of time to file an application if the application is filed after April 15. The date of October 15 coincides with the income tax extension date.

BACKGROUND: The purpose of the credit is to stimulate early stage investments that help move new technologies from universities and other research laboratories to commercialization. Since 1999, investors using the North Carolina Qualified Business Venture tax credit have claimed approximately $48 million in credits and generated more than $274 million in credit-eligible capital contributions to qualifying small companies. Demand for the credit exceeded $7 million in 2006.

A qualified business venture does not include a real estate-related business, a business that was formed for the primary purpose of acquiring all or part of the stock or assets of one or more existing businesses, or a business that is substantially engaged in one or more of the following:

- Providing a professional service.
- Construction or contracting.
- Selling or leasing at retail.
- The purchase, sale, or development of commercial paper, notes, other indebtedness, securities, or real property, or otherwise makes investments.
- Providing personal grooming or cosmetics services.
- Offering any form of entertainment, amusement, recreation, or athletic or fitness activity for which an admission or a membership is charged.

HOUSE BILL 649

Short Title:	Increase Fees/Landscape Contractors.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Finance.	

March 15, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA LANDSCAPE CONTRACTORS' REGISTRATION BOARD TO INCREASE CERTAIN FEES AND ESTABLISH A NEW FEE UNDER THE LAWS PERTAINING TO LANDSCAPE CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 89D-5 reads as rewritten:

"**§ 89D-5. Application for certificate; examination; renewal.**

(a) Any person, partnership, association or corporation hereinafter desiring to register and be titled as a landscape contractor shall make written application for a certificate of title to the Board on such forms as are prescribed by the Board. Each applicant for a certificate of title as a landscape contractor shall be at least 18 years of age. Prior to July 1, 1976, each applicant for a certificate shall have been actively engaged as an untitled landscape contractor for at least one year prior to date of application. After July 1, 1976, an applicant shall furnish evidence satisfactory to the Board of three years' experience in landscape contracting or the completion of a study or combination of study and experience in landscape contracting equivalent to three years' experience under a landscape contractor.

(b) Any person who applies to the Board to be registered and titled as a landscape contractor shall be required to take an oral or written examination to determine his qualifications. Each application for registration by examination shall be accompanied by an application fee of ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00).

The Board shall compile a manual from which the examination will be prepared. The examination fee shall not exceed seventy-five dollars ($75.00). Any one failing to pass an examination may be reexamined upon payment of the same fee as that charged to persons taking the examination for the first time, in accordance with such rules as the Board may adopt pertaining to examinations and reexaminations.

If the results of the examination are satisfactory, the Board shall issue the applicant a certificate authorizing him to be titled as a landscape contractor in the State of North Carolina upon payment of the initial certification fee as outlined in subsection (c).

(c) All certificates granted and issued by the Board under the provisions of this Chapter shall expire annually on December 31. Renewal of such certificates may be effected at any time during the month preceding the expiration date of such certificates upon proper application to the Board accompanied by the payment to the secretary-treasurer of the Board of a renewal fee, as set by the Board, of not more than ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00). The fee for an initial certificate shall be the same as for a renewal certificate and is in addition to the application fee. All certificates reinstated after expiration date thereof shall be subject to a late filing fee of ~~ten dollars ($10.00).~~twenty-five dollars ($25.00). In the event a registrant fails to obtain a reinstatement of such certificate within 12 months from the date of expiration thereof, the Board may, in its discretion, consider such registrant subject to the provisions of this Chapter relating to the issuance of an original certificate. Duplicate certificates may be issued by the Board upon payment of a fee ~~of one dollar ($1.00)~~not to exceed five dollars ($5.00) by the registrant. The Board may charge a fee not to exceed thirty-five dollars ($35.00) for issuance of an original parchment certificate."

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

HOUSE BILL 649:
Increase Fees/Landscape Contractors

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Rep. Gibson	**Summary by:**	Heather Fennell
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 649 authorizes the Landscape Contractor's Registration Board to increase certain fees and establish a new fee.

CURRENT LAW: Any person, partnership, association, or corporation must first obtain a certificate issued by the Landscape Contractor's Registration Board before using the term "landscape contractor." Each individual who applies to be registered and titled as a landscape contractor must file an application with the Board and take a written or oral examination. Certificates must be renewed yearly.

BILL ANALYSIS: House Bill 649 would amend the fees paid to the Landscape Contractor's Registration Board as follows:

Description	Current Fee	Proposed Fee
Application for examination	$ 50.00	$ 75.00
Renewal fee	$ 50.00	$ 75.00
Late filing fee	$ 10.00	$ 25.00
Duplicate certificate fee	$ 1.00	$ 5.00

House Bill 649 also authorizes the Board to charge a new fee not to exceed $35.00 for the issuance of an original parchment certificate.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The application for examination fee was set at $20.00 in 1975 and raised to $50.00 in 1983. The renewal fee, late filing fee, and duplicate certificate fee have remained unchanged since 1975.

H0649e1-SMTD

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 649 (First Edition)

SHORT TITLE: Increase Fees/Landscape Contractors.

SPONSOR(S): Representative Gibson

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
NC Landscape Contractors' Registration Board	$ 22,769	$ 23,611	$ 24,485	$ 25,391	$ 26,330

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Landscape Contractor's Registration Board

EFFECTIVE DATE: When law.

BILL SUMMARY: House Bill 649 would allow the North Carolina Landscape Contractor's Registration Board to increase certain fees as well as introduce a new fee.

- Raise the landscape contractor examination fee from $50-$75
- Raise the annual renewal fee from $50-$75
- Raise the late filing fee from $10-$25
- Raise the fee for duplicate certificates from $1-$5
- Create a fee for the issuance of an original parchment certificate not to exceed $35

The application for examination fee was set at $20 in 1975 and raised to $50 in 1983. The renewal fee, late filing fee, and duplicate certificate fee have remained unchanged since 1975.

ASSUMPTIONS AND METHODOLOGY: Any person, partnership, association, or corporation must first obtain a certificate issued by the Landscape Contractor's Registration Board before using the term "landscape contractor." Each individual who applies to be registered and titled as a landscape contractor must file an application with the Board and take a written or oral examination. Certificates must be renewed yearly. The current fee structure is as follows:

Description	Current	Proposed
Application for examination	$ 50.00	$ 75.00
Renewal Fee	$ 50.00	$ 75.00
Late Filing Fee	$ 10.00	$ 25.00

The growth in applicants for the past five years has varied. This estimate assumes 3.7% per year annual growth rate in applications.

Fees collected for late filings have averaged approximately $1,000 per year for the previous five years. For purposes of this analysis, Fiscal Research assumes that this amount will stay about the same in subsequent years.

Revenue from duplicate certificate requests is negligible; for that reason, any revenues resulting from that fee increase have been omitted from this analysis. Fiscal Research also has no means of predicting revenues from the request of original parchment certificates.

Revenue Summary	2007-08	2008-09	2009-10	2010-11	2011-12
Revenue Under Current Fee Structure	$ 46,538	$ 48,222	$ 49,970	$ 51,782	$ 53,661
Revenue from Proposed Fee Structure	$ 69,306	$ 71,834	$ 74,455	$ 77,172	$ 79,991
Revenue Increase from Proposal	**$ 22,769**	**$ 23,611**	**$ 24,485**	**$ 25,391**	**$ 26,330**

SOURCES OF DATA: NC Landscape Contractors' Registration Board

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Joseph Futima & Brenna Erford
Fiscal Research Division

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: March 21, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 4

HOUSE BILL 1488

Committee Substitute Favorable 5/7/07
Committee Substitute #2 Favorable 6/5/07
Senate Health Care Committee Substitute Adopted 6/20/07

Short Title: Amend Psychology Practice Act. (Public)

Sponsors:

Referred to:

April 17, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING THE PSYCHOLOGY PRACTICE ACT TO CLARIFY REQUIREMENTS FOR PERMANENT LICENSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-270.4(e) reads as rewritten:

"(e) ~~Nothing~~ Subject to subsection (g) of this section, nothing in this Article shall be construed to prevent a qualified ~~members~~ member of other professional groups licensed or certified under the laws of this State from rendering services within the scope of practice, as defined in the statutes regulating those professional practices, provided ~~they do~~ the person does not hold ~~themselves~~ himself or herself out to the public by any title or description stating or implying that ~~they are psychologists~~the person is a psychologist or ~~are~~ licensed, certified, or registered to practice psychology."

SECTION 2. G.S. 90-270.4(g) reads as rewritten:

"(g) Except as ~~otherwise provided in this Article,~~ provided in subsection (c) of this section, if a person who is otherwise exempt from the provisions of this Article and not required to be licensed under this Article is or becomes licensed under this Article, he or she shall ~~be required to~~ comply with all ~~conditions, requirements, and obligations imposed by~~ Board rules ~~or by statute upon~~ and statutes applicable to all other psychologists licensed under this ~~Article.~~Article. These requirements apply regardless of whether the person holds himself or herself out to the public by any title or description stating or implying that the person is a psychologist, a licensed psychological associate, or licensed to practice psychology."

SECTION 3. G.S. 90-270.6 reads as rewritten:

"**§ 90-270.6. Psychology Board; appointment; term of office; composition.**

For the purpose of carrying out the provisions of this Article, there is created a North Carolina Psychology Board, which shall consist of seven members appointed by the Governor. At all times three members shall be licensed psychologists, two members

shall be licensed psychological associates, and two members shall be members of the public who are not licensed under this Article. ~~Each member of the Board must reside in a different congressional district at the time of the appointment. Due~~ The Governor shall give due consideration ~~shall also be given~~ to the adequate representation of the various fields and areas of practice of ~~psychology.~~psychology and to adequate representation from various geographic regions in the State. Terms of office shall be three years. All terms of service on the Board expire June 30 in appropriate years. As the term of a psychologist member expires, or as a vacancy of a psychologist member occurs for any other reason, the North Carolina Psychological Association, or its successor, shall, having sought the advice of the chairs of the graduate departments of psychology in the State, for each vacancy, submit to the Governor a list of the names of three eligible persons. From this list the Governor shall make the appointment for a full term, or for the remainder of the unexpired term, if any. Each Board member shall serve until his or her successor has been appointed. As the term of a member expires, or if one should become vacant for any reason, the Governor shall appoint a new member within 60 days of the vacancy's occurring. No member, either public or licensed under this Article, shall serve more than three complete consecutive terms."

SECTION 4. G.S. 90-270.13(a) reads as rewritten:

"(a) Upon application and payment of the ~~requisite~~ required fee, the Board shall grant permanent licensure at the appropriate level to any person who, at the time of ~~application, is~~ application meets all of the following requirements:

(1) Is licensed or certified as a psychologist by a similar psychology licensing board in another ~~jurisdiction, whose~~ jurisdiction.

(2) The license or certification is in good ~~standing, who is~~ standing.

(3) Is a graduate of an institution of higher ~~education, who passes any~~ education.

(4) Who passes an examination prescribed by the ~~Board, and who meets~~ Board.

(5) Meets the definition of a senior psychologist as that term is defined by the rules of the Board."

SECTION 5. G.S. 90-270.13 is amended by adding a new subsection to read:

"(a1) Upon application and payment of the required fee, the Board shall grant permanent licensure at the appropriate level to any person who, at the time of application, meets all of the following requirements:

(1) Is licensed or certified as a psychologist by a similar psychology licensing board in another jurisdiction.

(2) The license or certification is in good standing.

(3) Possesses a doctoral degree in psychology from an institution of higher education.

(4) Passes an examination prescribed by the Board.

(5) Has no unresolved complaints in any jurisdiction at the time of application in this State.

(6) Holds a current credential for psychology licensure mobility, as defined in rules adopted by the Board."

SECTION 6. G.S. 90-270.13(f) reads as rewritten:

"(f) The Board may deny licensure to any person otherwise eligible for permanent licensure under this ~~subsection~~ section upon documentation of ~~illegal, immoral, dishonorable, unprofessional, or unethical~~ conduct ~~as~~ specified in G.S. 90-270.15."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1488:
Amend Psychology Practice Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 16, 2007
Introduced by:	Rep. Goodwin	**Summary by:**	Martha Walston
Version:	Fourth Edition		Committee Counsel

SUMMARY: House Bill 1488 amends the Psychology Practice Act as follows:

- ***Clarifies that if a person is licensed by the Psychology Board, even if licensed by another board, and even if the person is not calling himself or herself a psychologist, the person must comply with the requirements of the Psychology Practice Act.***
- ***Removes the requirement that members of the Board must reside in different congressional districts.***
- ***Allows the Board to grant permanent licensure to a person who is licensed in another jurisdiction and who holds a current credential for psychology licensure mobility. The current fee for permanent licensure cannot exceed $100.***

House Bill 1488 has been through the House Committee on Health, House Judiciary I, House Finance , and Senate Health Care. The only difference between the bill that passed out of the House and the Senate version is a correction to a statutory reference.

CURRENT LAW: G.S. 90-270.4(e) provides that nothing in the Psychology Practice Act requires a person who is a qualified member of another professional group from rendering services within the scope of that practice as long as the person does not hold himself or herself out as a psychologist. G.S. 90-270.4(g) provides that if that person is also licensed as a psychologist (holds dual licensure); the person does have to comply with the Psychology Practice Act. The North Carolina Court of Appeals recently held that the North Carolina Psychology Board did not have the authority to discipline a licensed psychological associate, who was also a licensed counselor, for failure to comply with supervision requirements under the Practice act because the individual was not holding himself out as a psychologist.[1]

G.S. 90-270.6 requires that each member of the seven member North Carolina Psychology Board (Board) must reside in a different congressional district at the time the person is appointed to serve on the Board.

G.S. 90-270.13 allows the Board to grant licensure to psychologists licensed or certified in other jurisdictions if the applicant meets certain requirements. These requirements include: payment of the required application fee, licensure in good standing with a similar psychology licensing board, graduation from an institution of higher education, successful passage of the Board's examination, and meets the definition of a senior psychologist as defined by Board rules.[2]

BILL ANALYSIS:

Sections 1 and 2 amend G.S. 90-270.4(e) and (g) to clarify that a person who holds dual licensure must comply with the Psychology Practice Act requirements regardless of whether the person is holding himself or herself out as a psychologist.

[1] *Trayford, M.S. v. North Carolina Psychology Board*, 619 SE 2d 862 (2005)

[2] A senior psychologist must have been licensed for 12 continuous years.

Section 3 removes from G.S. 90-270.6 the requirement that all members of the Board must reside in different congressional districts at the time of their appointment. It would require the Governor to take into consideration adequate representation from various geographic regions of the State.

Section 4 makes grammatical and stylistic changes to G.S. 90-270.13(a).

Section 5 creates a new subsection (a1) to G.S. 90-270.13 that would allow the Board to grant permanent licensure to an individual who is licensed by a psychology board in another jurisdiction, holds a license that is in good standing, passes the Board's exam, holds a PhD in Psychology, has no outstanding unresolved complaints in another state, and holds a current credential for psychology licensure mobility as defined in rules adopted by the Board.

Section 6 clarifies language in G.S. 90-270.13(f) regarding the Board's discretion to deny licensure to a person licensed as a psychologist in another state due to conduct prohibited under G.S. 90-270.15.

EFFECTIVE DATE: The act is effective when it becomes law.

H1488e4-SMLA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 19
PROPOSED COMMITTEE SUBSTITUTE S19-PCS15113-LBx-70

Short Title: Nash-Rocky Mount/Edgecombe Boundary Corr. (Local)

Sponsors:

Referred to:

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE A TECHNICAL CORRECTION TO THE DESCRIPTION OF THE BOUNDARY BETWEEN THE NASH-ROCKY MOUNT SCHOOL ADMINISTRATIVE UNIT AND THE EDGECOMBE COUNTY PUBLIC SCHOOL SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.1 of Chapter 391 of the 1991 Session Laws, as added by Section 4 of S.L. 2003-346, reads as rewritten:

"**Sec. 3.1.** ~~Except as follows, the county line between Nash and Edgecombe Counties shall be the boundary line between the Nash-Rocky Mount School Administrative Unit and the Edgecombe County Public School System (as renamed by S.L. 2003-125):~~

~~Beginning in southeast Rocky Mount the boundary between the two school units shall go east from the county line at the intersection of Kingston Avenue and Sutton Road, following Little Cokey Swamp Creek to Old Wilson Road, then north on Old Wilson Road to its intersection with Proctor Street, then diagonally northeast from the intersection of Old Wilson Road and Proctor Street across undeveloped land to the intersection of Cokey Road and Pitt Street, then northwest on Cokey Road to the Norfolk Railroad tracks, then east along the railroad tracks to Glendale Avenue, then north on South Glendale Avenue to its intersection with Melody Lane, then east on Melody Lane to its intersection with Ashland Avenue, then north on Ashland Avenue to its intersection with Rosewood Avenue, then east on Rosewood Avenue to its intersection with Courtland Avenue, then north on Courtland Avenue to its intersection with Vernon Road, then east on Vernon Road to its intersection with Meadowbrook Road, then northwest on Meadowbrook Road to its intersection with Business US64 (North Raleigh Street), then west on Business US64 (North Raleigh Street) to its intersection with Stokes Street, then north on Stokes Street to its intersection with King Circle, then east and north on King Circle to its intersection with Barnes Street, then north on Barnes Street to its intersection with Charter Drive, then east on Charter Drive~~

~~to its intersection with Anne Street, then north on Anne Street to its intersection with Cherry Street, then east on Cherry Street to its intersection with Harper Street, then north on Harper Street to its intersection with Leggett Road, then west and southwest on Leggett Road to the underpass at Bypass US64, then west on Bypass US64 to the Nash-Edgecombe County line.~~ The county line between Nash and Edgecombe Counties shall be the boundary between the Nash-Rocky Mount School District and the Edgecombe County School District, except for the following area of Rocky Mount, located in Edgecombe County, which shall be part of the Nash-Rocky Mount School District:

Beginning at a point in southern Rocky Mount, such point being more accurately described as the point where the county boundary, being the center of the CSX Railroad right-of-way intersects the centerline of the road named Kingston Avenue on the Nash County side, designated as SR 1727 and named Sutton Road on the Edgecombe County side, designated as SR 1157, said roads constituting a single roadway named and numbered differently in each county.

From said POINT OF BEGINNING, thence continuing eastward along the centerline of Sutton Road to the point where the run of Little Cokey Swamp Creek runs under the road, thence following the run of Little Cokey Swamp Creek to the point where the creek runs under Old Wilson Road, SR 1002, thence continuing northward along the centerline of Old Wilson Road to its intersection with Proctor Street (formerly Davis Street), thence following the centerline of Proctor Street eastward a distance of approximately 180 feet to a point where the western property line of Lot 7, Block A, of the subdivision as shown on "Map Showing Subdivision of the W-R-Proctor Property, Located in South Rocky Mount, Edgecomb (sic) County NC" dated April 1923, on record in the Edgecombe County Register of Deeds filed in Map Book 2, Page 44, the point being where said western property line of Lot 7, Block A, if extended in a southerly direction would intersect the centerline of Proctor Street (shown on said map as Davis Street). Thence in a northerly direction following said line along the western boundary of Lot 7, Block A and the eastern boundary of Lots 1-6 of Block A to a point, being the northwest corner of Lot 7, Block A and the northeast corner of Lot 1, Block A of said subdivision, cornering and following the northern boundary of said subdivision in an easterly direction to an iron marking the northeast corner of Lot 1, Block G, of the same subdivision.

From this description, all of the subdivision shown in Map Book 2, Page 44 Edgecombe County Public Registry shall be in the Edgecombe County School District with the exception of Lots 1-6 of Block A, with addresses in the 1500-block of Old Wilson Road, which shall be in the Nash-Rocky Mount School District.

From said northeast corner of Lot 1, Block G, as previously noted, thence cornering northwesterly along the eastern boundary of that property now or formerly belonging to the Trustees of the East Rocky Mount Church of God as described in Deed Book 840, Page 355, Edgecombe County Public Registry, to the southeast corner of Lot 7 as shown on "Map of Aqua Court" dated February 29, 1972, on record in the Edgecombe County Register of Deeds filed in Map Book 16, Page 36. Thence continuing northwesterly along the eastern line of Lot 7 to a point, being the western corner of Lot

3 and southern corner of Lot 2, as shown on the 1909 Survey of J.J. Wells entitled "Property of Hargrove Heirs", on record in the Edgecombe County Register of Deeds filed in Map Book 3, Page 492, thence northeasterly along the common line between Lots 2 and 3 and continuing along that line, if extended, to the centerline of Cokey Road (SR 1164), cornering and following the centerline of Cokey Road to its intersection with the CSX Railroad Line running toward Tarboro.

From this description, all of the properties addressed on the even-numbered side of Cokey Road in the 1100 and 1200 blocks are in the Nash-Rocky Mount School District and those properties addressed on the odd-numbered side of Cokey Road, plus all properties in the 1300 block and higher are in the Edgecombe County School District.

From said point where the centerline of Cokey Road intersects the centerline of the CSX Railroad, thence following the centerline of the CSX Railroad, crossing Pitt St., S. Fairview Road, and S. Glendale Drive, to a point where the eastern boundary of the subdivision "Kenwood Park Section V" on record in the Edgecombe County Register of Deeds filed in Plat Cabinet 2, Slides 83a-b, if extended southward, would intersect the centerline of the CSX Railroad, cornering, thence along the eastern boundary of said subdivision, across Eastern Avenue and continuing along the eastern boundary of an earlier section of Kenwood Park dated April 7, 1956, on record in the Edgecombe County Register of Deeds filed in Map Book 11, Page 5, to a point in the eastern boundary of Lot 6, Block F, Kenwood Park, also being the southwest corner of a lot described in Deed Book 1114, Page 825, Edgecombe County Public Registry, addressed as 1729 Rosewood Avenue. Thence eastward along the southern boundary of 1729 Rosewood Avenue, described in the aforementioned deed, and the southern boundary of 1737 Rosewood Avenue as described in Deed Book 994, Page 423 ECPR, and across Dreaver Street to the southwest corner of Lot 1, Block A of "Property Developed by D.T. Powell & Sons" subdivision according to a map dated November 30,1955 by Fred Dasher, on record in the Edgecombe County Register of Deeds filed in Map Book 10, Page 59. Thence eastward along the southern boundary of said subdivision to the centerline of Courtland Avenue, cornering and following the centerline of Courtland Avenue to its intersection with the centerline of Vernon Road, turning east on Vernon and following the centerline of Vernon Road to its intersection with Meadowbrook Road. From said intersection of Vernon Road and Meadowbrook Road, continuing in a northwesterly direction along the centerline of Meadowbrook Road (SR 1232) to its intersection with North Raleigh St. (US Highway 64 Business).

From this description, all properties on the north side of Vernon Road terminating with its intersection with Meadowbrook Road are in the Nash-Rocky Mount School District and all properties on the south side of Vernon Road between its intersection with Courtland Avenue and its intersection with Meadowbrook Road are in the Edgecombe County School District. All addresses on the east side of Meadowbrook in the 1900 block or greater of Meadowbrook Road, plus the properties addressed in the 2000 block or greater of each road crossing Courtland Avenue and located south of Vernon Road are in the Edgecombe County School District.

From the intersection of Meadowbrook Road and North Raleigh St., thence along the centerline of North Raleigh St. (US Highway 64 Business) to the western line, if

extended, of the property known as 1740 N. Raleigh St., now or formerly belonging to Showers of Blessing Christian Center as described in Deed Book 1148, page 743, ECPR, cornering and following the western boundary of 1740 N. Raleigh St. in a northerly direction, that same line after a distance also being the eastern boundary of the Mayview Subdivision, as described in Map Book 13, Page 44 and Map Book 14, Page 66, ECPR to Virginia Street, thence continuing northerly along the eastern boundary of "Map of Property of Edgecombe Storage Corp. as described in Map Book 12, Page 65 ECPR, thence continuing in a northerly direction along the eastern boundary of various sections of the Hillsdale Subdivision as shown in Map Book 5, Page 16, Map Book 10, Page 11, and Map Book 12, Page 83 ECPR, but stopping at the northeast corner of lot 395, Hillsdale, 4th Addition (Map Book 12, Page 83), and cornering, thence heading in a westerly direction along the northern line of lot 395, also being the southern line of lots 393 and 394 and continuing along said line to the centerline of Harper Street, cornering thence in a northerly direction along the centerline of Harper Street to its intersection with the centerline of Leggett Road (SR 1243).

From the intersection of Harper Street and Leggett Road, thence going in a southeasterly direction along the centerline of Leggett Road (SR 1243) to a point midway between the bridges of the eastbound and westbound lanes of the US Highway 64 Freeway, cornering, thence in a westerly direction along the center of the US Highway 64 Freeway median to the Nash County Line (being the center of the CSX Railroad Right-of-Way), cornering, thence in a southerly direction along the Edgecombe-Nash County Line to the POINT OF BEGINNING."

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

SENATE BILL 19:
Nash County Local Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Sen. Swindell	**Summary by:**	Judy Collier
Version:	PCS to First Edition S19-CSLBx-70		Research Assistant

SUMMARY: Senate Bill 19 is a Nash County local bill. The Proposed Committee Substitute (PCS) corrects the boundary description between the Nash-Rocky Mount School Administrative Unit and the Edgecombe County Public School System.

SB 19 would become effective when it becomes law and would be subject to pre-clearance by the U.S. Department of Justice.

BILL ANALYSIS: The PCS for SB 19 corrects the boundary description between the Nash-Rocky Mount School District and the Edgecombe County School District by rewriting Section 3.1 of Chapter 391 of the 1991 Session Laws, as added by Section 4 of Chapter 346 of the 2003 Session Laws.

BACKGROUND: Legislation was enacted in 1991[1] providing for the merger and consolidation of the School Administrative Units in Nash County and the City of Rocky Mount. Section 3 of the bill stated that the county administrative unit and the city administrative unit (including that portion of the existing city administrative unit located in Edgecombe County) were merged and consolidated into a single school administrative unit to be known as the Nash-Rocky Mount School Administrative Unit, but it did not describe the boundary between the new school system and the portion of Rocky Mount that remained in the Nash-Rocky Mount school unit.

Later, when election districts were drawn for the new Edgecombe County School unit, census block descriptions were used. In 2000, the Edgecombe County Board of Elections realized that some voters were registered and voting in the Edgecombe County School District even thought their children attended the Nash-Rocky Mount schools, the result of a variance in census blocks being centered down the middle of streets while student attendance zones are drawn to include both sides of a street within the same attendance zone.

Legislation was enacted in 2003[2] to correct the boundary between the Nash-Rocky Mount School Administrative Unit and the Edgecombe County Public System. Section 4 of the bill added a new Sec. 3.1 to S.L. 1991-391. Both the Nash-Rocky Mount Board of Education and the Edgecombe County Board of Education agreed[3] upon the boundary described in the bill and both school boards thought the problem was fixed. Ultimately, the description differs in several places from the working documents utilized by both boards.

A correction is now needed to properly describe the boundary as previously agreed upon by the two school boards and also to resolve two potential problems in the existing description depending on where houses are built in presently undeveloped areas.

The description in SB 19 was developed by the Edgecombe County Mapping Division. It has been reviewed and approved by the Edgecombe County Board of Education, Nash-Rocky Mount Board of Education and the Edgecombe County Board of Elections. The new description results in only a couple of houses—and no school children—moving from the Nash-Rocky Mount district to the Edgecombe district.

S0019e1-SMRE-CSLBx-70

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[1] Senate Bill 612, chaptered as S.L. 1991-391, effective June 25, 1991.

[2] House Bill 1074, chaptered as S.L. 2003-346, effective July 10, 2003.

[3] The Nash-Rocky Mount Board of Education at its meeting on November 4, 2002; and the Edgecombe County Board of Education at its meeting on May 12, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 181

State & Local Government Committee Substitute Adopted 7/5/07

Short Title: Clayton Ordinance Violators/Annex Areas. (Local)

Sponsors:

Referred to:

February 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF CLAYTON TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE TOWN'S PUBLIC NUISANCE ORDINANCE AND TO ALLOW THE TOWN OF CLAYTON TO ANNEX BY VOLUNTARY PETITION AREAS THAT ARE MORE THAN THREE MILES FROM THE TOWN'S PRIMARY CORPORATE LIMITS IF THE AREAS ARE CONTIGUOUS TO THE TOWN'S SATELLITE CORPORATE LIMITS

The General Assembly of North Carolina enacts:

SECTION 1. A municipality may notify a chronic violator of the municipality's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three times under any provision of the public nuisance ordinance.

SECTION 2. G.S. 160A-58.1(b)(1) shall not apply to the Town of Clayton if the area proposed for annexation is contiguous to the Town's satellite corporate limits. For purposes of this act, the term "satellite corporate limits" means the corporate limits of any noncontiguous area annexed pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes by the Town of Clayton or pursuant to a local act enacted by the General Assembly authorizing or effecting noncontiguous annexations for the Town of Clayton.

SECTION 3. This act is effective when it becomes law and applies to the Town of Clayton only.

SENATE BILL 181:
Clayton Ordinance Violators/Annex Areas

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Sen. Smith	**Summary by:**	Trina Griffin
Version:	Second Edition		Committee Counsel

SUMMARY: Senate Bill 181 would authorize the Town of Clayton to give annual notice to chronic violators of the public nuisance ordinance. It also allows the Town of Clayton to annex by voluntary petition areas that are more than three miles from the town's primary corporate limits if the areas are contiguous to the satellite limits.

CURRENT LAW & BILL ANALYSIS:

Section 1: Notice to Public Nuisance Violators

G.S. 160A-193 grants to cities the authority to remove or otherwise remedy situations that are dangerous or prejudicial to the public health or public safety. The expense of removal is paid by the property owner or becomes a lien against the property that is collected as unpaid ad valorem taxes.

Senate Bill 181 would authorize the Town of Clayton to notify a chronic violator of the municipality's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which the notice is given, take action to remedy the violation.

- The expense of the action becomes a lien upon the violator's property and will be collected as unpaid taxes.
- The initial annual notice is served by registered or certified mail.
- A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three times under the public nuisance ordinance.

Section 2: Exemption from Three-Mile Standard for Voluntary Annexation

G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. **The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.**
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

These standards are designed to further the legislative goal of not allowing annexations to undermine the notion of a city as a single, contiguous, and compact entity. With regard to the first standard, the areas being annexed must not be too far from the city's primary limits. The General Assembly has enacted exceptions to this standard for approximately 18 municipalities, 13 of which are in Union County.

Section 2 of the bill would exempt the Town of Clayton from this requirement if the area being annexed is contiguous to the Town's satellite corporate limits.

EFFECTIVE DATE: This act is effective when it becomes law.

S0181e2-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 854

Judiciary II (Criminal) Committee Substitute Adopted 6/25/07
PROPOSED COMMITTEE SUBSTITUTE S854-CSSVf-45 [v.6]

7/17/2007 10:17:24 PM

Short Title: Amend Private Protective Services Act. (Public)

Sponsors:

Referred to:

March 19, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING THE PRIVATE PROTECTIVE SERVICES ACT AND AMENDING THE FIREARMS LAWS AFFECTING ARMED SECURITY GUARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3 reads as rewritten:

"**§ 74C-3. Private protective services profession defined.**

(a) As used in this Chapter, the term "private protective services profession" means and includes all of the following:

(1) ~~"Armored car profession" means any~~ Armored car profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration provides secured transportation and protection from one place or point to another place or point of money, currency, coins, bullion, securities, checks, documents, stocks, bonds, jewelry, paintings, and other ~~valuables for a fee or other valuable consideration.~~ valuables. This definition does not include a person operating an armored car business pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such business; however, armed armored car service guards shall be subject to the provisions of G.S. 74C-13.

(2) Repealed by Session Laws 1983, c. 786, s. 2.

(3) ~~"Counterintelligence service profession" means any~~ Electronic countermeasures profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to

gather information concerning any individual, firm, association, or ~~corporation for a fee or other valuable consideration.~~ corporation.

(4) ~~"Courier service profession" means any~~ Courier service profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration transports or offers to transport from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or other small items of value which require expeditious ~~service for a fee or other valuable consideration.~~ services. Armed courier service guards shall be subject to the provisions of G.S. 74C-13.

(5) ~~"Detection of deception examiner" means any~~ Detection of deception examiner. – Any person, firm, association, or corporation which uses any device or instrument, regardless of its name or design, for the purpose of the detection of deception or any person who reviews the work product of an examiner including charts, tapes or other methods of record keeping for the purpose of detecting deception or determining accuracy.

(6) ~~"Security guard and patrol profession" means any~~ Security guard and patrol profession. – Any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and ~~performing~~ performs one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private ~~property;~~property.

b. Prevention, observation, or detection of any unauthorized activity on private ~~property;~~property.

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security ~~services; or~~services.

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

(7) ~~"Guard dog service profession" means any~~ Guard dog service profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration contracts with another person, firm, association, or corporation to place, lease, rent, or sell a trained dog for the purpose of protecting lives or ~~property for a fee or other valuable consideration.~~property.

(8) ~~"Private detective" or "private investigator" are synonymous and mean any~~ Private detective or private investigator. – Any person who engages in the profession of or accepts employment to furnish, agrees

to make, or makes inquiries or investigations concerning ~~the below-listed topics~~ any of the following on a contractual basis:

a. Crimes or wrongs done or threatened against the United States or any state or territory of the United ~~States;~~States.

b. The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any ~~person;~~person.

c. The location, disposition, or recovery of lost or stolen ~~property;~~property.

d. The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to ~~properties;~~properties.

e. Securing evidence to be used before any court, board, officer, or investigative ~~committee; or~~committee.

f. Protection of individuals from serious bodily harm or death.

(9) ~~"Special limited guard and patrol profession" means any~~ Special limited guard and patrol profession. – Any person who is licensed under Chapter 74D of the General Statutes of North Carolina and provides armed alarm responders pursuant to G.S. 74C-13. Applicants for this limited license shall not be required to meet the experience requirements for a security guard and patrol license. Any experience gained under this limited license shall not be counted as experience for a security guard and patrol license.

(b) "Private protective services" shall not ~~mean:~~include any of the following:

(1) Licensed insurance adjusters legally employed as such and who engage in no other investigative activities unconnected with adjustment or claims against an insurance ~~company;~~company.

(2) An officer or employee of the United States, this State, or any political subdivision of either while ~~such~~ the officer or employee is engaged in the performance of his or her official duties within the course and scope of his or her employment with the United States, this State, or any political subdivision of ~~either;~~either.

(3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating or credit worthiness of persons; and a person who provides consumer reports in connection with:

a. Credit transactions involving the consumer on whom the information is to be furnished and involving the extensions of credit to the consumer,

b. Information for employment purposes,

c. Information for the underwriting of insurance involving the consumer,

d. Information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility, or

e. A legitimate business need for the information in connection with a business transaction involving the consumer;

(4) An attorney at law licensed to practice in North Carolina while engaged in ~~such~~ the practice of law and ~~his~~ the attorney's agent, provided ~~said~~ the agent is performing duties only in connection with his or her principal's practice of law;

(5) The legal owner or lien holder, and his or her agents and employees, of personal property which has been sold in a transaction wherein a security interest in personal property has been created to secure the sales transaction, who engage in repossession of ~~said~~ the personal property;

(6) Repealed by Session Laws 1989, c. 759, s. 3.

(7) Repealed by Session Laws 1981, c. 807, s. 1.

(8) Employees of a licensee who are employed exclusively as undercover agents; provided that for purposes of this section, undercover agent means an individual hired by another person, firm, association, or corporation to perform a job for that person, firm, association, or corporation and, while performing ~~such~~ the job, to act as an undercover operative, employee, or independent contractor of a licensee, but under the supervision of a licensee;

(9) A person who is engaged in an alarm systems business subject to the provisions of Chapter 74D of the General Statutes;

(10) A person who obtains or verifies information regarding applicants for employment, with the knowledge and consent of the applicant, and is (i) engaged in business as a private personnel service as defined in G.S. 95-47.1 or engaged in business as a private employer fee pay personnel service, (ii) engaged in the business of obtaining or verifying information regarding applicants for employment, or (iii) an employer with whom the applicant has applied for employment;

(11) A person who conducts efficiency studies. An efficiency study is an analysis of an employer's business, made at the request of the employer, to determine one or more of the following:

a. The most efficient procedures by which an employee of the business can perform the employee's assigned duties.

b. The adequacy of an employee's performance of the employee's assigned duties that require interaction with a client or customer of the business.

If a person making an efficiency study observes an instance of theft or another illegal act committed by an employee of the business, the

person may report the instance to the employer without violating G.S. 74C-3(a)(8).

(12) Research laboratories and consultants who analyze, test, or in any way apply their expertise to interpreting, evaluating, or analyzing facts or evidence submitted by another in order to determine the cause or effect of physical or psychological occurrences, and give their opinions and findings to the requesting source or to a designee of the requestor;

(13) A person who works regularly and exclusively as an employee of an employer in connection with the business affairs of that employer. If the employee is an armed security guard and wears, carries, or possesses a firearm in the performance of ~~his~~ the employee's duties, the provisions of G.S. 74C-13 apply;

(14) An employee of a security department of a private business that conducts investigations exclusively on matters internal to the business affairs of the business; or

(15) Representatives of nonprofit organizations funded all or in part by business improvement districts who provide information and directions to local tourists and residents, engage in street cleaning and beautification services within the business improvement districts, and notify local law enforcement of any illegal activity observed by the representatives within the business improvement districts."

SECTION 2. G.S. 74C-5 reads as rewritten:

"**§ 74C-5. Powers of the Board.**

In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power ~~to:~~to do all of the following:

(1) ~~Promulgate~~ Adopt rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this ~~Chapter;~~Chapter.

(2) Determine minimum qualifications, establish and require written or oral examinations, and establish minimum education, experience, and training standards for applicants and licensees under this ~~Chapter;~~Chapter.

(3) Conduct investigations regarding alleged violations and to make evaluations as may be necessary to determine if licensees and trainees under this Chapter are complying with the provisions of this ~~Chapter;~~Chapter.

(4) Adopt and amend bylaws, consistent with law, for its internal management and ~~control;~~control.

(5) Approve individual applicants to be licensed or registered according to this ~~Chapter;~~Chapter.

(6) Deny, suspend, or revoke any license or trainee permit issued or to be issued under this Chapter to any applicant, licensee, or permit holder who fails to satisfy the requirements of this Chapter or the rules

established by the Board. The denial, suspension, or revocation shall be in accordance with Chapter 150B of the General Statutes of North ~~Carolina;~~Carolina.

(7) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. Chapter 5A, Article 2, for acts occurring in matters pending before the Private Protective Services Board which would constitute civil contempt if the acts occurred in an action pending in ~~court;~~court.

(8) Repealed by Session Laws 1989, c. 759, s. 5.

(9) ~~Establish~~ Adopt rules governing detection of deception schools, and charge fees for reimbursement of costs incurred pursuant to approval of ~~such schools; and~~ the schools.

(10) Contract for services as necessary to carry out the functions of the Board.

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed or registered to engage in private protective services. The badge or shield shall be approved by the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police."

SECTION 3. G.S. 74C-9 reads as rewritten:

"**§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.**

(a) The license when issued shall be in such form as may be determined by the Board and shall state:

(1) The name of the licensee,

(2) The name under which the licensee is to operate, and

(3) The number and expiration date of the license.

(b) The license shall be issued for a term of ~~one year.~~two years. A trainee permit shall be issued for a term of ~~one year.~~two years. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this Chapter is not assignable. The Board may require all licensees to complete continuing education courses approved by the Board before renewal of their licenses.

(c) Repealed by Session Laws 1989, c. 759, s. 7.

(d) The operator or manager of any branch office shall be properly licensed or registered. The license shall be posted at all times in a conspicuous place in the branch office. This license shall be issued for a term of one year. Every business covered under the provisions of this Chapter shall file in writing with the Board the addresses of each of its branch offices, if any, within 10 working days after the establishment, closing, or changing of the location of any branch office. The Director may, upon the successful

completion of an investigation of the application, issue a temporary branch office license pending approval of the application by the Board.

(e) The Board is authorized to charge reasonable application and license fees as follows:

(1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars ($150.00);

(2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars ~~($250.00);~~($250.00) per year of the license term;

(3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars ~~($250.00);~~($250.00) per year of the license term;

(4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars ($50.00);

(5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the licensee;

(6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars ($30.00);

(7) An application fee for ~~an armed security guard~~a firearm registration permit not to exceed fifty dollars ($50.00);

(8) A new, renewal, replacement, or reissuance fee for ~~an armed security guard~~a firearm registration permit not to exceed thirty dollars ($30.00);

(9) An application fee for certification as a certified trainer not to exceed fifty dollars ($50.00);

(10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars ($25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars ($100.00);

(12) An unarmed registration transfer fee not to exceed fifteen dollars ($15.00);

(13) A branch office license fee not to exceed fifty dollars ($50.00); and

(14) A special limited guard and patrol license fee not to exceed one hundred dollars ($100.00).

Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expenses of administering this Chapter.

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the Director of intended renewal, the payment of the proper fee, and evidence of a policy of liability insurance as prescribed in G.S. 74C-10(e).

The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

(g) Upon notification of approval of ~~his~~ the application by the Board, an applicant must furnish evidence that ~~he~~ the applicant has obtained the necessary liability insurance required by G.S. 74C-10 and obtain the license applied for or ~~his~~ the application shall lapse.

(h) Trainee permits shall not be issued to applicants that qualify for a private detective license. A licensed private detective may supervise no more than five trainees at any given time."

SECTION 4. G.S. 74C-10(e) reads as rewritten:

"(e) No security guard and patrol, armored car, or special limited guard and patrol license shall be issued under this Chapter unless the applicant files with the Board evidence of a policy of liability insurance. The policy must provide for the following minimum coverage: fifty thousand dollars ($50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars ($20,000) because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency. If the licensee, other than a security guard and patrol, armored car, or special limited guard and patrol licensee, carries a firearm while engaged in private protective services activities, the licensee shall obtain a policy of liability insurance with a minimum coverage as specified above. A licensee is deemed to be 'carrying a firearm' for purposes of this section while engaged in private protective services if the licensee has a firearm on the licensee's person or in the automobile the licensee is using to perform private protective services."

SECTION 5. G.S. 74C-10(h) reads as rewritten:

"(h) Every security guard and patrol licensee, armored car licensee, special limited guard and patrol licensee, or licensee carrying a firearm while engaged in private protective services ~~licensee~~ shall at all times maintain on file with the Board the certificate of insurance required by this Chapter in full force and effect and upon failure to do so, the license of such licensee shall be automatically suspended and shall not be reinstated until an application therefor, in the form prescribed by the Board, is filed together with a proper insurance certificate.

No cancellation or refusal to renew by an insurer of a licensee under this Chapter shall be effective unless the insurer has given the insured licensee notice of the cancellation or refusal to renew. Upon termination of insurance coverage for said licensee, the insurer shall give notice to the Director of the Board."

SECTION 6. G.S. 74C-11(d) reads as rewritten:

"(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to ~~said~~ the applicant after receipt of the information required to be submitted by ~~his~~ the applicant's employer pursuant to subsection ~~(a),~~(a) of this section, and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed

security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed ~~thereto.~~ to the card. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. The Board may require all registration holders to complete continuing education courses approved by the Board before renewal of their registrations. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued."

SECTION 7. G.S. 74C-12 reads as rewritten:

"**§ 74C-12. Denial, suspension, or revocation of license, registration, or ~~permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder ~~has:~~has done any of the following acts:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or ~~permit;~~permit.

(2) Violated any provision of this ~~Chapter;~~Chapter.

(3) Violated any rule ~~promulgated~~ adopted by the Board pursuant to the authority contained in this ~~Chapter;~~Chapter.

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a ~~state;~~state.

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this ~~Chapter;~~Chapter.

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the ~~parties;~~parties.

(8) Knowingly made any false report to the employer or client for whom information is being ~~obtained;~~obtained.

(9) Committed an unlawful breaking or entering, assault, battery, or ~~kidnapping;~~kidnapping.

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a ~~licensee;~~licensee.

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he or she is representing any attorney or he or she is appearing or will appear as an attorney in any legal ~~proceeding;~~proceeding.

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court ~~proceeding;~~proceeding.

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this ~~Chapter;~~Chapter.

(15) Violated the firearm provisions set forth in this ~~Chapter;~~Chapter.

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this ~~Chapter;~~Chapter.

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying ~~agent;~~agent.

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under ~~G.S. 122C-271;~~G.S. 122C-271.

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered.

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for ~~cause;~~cause.

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this ~~Chapter;~~Chapter.

(23) Divulged to any person, except as required by law, any information acquired by ~~him~~ the license holder except at the direction of the employer or client for whom the information was obtained. A license may divulge to any law enforcement officer or district attorney or ~~his~~ district attorney's representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the ~~client;~~client.

(24) Fraudulently held himself or herself out as employed by or licensed by the State Bureau of Investigation or any other governmental ~~authority;~~authority.

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this ~~subdivision;~~subdivision.

(26) Advertised or solicited business using a name other than that in which the license was ~~issued;~~issued.

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(28) Possessed or displayed a badge or shield while providing private protective services that was not designed and approved by the Board pursuant to G.S. 74C-5(12).

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person shall file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) A licensee shall report to the Board in writing within 30 days any charge, arrest for, or conviction of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

For purposes of this section, the term 'conviction' includes the entry of a plea of guilty, a plea of nolo contendere, prayer for judgment continued, or a finding of guilt by a court of competent jurisdiction. The licensee's failure to report a charge, arrest for, or conviction of a misdemeanor or felony is grounds for revocation of the license."

SECTION 8. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those

duties without first having met the qualifications ~~as set forth in~~ of this section and having been issued a firearm registration permit by the Board. ~~For the purposes of this section, the following terms are defined:~~

(a1) The following definitions apply in this section.

(1) Armed private investigator. – A licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

~~(1)~~(1a) ~~"Armed security guard" means an~~ Armed security guard. – An individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service who at any time wears, carries, or possesses a firearm in the performance of duty.

(2) ~~"Contract security company" means any~~ Contract security company. – Any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) ~~"Proprietary security organization" means any~~ Proprietary security organization. – Any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of ~~such~~ the employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or an armed private investigator and knowingly authorize or permit ~~him~~ the armed security guard or armed private investigator to carry a firearm during the course of performing his or her duties as an armed security guard or an armed private investigator if the Board has not issued him or her a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or an armed private investigator to carry a firearm during the course of performing his or her duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) ~~An armed security guard~~ A firearm registration permit grants authority to the armed security guard, or armed private investigator, while in the performance of his or her duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or any other~~any firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his or her duties.

(c) The applicant for ~~an armed security guard~~a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section to an armed security guard shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. ~~An armed security guard~~A firearm registration permit issued to an armed security guard expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. The Board may require all permit holders to complete continuing education courses approved by the Board before renewal of their permits.

(d1) Each firearm registration permit issued under this section to an armed private investigator shall be in the form of a pocket card designed by the Board and shall identify the name of the armed private investigator. While carrying a firearm and engaged in private protective services, the armed private investigator shall carry the firearms registration permit issued by the Board, together with valid identification, and shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a firearm, whether concealed or in plain view, when approached or addressed by the law enforcement officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer. A private investigator firearm registration permit expires one year from the date of issuance and shall be renewed annually. The Board may require all permit holders to complete continuing education courses approved by the Board before renewal of their permits.

(e) If ~~the holder of~~ an armed security guard ~~firearm registration permit~~ terminates his or her employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which an armed private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:

a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,

b. Familiarity with this ~~section,~~section;

c. Range firing and procedure and hand gun safety and ~~maintenance,~~maintenance; and

d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his or her firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. The Board may require all certified trainers to complete continuing education courses approved by the Board before renewal of their certifications.

(2) No certified firearms trainer shall certify ~~an armed security guard~~a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his or her duties as a private investigator upon: (i) obtaining a concealed weapon permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private investigator who does not carry a weapon during the course of his or her duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

The Board may require individuals holding a license, registration, certificate, or permit to complete continuing education courses approved by the Board before renewal. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 10. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the

manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

~~(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);~~

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the ~~industry;~~industry.

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and ~~trainees; and~~trainees.

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation

receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 11. G.S. 74C-31(d) reads as rewritten:

"(d) Until ~~such time as~~ the Fund reaches ~~one hundred thousand dollars ($100,000);~~twenty-five thousand dollars ($25,000), or at any time the Fund has insufficient assets in excess of ~~one hundred thousand dollars ($100,000)~~twenty-five thousand dollars ($25,000) to pay outstanding claims, the State Treasurer shall not disburse any payments to an aggrieved party. However, any party aggrieved and awarded payment as ordered by the Board which order is dated after July 1, 1983, shall hold a vested right for payment plus interest as provided in G.S. 24-1 once the Fund reaches a sufficient level for payments. Authorized payments which cannot be made due to the lack of funds will be paid as funds become available, beginning with those payments which have been unsatisfied for the longest period of time."

SECTION 12. G.S. 14-269.2(g) reads as rewritten:

"(g) This section shall not apply ~~to:~~to any of the following:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school ~~authority;~~authority.

(1a) A person exempted by the provisions of G.S. ~~14-269(b);~~14-269(b).

(2) Firefighters, emergency service personnel, and North Carolina Forest Service personnel, and any private police employed by ~~an educational institution,~~ a school, when acting in the discharge of their official ~~duties;~~duties.

(3) Home schools as defined in G.S. ~~115C-563(a); or~~115C-563(a).

(4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property.

(5) A person registered under Chapter 74C of the General Statutes as an armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.

(6) A person registered under Chapter 74C of the General Statutes as an armed security guard while on the premises of a hospital or health care

facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university.

SECTION 13. Sections 12 and 13 are effective when the act becomes law. The remainder of this act becomes effective October 1, 2007.

SENATE BILL 854:
Amend Private Protective Services Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Sen. Snow	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to Second Edition S854-CSSVf-45		

SUMMARY: ***Senate Bill 854 makes a number of changes to Chapter 74C of the General Statutes, which regulates the private protective services profession. It authorizes the Private Protective Services Board ("Board") to require continuing education for license renewal, changes the license renewal period from annually to biannually, prohibits anyone who is engaged in private protective services from carrying a firearm unless registered with the Board, and increases the minimum fund balance in the Private Protective Services Recovery Fund. These changes would become effective October 1, 2007.***

The Proposed Committee Substitute would allow armed armored car service guards and armed courier service guards to be on college campuses, with the school's permission, for the purpose of discharging their official duties. It would also allow armed security guards to be on the premises of a hospital located on educational property with the school's permission and for the purpose of discharging their official duties (Section 12). These changes would become effective when the act becomes law.

BILL ANALYSIS:

Section 1 makes stylistic changes and corrections to the definitions section of the Chapter.

Section 2 authorizes the Private Protective Services Board to approve training schools and instructors, and to approve badge designs subject to the approval of the designs by the Sheriffs' Association and the Association of Chiefs of Police.

Sections 3, 6, and 9 authorize the Board to require continuing education as a condition of issuing or renewing a license or issuing or renewing a firearms registration. Section 3 also increases the term of a license from 1 to 2 years.

Sections 4 and 5 requires security guard and patrol, armored car, special limited guard and patrol or any licensee who carries a fire arm to obtain and maintain liability insurance.

Section 7 authorizes the Board to suspend or revoke a license if the licensee has carried or worn a badge purporting to represent that the person is a law enforcement office. The Board could also suspend or revoke a license if the licensee uses a badge that has not been approved by the Board. This section also requires that a licensee must report to the Board any charge, arrest for, or conviction for certain misdemeanors or felonies. Failure to report this information within 30 days will be grounds for the Board to revoke the license.

Section 8 makes it unlawful for any person to carry a firearm unless the person has registered with the Board. Registration is evidenced by a pocket card which must be displayed to law enforcement officers.

Section 10 decreases from $100,000 to $25,000 the minimum amount that should be held in the Private Protective Services Recovery Fund. Upon a unanimous vote of the Board, funds in excess of $25,000 may be used for operating expenses.

Section 11 prohibits any payments from the Fund if the balance is less than $25,000.

Section 12 does two things. It creates an exemption from the criminal statute prohibiting weapons on educational property for armed armored car service guards and armed courier service guards. The exemption is limited to situations where the guards are discharging their official duties and have the permission of the college or university. This section also allows armed security guards to be on the premises of a hospital located on educational property with the school's permission and for the purpose of discharging their official duties. This section would become effective when the act becomes law.

Kory Goldsmith, counsel to Senate Judiciary II, substantially contributed to this summary.

S0854e2-SMSV-CSSVf-45

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1241
PROPOSED COMMITTEE SUBSTITUTE S1241-CSRBx-48 [v.2]

7/11/2007 11:55:38 AM

Short Title: UNC Non-Appropriated Capital Projects. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. SELF-LIQUIDATING PROJECTS

SECTION 1. The purpose of this act is: (i) to authorize the construction or acquisition by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in this act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed or otherwise acquired and financed as provided in Section 1 of this act, are as follows:

Appalachian State University	
Frank Residence Hall Renovation	$7,461,000
Steam Distribution Improvements – Phase IV	$3,086,000
East Carolina University	
Family Medicine Center – Supplement	$6,000,000
North Carolina State University	
Companion Animal Hospital	$34,000,000
Residence Halls – Improvements and Infrastructure Expansion	$13,000,000

The University of North Carolina at Chapel Hill	
College of Arts and Sciences – Digital Multimedia Center and Music Library	$4,000,000
Rosenau Hall Laboratory Building – Comprehensive Renovation	$1,124,000
Science Complex – Phase I	$20,000,000
Hanes Hall	$750,000
Genomic Sciences Building	$12,500,000
Electrical Infrastructure Improvements	$9,300,000
Information Technology Infrastructure Improvements	$11,800,000
Translational Medicine Program Facility Renovation	$4,000,000
Henry Stadium Renovation	$2,000,000
Carmichael Auditorium – Supplement	$2,000,000
Woollen Gymnasium – Supplement	$2,000,000
McColl Building Expansion and Renovation	$6,500,000
Bell Tower Development Parking	$30,000,000
Chilled Water Infrastructure	$39,600,000
The University of North Carolina at Pembroke	
New Football/Multipurpose Tower	$2,000,000
The University of North Carolina at Wilmington	
Residence Halls – Improvements	$5,000,000
Marine Biotechnology Research Facility	$15,000,000
Western Carolina University	
Residence Halls – Construction/Acquisition	$44,560,000

SECTION 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 4. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 2 and Section 7 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 2 and Section 7 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest and pay other related additional costs, plus any increase in the

specific project costs authorized by the Director of the Budget pursuant to Section 3 of this act.

SECTION 5. With respect to the Marine Biotechnology Research Facility project at the University of North Carolina at Wilmington, the institution may accomplish construction and financing through lease arrangements to and from a special purpose entity created or existing for that purpose and through working with other state agencies. The institution may use funds appropriated for the Marine Biotechnology Research Facility from the General Fund of the State on an annual basis to make debt service, lease, or other similar payments necessary to accomplish the financing; provided, however, nothing in this section shall be construed as pledging the full faith and credit of the State towards making such payments.

SECTION 6. With respect to the Residence Halls project at Western Carolina University, the institution may accomplish construction and financing through lease arrangements to and from the Western Carolina University Research and Development Corporation.

SECTION 7. The University of North Carolina at Chapel Hill may accomplish the financing of the acquisition and implementation of certain components of its enterprise administrative systems, including, but not limited to, Student, Human Resources, Payroll, and Finance, in an amount not to exceed fifty-nine million dollars ($59,000,000). Costs related to the project may include, but not be limited to, costs of applicable hardware, software, consulting services, project and support staff, renovation of the Porthole Building on the campus of the University of North Carolina at Chapel Hill, training services, leases of space for the project, and any technical infrastructure components required to implement the systems for the duration of the project. The project shall be deemed to be a "capital facility" and a "special obligation bond project" for purposes of G.S. 116D-22(5).

PART II. REVISE UNIVERSITY GENERAL OBLIGATION INDEBTEDNESS

SECTION 8. Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Elizabeth City State University by (a) changing the scope of "Mitchell-Lewis Residence Hall – Replacement" to a comprehensive renovation project and by (b) reducing the scope of the "Land Acquisition" project and transferring unused funds to "Lane Hall Classroom Building – Comprehensive Renovation" and "Electrical Distribution System Upgrade" and "Campus Infrastructure Improvements." Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University by:

(1) Renaming "Mitchell-Lewis Residence Hall – Replacement" to read "Mitchell-Lewis Residence Hall – Comprehensive Renovation", and

(2) Reducing the allocation to "Land Acquisition" by $650,000, and

(3) Increasing the allocation to "Lane Hall Classroom Building – Comprehensive Renovation" by $600,000, and

(4) Increasing the allocation to "Electrical Distribution System Upgrade" by $25,000, and

(5) Increasing the allocation to "Campus Infrastructure Improvements" by $25,000.

SECTION 9. Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Central University by reducing the scope of "Hoey Building – Comprehensive Renovation" and transferring unused funds to "Pearson Cafeteria – Expansion" and "Eagleson Residence Hall – Comprehensive Renovation". Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina Central University by:

(1) Reducing the allocation to "Hoey Building – Comprehensive Renovation" by $2,300,000,

(2) Increasing the allocation to "Pearson Cafeteria – Expansion" by $1,000,000, and

(3) Increasing the allocation to "Eagleson Residence Hall – Comprehensive Renovation" by $1,300,000.

PART III. EFFECTIVE DATE

SECTION 10. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

REVISED

BILL NUMBER: Senate Bill 1241 (Unknown Edition)

SHORT TITLE: UNC Non-Appropriated Capital Projects.

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
EXPENDITURES					
General Fund					
Operating		**$180,622**	**$2,532,009**	**$2,591,221**	**$2,651,863**
POSITIONS (cumulative):		**3.15**	**27.67**	**27.67**	**27.67**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: University of North Carolina

EFFECTIVE DATE: When the act becomes law.

BILL SUMMARY:

March 21, 2007

S 1241. UNC NON-APPROPRIATED CAPITAL PROJECTS. Filed 3/21/07. TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

This proposed committee substitute (PCS) authorizes the construction or acquisition of the following capital improvement projects by certain constituent institutions of The University of North Carolina and authorizes their financing with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, or other funds or a combination of these funds, but not including funds received for tuition or appropriated from the General Fund:

Appalachian State University	
Frank Residence Hall Renovation	$7,461,000
Steam Distribution Improvements – Phase IV	$3,086,000
East Carolina University	
Family Medicine Center – Supplement	$6,000,000
North Carolina State University	
Companion Animal Hospital	$34,000,000
Residence Halls – Improvements and Infrastructure Expansion	$13,000,000
The University of North Carolina at Chapel Hill	
College of Arts and Sciences – Digital Multimedia Center and Music Library	$4,000,000
Rosenau Hall Laboratory Building – Comprehensive Renovation	$1,124,000
Science Complex – Phase I	$20,000,000
Hanes Hall	$750,000
Genomic Sciences Building	$12,500,000
Electrical Infrastructure Improvements	$9,300,000
Information Technology Infrastructure Improvements	$11,800,000
Translational Medicine Program Facility Renovation	$4,000,000
Henry Stadium Renovation	$2,000,000
Carmichael Auditorium – Supplement	$2,000,000
Woollen Gymnasium – Supplement	$2,000,000
McColl Building Expansion and Renovation	$6,500,000
Bell Tower Development Parking	$30,000,000
Chilled Water Infrastructure	$39,600,000
The University of North Carolina at Pembroke	
New Football/Multipurpose Tower	$2,000,000
The University of North Carolina at Wilmington	
Residence Halls – Improvements	$5,000,000
Marine Biotechnology Research Facility	$15,000,000
Western Carolina University	
Residence Halls – Construction/Acquisition	$44,560,000

At the request of The University of North Carolina Board of Governors, the Director of the Budget may authorize specified changes. Pursuant to GS 116D-26, the Board of Governors may, subject to approval, issue special obligation bonds of the Board of Governors for some projects. The Aquaculture Hatchery Biotech Research Facility at the University of North Carolina at

Wilmington and the Residence Halls at Western Carolina University projects may be accomplished through specified lease arrangements. The University of North Carolina at Chapel Hill may accomplish the financing and acquisition of certain components of its enterprise administrative systems, in an amount up to $59 million, subject to limitations.

The PCS further revises Section 2(b) of S.L. 2000-3 to change the scope of the Mitchell-Lewis Residence Hall replacement project at Elizabeth City State University to a comprehensive renovation project. The PCS also eliminates a land acquisition project at ECSU.

The PCS further revises Section 2(b) of S.L. 2000-3 to reduce the authorization for the Hoey Building comprehensive renovation project at North Carolina Central University and increase the scopes of both the Pearson Cafeteria expansion project and Eagleson Residence Hall comprehensive renovation project.
Source: Bill Digest S.B. 1241 (03/21/0200) modified by the Fiscal Research Division

ASSUMPTIONS AND METHODOLOGY:

Part I. Self-Liquidating Projects

Chart 1 on Page 3 lists each self-liquidating capital improvement project proposed by the Board of Governors of the University of North Carolina for FY 2007-08. There are 24 new capital improvement projects totaling $324,681,000 in improvements. The Board also requests the authority to fund $10,000,000 in supplements to 3 previously authorized self-liquidating capital projects. Five proposed projects will increase student fees to cover debt service payments. Six new projects would require General Fund support for increased operating costs. Financial data for these charts was provided by the Division of Finance, University of North Carolina General Administration.

Chart 1

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
Appalachian State University	Frank Residence Hall Renovation	7,461,000	Housing Receipts	$100/ year increase		
Appalachian State University	Steam Distribution System Improvements – Phase IV	3,086,000	Utility Receipts			
East Carolina University	Family Medicine Center – Supplement	6,000,000	Medicare Education Receipts			
North Carolina State University	Companion Animal Hospital	34,000,000	Private Gifts		1,954,406	General Fund

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
North Carolina State University	Residence Halls – Improvements and Infrastructure Expansion	13,000,000	Housing Receipts	3% increase	239,025	General Fund
University of North Carolina at Chapel Hill	College of Arts and Sciences – Digital Multimedia Center and Music Library	4,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Rosenau Hall Laboratory Building – Comprehensive Renovation	1,124,000	Private Gifts			
University of North Carolina at Chapel Hill	Science Complex – Phase 1	20,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Hanes Hall	750,000	Private Gifts			
University of North Carolina at Chapel Hill	Genomic Sciences Building	12,500,000	Facilities and Administrative Receipts/ Dining Receipts			
University of North Carolina at Chapel Hill	Electrical Infrastructure Improvements	9,300,000	Utility Receipts			
University of North Carolina at Chapel Hill	Information Technology Infrastructure Improvements	11,800,000	Information Technology Services Receipts			
University of North Carolina at Chapel Hill	Translational Medicine Program Facility Renovation	4,000,000	Patient Receipts/ Facility and Administrative Receipts		105,338	General Fund

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
University of North Carolina at Chapel Hill	Henry Stadium Renovation	2,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Carmichael Auditorium – Supplement	2,000,000	Private Gifts			
University of North Carolina at Chapel Hill	Woollen Gymnasium – Supplement	2,000,000	Private Gifts			
University of North Carolina at Chapel Hill	McColl Building Expansion and Renovation	6,500,000	Private Gifts		43,759	General Fund
University of North Carolina at Chapel Hill	Bell Tower Development Parking	30,000,000	Parking Receipts		192,297	Parking Receipts
University of North Carolina at Chapel Hill	Chilled Water Infrastructure	39,600,000	Utility Receipts			
University of North Carolina at Pembroke	New Football. Multipurpose Tower	2,000,000	Debt Service Fee	$30/ year	63,505	Facility Receipts and $31,525 from the General Fund
University of North Carolina at Wilmington	Residence Halls Improvements	5,000,000	Housing Receipts	$176/ year increase		
University of North Carolina at Wilmington	Marine Biotechnology Research Facility	15,000,000	Grants/ Leases/ Facilities and Administrative (Overhead) Receipts		442,803	Grants/ Leases/ Facilities and Administrative (Overhead) Receipts and $169,121 from the General Fund
Western Carolina University	New Residence Halls	44,560,000	Housing Receipts	3% increase	94,094	Housing Receipts

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
University of North Carolina at Chapel Hill	Enterprise Administrative Systems	59,000,000	Cash Reserves, Internal Reallocations, Facilities and Administrative Receipts and a Debt Service Fee			

Cost of new capital improvement projects = $324,681,000
Cost of supplements to previously authorized projects = $10,000,000
Cost of capital improvements for all projects = $334,681,000

Inflation - General Fund operating expenditures were inflated by calculating a straight line dollar increase measured from the first year of operation and escalated using the 20-year average operating expenditure estimate provided by the University of North Carolina General Administration.

Indebtedness Funding Methods:
Chart 2 summarizes the total debt authority proposed by Senate Bill 1241 and the source of funds identified to service the proposed debt.

Chart 2	
Sources of Funding	**Principal**
Utility Receipts	$51,986,000
Debt Service Fees	$2,000,000
Private Gifts	$72,374,000
Housing Receipts	$70,021,000
Parking Receipts	$30,000,000
Information Tech. Services Receipts	$11,800, 000
Medicare Education Receipts	$6,000,000
Facilities and Administrative Receipts / Dining Receipts	$12,500,000
Facilities and Administrative Receipts / Patent Receipts	$4,000,000
Facilities and Administrative Receipts / Grants / Leases	$15,000,000
Cash Reserves / Internal Reallocations / Facilities and Administrative Receipts / Previously approved $50 Debt Service Fee	$59,000,000

Part II. Revise University General Obligation Indebtedness

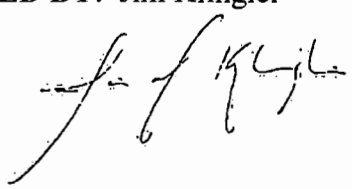
According to the Division of Finance for the University of North Carolina General Administration, **no General Fund operating impact** is anticipated from the proposed modifications to Session Law 2000-3.

SOURCES OF DATA: The University of North Carolina General Administration

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Klingler



APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 10, 2007

The University of North Carolina

SB 1241 – UNC Non-Appropriated Capital Projects

- Each year, the University requests legislative authorization for needed capital projects which the campuses proposed to construct using Non-General fund sources. This year's package contains the projects that, if authorized, are expected to begin prior to June 30, 2008.

- The package totals $334 million. It contains 23 new or supplemental capital improvement projects at 7 campuses and 1 ITS replacement project at UNC-CH. All projects have been approved by the Chancellors and Boards of Trustees and by the President and the Board of Governors.

- The projects include academic, research, clinical and administrative space and improvements to student services, residential living, dining, recreation, athletics and parking facilities.

- No funding for constructions will come from General Fund sources. Sources include:

    - 26% from gifts and grants (contributions)
    - 26% from housing and dining receipts
    - 23% from utility and ITS receipts
    - 17% from parking and overhead receipts
    - 7% from federal funds and other funds
    - 1% from student debt service fees

- No support from General Fund sources for operating costs will be required for other than academic facilities or facilities used for academic programs.

- Historically, approximately 60% of University buildings have been constructed with General fund monies and 40% have been constructed by gifts from donors, student feeds and user-generated revenues from University auxiliary operations. Since 1999, the University's contribution to that partnership has exceeded $2.7 billion.

- This bill also contains several modifications to projects authorized by the 2000 bond.

The University of North Carolina

SB 1241 – UNC Non-Appropriated Capital Projects

Each year, the University requests legislative authorization for needed capital projects which the campuses proposed to construct using Non-General fund sources. The package totals **$334 million**. This bill also contains several modifications to projects authorized by the 2000 bond.

Appalachian State University

Frank Residence Hall Renovation **$7,461,000**

This funding would provide for the comprehensive renovation of the 26-year old 49,000 square foot residence hall. Work would include upgrading existing fire safety systems and improving building accessibility.

Steam Distribution Improvements – Phase IV **$3,086,000**

This project would continue a comprehensive program to repair or replace steam distribution and condensate return lines on campus.

East Carolina University

Family Medicine Center – Supplement **$6,000,000**

The proposed increase would enable the campus to extend services from the central utility plant to the building and address the known change in bidding climate and increased costs.

North Carolina State University

Companion Animal Hospital **$34,000,000**

The facility would be a 115,000 square foot teaching hospital with clinical animal spaces and specialty practice areas. The current companion animal hospital functions would move from the existing main building and would provide much needed space for hospital growth. This project would make available approximately 35,000 square feet in the existing main building for use as classrooms, labs, offices, and outreach programs.

Residence Halls – Improvements and Infrastructure Expansion **$13,000,000**

This project would make improvements in campus residence halls including fire safety upgrades, elevator replacements, bathroom renovations, window repairs, interior renovations, and water pipe repairs. The project would also include the installation of new infrastructure, including roads and pathways, to connect the Greek Court area to the campus.

The University of North Carolina at Chapel Hill

College of Arts and Sciences – Digital Multimedia Center and Music Library **$4,000,000**

Rosenau Hall Laboratory Building – Comprehensive Renovation **$1,124,000**

Science Complex – Phase I **$20,000,000**

These three projects were authorized as part of the 2000 Higher Education Bond program and included partial funding from private gifts. The campus has requested the authority to borrow, if needed, funding on an interim basis until construction is complete.

Hanes Hall **$750,000**
The project would include renovation of the fourth floor to expand offices and interview suites for Career Services.

Genomic Sciences Building **$12,500,000**
This facility would provide 210,000 square feet of modern classrooms, laboratories, and offices, including nine wet labs, four bioinformatics labs, a 250-seat lecture hall, a 450-seat lecture hall, an 80-seat classroom, and four 30-seat seminar rooms, serving faculty, post-doctoral fellows, technicians, graduate students and undergraduates.

Electrical Infrastructure Improvements **$9,300,000**
This project would upgrade the medium voltage electrical distribution system at the south substation and continue the build-out of a ductbank serving campus electrical and telecommunications needs. The project includes high speed switches, breakers, cables, and upgraded control system.

Information Technology Infrastructure Improvements **$11,800,000**
This project would upgrade the campus and building fiber optics distribution system. Work would include WiFi connectivity, broadcast-quality video capabilities, network security, and real time communication projects.

Translational Medicine Program Facility Renovation **$4,000,000**
This project would renovate 12,000 square feet of space on the second floor of the Brinkhous-Bullitt Building serving the School of Medicine's Translational Medicine program. The work would create office and conference space that supports the program's translation of research results into clinical applications. Improvements to the building's systems and infrastructure are also included.

Henry Stadium Renovation **$2,000,000**
This project would replace the existing synthetic turf at Henry Stadium, due to age-related wear and tear, in order to improve the safe use of the facility.

Carmichael Auditorium – Supplement **$2,000,000**
Woollen Gymnasium – Supplement **$2,000,000**
The proposed increase would enable the campus to address the known change in bidding climate and the increased costs associated with preserving the necessary project scope.

McColl Building Expansion and Renovation **$6,500,000**
This proposed increase would enable the campus to address the increased costs associated with the original project scope and to renovate approximately 25,000 square feet of additional space on the first through fourth floors.

Bell Tower Development Parking **$30,000,000**
In order to accommodate additional development on campus, surface parking is being abolished to create space for new buildings. The parking deck in this plan would replace spaces lost to the construction of the Genome Sciences Building.

Chilled Water Infrastructure **$39,600,000**
The new plant in the Bell Tower parking lot is critical to the system's hydraulics. It is the oldest plant on campus, has reached the end of its useful life, and needs to be totally renovated and have its capacity increased.

The University of North Carolina at Pembroke

New Football/Multipurpose Tower **$2,000,000**

This project would provide an elevated, fully accessible building to support campus academic, recreational, athletic, and fund-raising activities.

The University of North Carolina at Wilmington

Residence Halls – Improvements **$5,000,000**

This project makes improvements to residence halls on campus including the replacement of existing fire alarm systems, installation of fire sprinkler systems, and updating bathrooms. This project would also replace two, 33-year-old elevators in Galloway Hall, a six-story residence hall serving 400 students.

Marine Biotechnology Research Facility **$15,000,000**

This project would build an approximately 60,000 square-foot marine biotechnology and aquaculture research facility. The facility will house the Marine Biotechnology Initiative as well as the Wilmington Branch of the North Carolina Oyster Hatchery Program and other initiatives seeking to develop and market commercial products from various Marine Science research initiatives.

Western Carolina University

Residence Halls – Construction/Acquisition **$44,560,000**

This project would replace two, 400-bed residence halls. Included in this project is the demolition of the old Dodson Cafeteria, a central cooling plant, and faculty offices for the Honors College which would create a living-learning environment to enhance the student learning experience by co-mingling faculty offices within the traditional residence hall setting.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 1332

Health Care Committee Substitute Adopted 6/20/07

Short Title: Raise Fee Ceil'g/Amend Hear. Aid Dealer Laws. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS BOARD TO RAISE THE CEILING ON CERTAIN FEES AND AMENDING AND UPDATING CERTAIN OTHER PROVISIONS UNDER THE LAWS REGULATING HEARING AID DEALERS AND FITTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93D-3(c)(14)f. reads as rewritten:

"(c) The Board shall:

...

(14) Have the power to set and collect fees in accordance with Chapter 150B of the General Statutes for the items listed in this subdivision and for other items for which this Chapter gives the Board the authority to set a fee:

...

f. For administering an examination, a fee not to exceed ~~seventy-five dollars ($75.00);~~three hundred dollars ($300.00); and

...."

SECTION 2. G.S. 93D-3(d) reads as rewritten:

"(d) ~~Out of the funds coming into the possession of said Board, each member thereof may receive as reimbursement for each day he is actually engaged in the assigned duties of his office, the sum of eight cents (8¢) per mile for travel plus the actual costs of meals and public lodging while away from home, which costs of meals and lodging may not exceed twenty dollars ($20.00) per day. Such~~Members of the Board shall be entitled to travel, per diem, and other expenses authorized by G.S. 93B-5. The expenses shall be paid from the fees and assessments received by the Board under the provisions of this Chapter. No part of these expenses or any other expenses of the Board, in any manner whatsoever, shall be paid out of the State treasury. All moneys received in excess of expense allowance and mileage, as above

provided, shall be held by the secretary-treasurer as a special fund for meeting other expenses of the Board and carrying out the provisions of this Chapter.

~~The secretary-treasurer shall give a bond to the Board to be approved by the Board, in the sum of five thousand dollars ($5,000) conditioned upon the faithful performance of the duties of his office.~~

The Board shall make an annual report of its proceedings ~~to the Governor on the first Monday in June of each year, which report shall contain an account of all moneys received and disbursed by the Board and a complete listing of names and addresses of all licensees and apprentices. Copies of the report and list of licensees and apprentices shall be filed in the office of the State Auditor, the Secretary of State, and Attorney General.~~in accordance with G.S. 93B-2."

SECTION 3. G.S. 93D-5 reads as rewritten:

"(a) No person shall begin the fitting and selling of hearing aids in this State unless the person has been issued a license by the Board or is an apprentice working under the supervision of a licensee. Except as hereinafter provided, each applicant for a license shall pay a fee set by the Board, not to exceed ~~one hundred fifty dollars ($150.00),~~two hundred fifty dollars ($250.00), which fee may be prorated by the Board, and shall show to the satisfaction of the Board that the applicant:

(1) Is a person of good moral ~~character,~~character.

(2) Is 18 years of age or ~~older,~~older.

(3) Has an education equivalent to a four-year course in an accredited high ~~school,~~school.

~~(4) Is free of contagious or infectious disease.~~

(b) Except as hereinafter provided, no license shall be issued to a person until he has successfully passed a qualifying examination administered by the Board.

(c) No license shall be issued to any person until ~~he~~ the person has served as an apprentice as set forth in G.S. 93D-9 for a period of at least one year; provided, that this subsection shall not apply to those persons qualified under G.S. 93D-6 nor to those persons holding masters degrees in Audiology or persons holding doctoral degrees in Audiology from an accredited training program who have undergone 250 hours of supervised activity fitting and selling hearing aids under the direct supervision of a licensed hearing aid dealer approved by the Board, or have met the licensure requirements under Article 22 of Chapter 90 of the General Statutes and have worked full time for one year fitting and selling hearing aids in the office of and under the direct supervision of an otolaryngologist and have participated in 250 hours of Board-supervised, continuing professional education in fitting hearing aids."

SECTION 4. G.S. 93D-11 reads as rewritten:

"**§ 93D-11. Annual fees; failure to pay; expiration of license; occupational instruction courses.**

Every licensed person who engages in the fitting and selling of hearing aids shall pay to the Board an annual license renewal fee in an amount set by the Board, not to exceed ~~one hundred fifty dollars ($150.00). Such~~two hundred fifty dollars ($250.00). The payment shall be made prior to the first day of April in each year. In case of default in payment the license shall expire 30 days after notice by the secretary-treasurer to the

last known address of the licensee by registered ~~mail.~~mail, certified mail, or in a manner provided by G.S. 1A-1, Rule 4(j)(1)d. The Board may reinstate an expired license upon the showing of good cause for late payment of fees, upon payment of said fees within 60 days after expiration of the license, and upon the further payment of a late penalty of twenty-five dollars ($25.00). After 60 days after the expiration date, the Board may reinstate the license for good cause shown upon application for reinstatement and payment of a late penalty of fifty dollars ($50.00) and the renewal fee. The Board may require all licensees to successfully attend and complete a course or courses of occupational instruction funded, conducted or approved or sponsored by the Board on an annual basis as a condition to any license renewal and evidence of satisfactory attendance and completion of any such course or courses shall be provided the Board by the licensee."

SECTION 5. G.S. 93D-13 reads as rewritten:

"**§ 93D-13. Discipline, suspension, revocation of ~~licenses.~~licenses; records.**

(a) The Board may in its discretion administer the punishment of private reprimand, suspension of license for a fixed period or revocation of license as the case may warrant in their judgment for any violation of the rules and regulations of the Board or for any of the following causes:

~~(1) Habitual drunkenness~~

(2) Gross ~~incompetence~~incompetence.

(3) ~~Knowingly fitting and selling hearing aids while suffering with a contagious or infectious disease~~Inability to perform the functions for which the person is licensed or substantial impairment of the person's ability to perform the functions for which the person is licensed by reason of physical or mental disability.

(4) Commission of a criminal offense indicating professional ~~unfitness~~unfitness.

(5) The use of a false name or alias in ~~his business~~his or her business.

(6) Conduct involving willful ~~deceit~~deceit.

(7) Conduct involving fraud or any other business conduct involving moral ~~turpitude~~turpitude.

(8) Advertising of a character or nature tending to deceive or mislead the ~~public~~public.

(9) Advertising declared to be unethical by the Board or prohibited by the code of ethics established by the ~~Board~~Board.

(10) Permitting another person to use ~~his license,~~his or her license.

(10a) Failure by a licensee to properly supervise an apprentice under ~~his supervision, and~~his or her supervision.

(11) For violating any of the provisions of this Chapter.

(b) Board action in revoking or suspending a license shall be in accordance with Chapter 150B of the General Statutes. Any person whose license has been suspended for any of the grounds or reasons herein set forth, may, after the expiration of 90 days but within two years, apply to the Board to have the same reissued; upon a showing satisfactory to the Board that ~~such~~ reissuance will not endanger the public health and

welfare, the Board may reissue a license to such person for a fee set by the Board, not to exceed two hundred dollars ($200.00). If application is made subsequent to two years from date of suspension, reissuance shall be in accordance with the provisions of G.S. 93D-8.

(c) Records, papers, and other documents containing information collected or compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with registration, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered by the Board in connection with a hearing is a public record. However, information that identifies a consumer who has not consented to the public disclosure of services rendered to the consumer by a person registered or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected or compiled by or on behalf of the Board shall be public records, provided that any information that identifies a consumer who has not consented to the public disclosure of services rendered to the consumer is deleted."

SECTION 6. This act is effective when it becomes law.

SENATE BILL 1332:
Raise Fee Ceil'g/Amend Hear. Aid Dealer Laws

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 16, 2007
Introduced by:	Sen. Purcell	**Summary by:**	Martha Walston
Version:	Second Edition		Committee Counsel

SUMMARY: Senate Bill 1332 makes the following changes to the statutes governing the North Carolina State Hearing Aid Dealers and Fitters Board:

- ***Increases the fees charged for licensure application, renewal, and examination.***
- ***Increases the reimbursement rate for Board member travel.***
- ***Authorizes the Board to serve notice of licensed expiration by registered mail, certified mail or depositing with a designated delivery service.***
- ***Provides that certain information collected as a result of an investigation conducted in connection with registration, licensure, or a disciplinary matter is not public record.***
- ***Makes technical changes.***

Senate Bill 1332 was given a favorable report in Senate Health Care.

CURRENT LAW: Persons fitting or selling hearing aids in North Carolina are required to be licensed by the North Carolina State Hearing Aid Dealers and Fitters Board (Board) or be an apprentice under the supervision of a licensee. An applicant for licensure must complete various requirements and pay a fee. Licenses must be renewed annually.

BILL ANALYSIS: Senate Bill 1332 authorizes the Board to raise certain fees and reimbursement rates as follows:

Type of Fee	Old Maximum	New Maximum
Examination fee	$75	$300
Issuance of license	$150	$250
Renewal of license	$150	$250
Type of Reimbursement		
Board member travel, per diem, and other authorized expenses	8¢ per mile Meals/Lodging- Actual rate not to exceed $20	As provided in G.S. 138-6(a) Mileage- 25¢ per mile Subsistence $81 in-State $93 out of State

The bill makes further substantive changes as follows:

Section 2 amends G.S. 93D-3(d) by removing the bonding requirement of the Board's secretary treasurer and by revising the travel reimbursement and reporting requirements.

Section 3 allows persons holding doctoral degrees in Audiology from an accredited training program to be issued a license as a hearing aid dealer and fitter without serving as an apprentice for a period of one year.

Section 4 changes the notice language by authorizing the Board to serve notice of license expiration by registered mail, certified mail, or by depositing with a designated delivery service in accordance with G.S. 1A-1, Rule 4(j)(1)d.

Section 5 adds a provision to GS 93D-13 to specify that documents containing information collected by the Board as a result of an investigation or inquiry conducted in connection with registration, licensure, or a disciplinary matter are not a public record. Notice, statement of charges and decisions rendered by the Board in connection with the hearing are public records. Information that identifies a consumer is not public unless the consumer consents to disclosure. The section also provides the Board the discretion to suspend a license for the inability to perform the functions for which a person is licensed.

Section 6 makes the act effective when it becomes law.

Shawn Parker, Legislative analyst to Senate Health Care, substantially contributed to this summary.

S1332e2-SMLA

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 1332 (Second Edition)

SHORT TITLE: Raise Fee Ceil'g/Amend Hear. Aid Dealer Laws.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	No General Fund Impact				
NC Hearing Aid Dealers and Fitters Board	$ 83,025	$ 86,000	$ 88,975	$ 91,950	$ 94,925
EXPENDITURES:					
General Fund	$0	$0	$0	$0	$0
POSITIONS (cumulative):	0	0	0	0	0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina State Hearing Aid Dealers and Fitters Board.

EFFECTIVE DATE: Upon ratification.

BILL SUMMARY:

This bill increases the maximum fees that may be charged for licensure examinations, travel expenses for the Board, and license applications and renewals. The bill adds a provision to G.S. 93D-13 to specify that documents containing information collected by the Board as a result of an investigation or inquiry conducted in connection with registration, licensure, or a disciplinary matter are not public record, except that notices, statements of charges, or decisions rendered in a disciplinary matter are public record. The bill provides that information identifying a consumer is not public unless the consumer consents to disclosure and makes other clarifying and technical changes. The bill also amends G.S. 93D-11 to provide that in the case of a default in payment, in addition to by mail, the notice to the licensee may be sent by certified mail, or in a manner provided for in G.S. 1A-1, Rule 4(j) (1) d (by depositing with a designated delivery service a copy of the summons and complaint, addressed to the party to be served, delivering to the addressee, and obtaining a delivery receipt).

Source: Bill Digest S.B. 1332 (03/21/0200)

ASSUMPTIONS AND METHODOLOGY: Senate Bill 1332 raises fees for three items which are summarized in table 1 below.

Table 1

FEE SCHEDULE	Current	Proposed	Increase
Exam	$ 75	$ 300	$ 225
Application	$ 150	$ 250	$ 100
Renewal	$ 150	$ 250	$ 100

The number of individuals subject to the fees are based off of 2006-07 actual numbers and are grown at 3% from year to year. Anyone paying for the exam is required to pay the application fee at the same time so these figures will always be in parity. The Board estimates that the number of individuals subject to the yearly renewal fee grows at an average of 20 individuals in a fiscal year. Based on this information the Board can expect the following revenue stream:

Table 2

FISCAL IMPACT	2007-08	2008-09	2009-10	2010-11	2011-12
Exam	97	100	103	106	109
Application	97	100	103	106	109
Renewal	515	535	555	575	595
Exam	$ 21,825	$ 22,500	$ 23,175	$ 23,850	$ 24,525
Application	$ 9,700	$ 10,000	$ 10,300	$ 10,600	$ 10,900
Renewal	$ 51,500	$ 53,500	$ 55,500	$ 57,500	$ 59,500
TOTAL	$ 83,025	$ 86,000	$ 88,975	$ 91,950	$ 94,925

North Carolina State Hearing Aid Dealers and Fitters Board:
This bill makes changes to the way the Board distributes travel reimbursement to its members, specifically compelling it to adhere to G.S. 93B-5. As the Board already complies with the provisions of G.S. 93B-5, the expansion of duties and responsibilities in the bill has no fiscal impact.

SOURCES OF DATA: North Carolina State Hearing Aid Dealers and Fitters Board.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Reynolds, Doug Holbrook, and Joseph Futima.

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 16, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 831

Commerce, Small Business and Entrepreneurship Committee Substitute Adopted 6/5/07

PROPOSED COMMITTEE SUBSTITUTE S831-CSTD-30 [v.4]

7/17/2007 8:21:25 PM

Short Title: Wireless Telecommunications Facilities. (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT STREAMLINING LOCAL GOVERNMENT REGULATION OF WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES AND THE COLLOCATION OF WIRELESS FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 160A of the General Statutes is amended by adding a new Part 3E to read:

"Part 3E. Wireless Telecommunications Facilities.

"**§ 160A-400.50. Purpose and Compliance with Federal Law.**

(a) The purpose of this section is to ensure that the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare. The following standards shall apply to a city's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, and in accordance with the rules promulgated by the Federal Communications Commission.

"**§ 160A-400.51. Definitions.**

The following definitions apply in this Part.

(1) Antenna. – Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Application. – A formal request submitted to the city to construct or modify a wireless support structure of a wireless facility.

(3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.

(4) Collocation. – The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles and water tanks.

(5) Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables or wires for telephone, cable television, or electricity, or to provide lighting.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 160A-400.52. Construction of wireless facilities and wireless support structures.**

(a) A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, and setbacks, or State and local building code requirements, consistent with the provisions of federal law provided in 160A-400.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

(b) Any person that proposes to construct or modify a wireless support structure or wireless facility within the planning and land use jurisdiction of a city must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A city's review of an application for the placement, construction, or modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the city may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. In reviewing an application the city may review the following:

(1) Applicable public safety, land use, or zoning issue addressed in its adopted regulations that do not conflict with this Part, including, aesthetics, landscaping, land use based location priorities, structural design, and setbacks.

(2) Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or previously approved structure can reasonably be used for the antenna placement instead of the construction of a new tower, that residential areas cannot be served from outside the residential area, or that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the applicant's designed service

(3) A city may require applicants for new wireless support structures to evaluate the reasonable feasibility of collating new antennas and equipment on an existing structure or structures within the applicant's search ring. Collocation on an existing structure is not reasonably feasible if contractual, economic, or engineering impediments prevent collocation.

(d) An application shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission, in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53, or 60 days of submission, in the case of other applications, or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials address the deficiencies identified.

(e) The city shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53(c) and (d) and within a reasonable period of time consistent with the issuance of other land use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A city may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing and approval of an application to site or modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a city on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee, and shall be

based on the reasonable costs to be incurred by the city in connection with the regulatory review authorized under this section. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant.

(g) The city may condition the issuance of a building permit, certificate of completion, or applicable land use permit authorizing the construction of a new wireless support structure on the provision of documentation prior to construction or occupation of the structure establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A city shall not deny an initial land use or zoning permit based on a showing of such documentation.

(h) The city may not require the placement of wireless support structures or wireless facilities on city owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on city owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"**§ 160A-400.53. Collocation of wireless facilities.**

(a) Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.

(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(c) Applications for collocation that meet all the following requirements shall also be entitled to streamlined processing:

(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.

(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.

(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.

(4) The additional wireless facilities comply with all federal, state and local safety requirements.

(5) The collocation does not exceed the applicable weight limits for the wireless support structure.

SECTION 2. Article 18 of Chapter 153A of the General Statutes is amended by adding a new Part 3B to read:

"Part 3B. Wireless Telecommunications Facilities.

"**§ 153A-349.50. Purpose and Compliance with Federal Law.**

(a) Purpose. – The purpose of this section is to ensure that the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare. The following standards shall apply to a county's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) Compliance with the Federal Communications Act. – The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, and in accordance with the rules promulgated by the Federal Communications Commission.

"**§ 153A-349.51. Definitions.**

The following definitions apply in this Part.

(1) Antenna. – Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Application. – A formal request submitted to the county to construct or modify a wireless support structure of a wireless facility.

(3) Building permit. – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.

(4) Collocation. – The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles and water tanks.

(5) Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables or wires for telephone, cable television, or electricity, or to provide lighting.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 153A-349.52. Construction of wireless facilities and wireless support structures.**

(a) A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, and setbacks, or State and local building code requirements, consistent with the provisions of federal law provided in 153A-349.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

(b) Any person that proposes to construct or modify a wireless support structure or wireless facility within the planning and land use jurisdiction of a county must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A county's review of an application for the placement, construction, or modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the county may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. In reviewing an application the county may review the following:

(1) Applicable public safety, land use, or zoning issue addressed in its adopted regulations that do not conflict with this Part, including, aesthetics, landscaping, land use based location priorities, structural design, and setbacks.

(2) Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or previously approved structure can reasonably be used for the antenna placement instead of the construction of a new tower, that residential areas cannot be served from outside the residential area, or that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the applicant's designed service

(3) A county may require applicants for new wireless support structures to evaluate the reasonable feasibility of collating new antennas and equipment on an existing structure or structures within the applicant's

search ring. Collocation on an existing structure is not reasonably feasible if contractual, economic, or engineering impediments prevent collocation.

(d) An application shall be deemed complete unless the county provides notice in writing to the applicant within 45 days of submission, in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53, or 60 days of submission, in the case of other applications, or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials address the deficiencies identified.

(e) The county shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53(c) and (d) and within a reasonable period of time consistent with the issuance of other land use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A county may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing and approval of an application to site or modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a county on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee, and shall be based on the reasonable costs to be incurred by the county in connection with the regulatory review authorized under this section. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant.

(g) The county may condition the issuance of a building permit, certificate of completion, or applicable land use permit authorizing the construction of a new wireless support structure on the provision of documentation prior to construction or occupation of the structure establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A county shall not deny an initial land use or zoning permit based on a showing of such documentation.

(h) The county may not require the placement of wireless support structures or wireless facilities on county owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on county owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"**§ 153A-349.53. Collocation of Wireless Facilities.**

(a) Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.

(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(c) Applications for collocation that meet all the following requirements shall also be entitled to streamlined processing:

(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.

(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.

(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.

(4) The additional wireless facilities comply with all federal, state and local safety requirements.

(5) The collocation does not exceed the applicable weight limits for the wireless support structure.

SECTION 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 4. This act becomes effective December 1, 2007.

SENATE BILL 831:
Wireless Telecommunications Facilities

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 17, 2007
Introduced by:	Sen. Hoyle	**Summary by:**	Heather Fennell
Version:	PCS to Second Edition S831-CSTD-30		Committee Counsel

SUMMARY: ***Senate Bill 831 outlines requirements of local government regulation of wireless facilities and wireless support structures and the collocation of wireless facilities. The PCS to Senate Bill 831 makes the following changes to the bill:***

- ***Recodifies the provisions into the land use statues for cities and counties.***
- ***Changes the following fees and procedures for the application process:***

  1) Removes the cap on consultant fees associated with the application process. Consultant fees must now be included in application and permit fees and must be based on the reasonable costs incurred by the local government in the application process.

  2) Eliminates the time limit for initial local government action on an application; changes the time limit for initial local government action on streamlined processing to 45 days.

  3) Extends the time from 30 days to 60 days for regular applications and 45 days for streamlined collocation applications from which an application will be deemed complete unless the local government notifies the applicant of a deficiency in the application.

- ***Now prohibits the construction of wireless facilities that do not have immediate prospect of a tenant.***
- ***The following restrictions on local government regulation of wireless facilities in the 2nd Edition of the bill have been removed:***

  1) Limitations on the surety requirements for removal of abandoned or unused facilities.

  2) Limitation on the duration of permits.

  3) Prohibition on restriction of placement in residential areas.

  5) Limitations on separation requirements between facilities.

  6) Limitations on requirements of emergency power systems.

  7) Limitations on Distributed Antenna Systems requirements.

- ***Changes the effective date of the legislation to December 1, 2007.***

BILL ANALYSIS:

Sec. 1. Creates a new Part, Part 3E of Article 19 of Chapter 160A concerning the municipal regulation of wireless facilities (equipment and network components necessary to provide wireless service) and wireless support structures (new or existing structures designed support wireless facilities).

Sec. 2. Creates a new Part, Part 3B of Article 18 of Chapter 153A concerning county regulation of wireless facilities and wireless support structures.

Both Sections 1 and 2 have the following provisions:

Regulation: Local governments may regulate the siting and modification of wireless facilities and wireless support structures based on considerations of land use, public safety and zoning considerations. These regulations may include aesthetics, landscaping, structural design, setbacks, and State and local building code requirements so long as the regulations are consistent with federal law. For the purposes of this Part, "public safety" may not include requirements relating to radio frequency emissions of wireless facilities. Any person that proposes to construct or modify a wireless facility or wireless support structure must comply with local ordinances concerning land use and applicable permitting processes.

Application: Applications may include information on applicable public safety, land use or zoning regulations. Applications may also require applicants for new facilities to evaluate the reasonable feasibility of collocation of facilities, but collation is not reasonably feasible if contractual, economic, or engineering impediments prevent collocation. Information concerning an applicants business decisions regarding service, customer demand, or quality of service may not be reviewed or required in the application process.

Applications are deemed complete if the local government fails to notify applicants of deficiencies in an application in 60 days. For applications eligible for streamlined process, the time is 45 days.

Local governments are required to provide a written decision within 45 days of submission for applications eligible for streamlined processing.

Local governments may charge application fees and consulting fees for the review of applications. Fees must be based on the costs incurred by the local government in the application process. Any charges or fees in relation to consultant services must be fixed in advance and included in the permit or application fee.

Building permits for new wireless facilities or wireless support structures may be denied if the facility does not have an immediate prospect of a tenant. However, building permits may not be denied based on the identity of the prospective tenant.

Local governments may not require wireless facilities or wireless support structures to be placed on government owned or leased property, but may encourage the siting of facilities on government owned or leased property.

Collocation: Collocation is the installation of new wireless facilities on previously-approved structures. Applications for collocation that meet the requirements of this section are eligible for streamlined processing and are reviewed for conformance with applicable site plans and building permits but are not subject to zoning requirements or public hearing review.

Collocation applications for wireless facilities are eligible for streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed. This provision applies to wireless support structures which are approved on or after December 1, 2007.

Collocation applications are also eligible for streamlined processing if the application meets all of the following requirements:

(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.
(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.

(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.
(4) The additional wireless facilities comply with all federal, state and local safety requirements.
(5) The collocation does not exceed the applicable weight limits for the wireless support structure.

EFFECTIVE DATE:

S0831e2-SMTD-CSTD-30

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 150 (Second Edition)

SHORT TITLE: Outdoor Adv. Vegetation Removal Changes.

SPONSOR(S): Senator Jenkins

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	**Amount cannot be determined.**				
EXPENDITURES:					
Correction:	**No significant impact is anticipated. Exact amount cannot be determined. See Assumptions and Methodology, p. 2-3**				
Judicial:					
ADDITIONAL PRISON BEDS:	**None anticipated; impact on local jails cannot be quantified.**				
POSITIONS (cumulative):	**None anticipated.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Government

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: Changes the Department of Transportation outdoor advertising selective vegetation removal policy to authorize a five hundred foot removal zone, as recommended by the Joint Legislative Transportation Oversight Committee. (Identical to H 49)

The proposed committee substitute makes the following changes to the 1st edition of the bill:

- Amends GS 136-18.7 to increase the fee for a selective vegetation removal permit issued pursuant to GS 136-18(5), (7), and (9) from $200 to $300. Makes the fee nonrefundable.
- Amends GS 136-93 by adding new subsection (b) to provide for fines in addition to any penalty imposed by the court ranging from $2,000 to a maximum of $30,000 for trimming or removing a tree in violation of the statute.

- Amends GS 136-129 (limitations of outdoor advertising devices) to provide guidelines regarding spacing of legally erected advertising structures, fees for those structures, designation by the Department of Transportation (DOT) of a portion of the fees for restoration funds, and limitations on fees or charges for restoration or compensatory replacement of vegetation.
- Modifies proposed new GS 136-133.1 (outdoor advertising selective vegetation removal) to provide guidelines as to vegetation permitted to be removed from the maximum removal area determined by applying metes and bounds described in GS 136-133.1. Also modifies the distances used to determine the maximum removal area. Additionally provides guidelines governing the removal of vegetation and violations that may result in the temporary or permanent revocation of an advertising permit. Directs that the issuance of permits to remove vegetation are available at the sole discretion of DOT only for locations that have been permitted for at least two years and provides that a party who loses an appeal of an outdoor advertising permit revocation has to forfeit all revenue generated by the outdoor advertising from the date of the revocation to the date of the court decision or settlement to DOT.
- Changes the title of the bill.

Source: Bill Digest S.B. 150v2

ASSUMPTIONS AND METHODOLOGY:

General

In effect, the addition of proposed G.S. 136-133.1, which delineates the maximum area and parameters for vegetation removal with regard to outdoor advertising, creates a new offense for violation of Article 11, Chapter 136. Current G.S. 136-135 provides that it is unlawful for anyone to place, erect, or "maintain" outdoor advertising along the interstate system or primary system in violation of Article 11 or rules adopted by the Department of Transportation. Therefore, *the removal of vegetation outside the boundaries prescribed by S.B. 150 would constitute "maintenance" of advertising in violation of Article 11, a Class 1 misdemeanor offense under G.S. 136-135.*

Because this proposed offense is new, there is no historical data from which to estimate the potential frequency of violation, or resultant charges and convictions. Thus, Fiscal Research cannot quantify the impact of this proposal. In addition, the Administrative Office of the Courts presently does not maintain an offense code for G.S. 136-135, indicating that offenses under this statute are infrequently charged and/or infrequently result in conviction. *Accordingly, given the nature of this offense and existing penalty level, Fiscal Research does not anticipate a significant impact due to this proposed legislation.*

Department of Correction: Division of Prisons

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.* Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

Because Class 1 misdemeanants serve their designated terms of incarceration within local jails, any resultant active sentence due to this proposal should not impact the state's prison population.[1] The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Accordingly, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Department of Correction: Division of Community Corrections

In FY 2005-06, 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if future convictions for the proposed offense were to occur, the Division of Community Corrections (DCC) would likely assume some additional costs for offenders placed under its supervision.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of $0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from $7.71 to $14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated $14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

There is no readily available data from which to determine the number charges that might occur for violation of G.S. 136-133.1. However, the Administrative Office of the Courts expects that any additional cases resulting from this proposal would increase court-time requirements and workloads for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. Presently, the estimated cost per Class 1 misdemeanor trial is $3,702; the estimated cost per plea is $243. Actual costs may vary from this general estimate, which includes indigent defense costs.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

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[1] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

PREPARED BY: Jean Sandaire & Bryce Ball

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 17, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 831

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S831-ATD-10 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Senator Hoyle

moves to amend the bill on page 3 line 21 by substituting the word "facilities" for "support structures;"

and on page 3 line 22 by substituting the word "collocating" for "collating."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 150*

Commerce, Small Business and Entrepreneurship Committee Substitute Adopted 6/14/07

PROPOSED COMMITTEE SUBSTITUTE S150-CSSVf-46 [v.4]

7/18/2007 11:32:30 AM

Short Title: Outdoor Adv. Vegetation Removal Changes. (Public)

Sponsors:

Referred to:

February 14, 2007

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DEPARTMENT OF TRANSPORTATION OUTDOOR ADVERTISING SELECTIVE VEGETATION REMOVAL POLICY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18.7 reads as rewritten:

"**§ 136-18.7. Fees.**

The fee for a selective vegetation removal permit issued pursuant to G.S. 136-18(5), (7), and (9) is ~~two hundred dollars ($200.00).~~three hundred dollars ($300.00) per permitted site and is nonrefundable."

SECTION 2. G.S. 136-93 reads as rewritten:

"**§ 136-93. Openings, structures, pipes, trees, and issuance of permits.**

(a) No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, and no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed, and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms,

or corporations to whom the permit is given, or by whom the work is done. The Department of Transportation, or its duly authorized officers, may, in its discretion, before granting a permit under the provisions of this section, require the applicant to file a satisfactory bond, payable to the State of North Carolina, in such an amount as may be deemed sufficient by the Department of Transportation or its duly authorized officers, conditioned upon the proper compliance with the requirements of this section by the person, firm, or corporation granted such permit. Any person making any opening in a State road or State highway, or placing any structure thereon, or changing or removing any structure thereon without obtaining a written permit as herein provided, or not in compliance with the terms of such permit, or otherwise violating the provisions of this section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall not apply to railroad crossings. The railroads shall keep up said crossings as now provided by law.

(b) A person who violates this section by trimming or removing a tree shall, in addition to any other penalty imposed by the court, pay a fine of two thousand dollars ($2,000) per tree, and a maximum fine of thirty thousand dollars ($30,000). As applicable to this subsection, a tree is defined as a tree with a trunk diameter of four inches or greater, as measured six inches from the ground."

SECTION 3. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

(a) No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas.

(b) On controlled routes with fully controlled access no two legally erected outdoor advertising structures shall be spaced less than 500 feet apart. On controlled routes without fully controlled access outside of incorporated municipalities no two structures shall be spaced less than 500 feet apart.

(c) The fee for outdoor advertising structures specified in subdivisions (a)(4) and (a)(5) of this section shall not exceed one hundred fifty dollars ($150.00) for the initial fee and ninety dollars ($90.00) for the annual renewal fee.

(d) The Department of Transportation shall designate thirty dollars ($30.00) of each initial and annual renewal fee for restoration funds for compensatory replacement of vegetation removed within the highway rights-of-way for opening views to legally erected forms of outdoor advertising that is located adjacent to State highway rights-of-way. The Department shall use the restoration funds received for removal of vegetation under this subsection for replacement planting along the highway rights-of-way.

(e) Except as authorized under subsection (d) of this section, no other fees or charges shall apply for restoration or compensatory replacement of vegetation permitted to be removed under G.S. 136-133.1 within the highway rights-of-way for opening views to legally erected forms of outdoor advertising structures that are located adjacent to highway rights-of-way."

SECTION 4. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-133.1. Outdoor advertising selective vegetation removal.**

(a) The maximum removal area for vegetation for each sign face shall be determined as follows:

(1) The point located on the edge of the right-of-way that is the closest point to the centerline of the sign face shall be point A.

(2) The point located 150 feet down the right-of-way line in the direction of the sign viewing zone shall be point B.

(3) The point on the edge of the pavement of the travel way that is the closest to the centerline of the sign shall be point C.

(4) The point 50 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point D.

(5) The point 375 feet down the edge of pavement in the direction of the sign viewing zone from point C shall be point E.

(6) Lines drawn from point A to point D and from point B to point E shall define the limits of the vegetation removal area.

(b) Vegetation permitted to be removed shall be defined as any tree, shrub, or plant growing within the ABED removal zone that blocks or will be blocking the sign

face of the outdoor advertising. Any tree that was in existence before an outdoor advertising structure was erected shall not be eligible for removal. As applicable to this subsection, a tree is defined as a tree with a diameter of four inches or greater, as measured six inches from the ground.

(c) No person shall cut, trim, or otherwise cause to be removed vegetation that is in front of or adjacent to outdoor advertising and also within the limits of highway rights-of-way for the purpose of enhancing the visibility of outdoor advertising unless permitted to do so by the Department of Transportation.

(d) Permits to remove vegetation may be granted only for outdoor advertising locations that have been permitted at least two years and then only at the sole discretion of the Department of Transportation.

(e) If a person or company who is legally responsible for the outdoor advertising structure removes or causes to be removed vegetation that is in front of or adjacent to an outdoor advertising sign and also within a highway right-of-way without a permit and the removal has the effect of enhancing the visibility of the outdoor advertising, the outdoor advertising is illegal and shall be removed from the sign structure at that person's or company's expense.

(f) If a person or company who is legally responsible for the outdoor advertising structure is convicted of violating subsection (c) of this section, the person or company shall not be eligible for an outdoor advertising permit or selective vegetation permit at the specific location of the violation for the period of time indicated by subdivisions (1), (2), and (3) of this subsection:

(1) For a first violation: one year.

(2) For a second violation: five years.

(3) For a third violation: ineligibility is permanent.

(g) Any person or company who is convicted of violating subsection (b) or (c) of this section shall reimburse the Department of Transportation for cleaning or replanting at the site of the violation. Until the expenses are reimbursed, the person or company shall not be issued a permit for outdoor advertising or selective vegetation removal at the specific location of the violation.

(h) Any person or company who is legally responsible for an outdoor advertising structure that appeals an outdoor advertising permit revocation to a court and loses the appeal or settles prior to the hearing of the case shall forfeit to the Department of Transportation all revenues generated by the outdoor advertising from the date of revocation to the date of the court decision or settlement."

SECTION 5. This act becomes effective December 1, 2007, and applies to permits applied for on or after that date and offenses that occur on or after that date.

SENATE BILL 150:
Outdoor Adv. Vegetation Removal Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 18, 2007
Introduced by:	Sen. Jenkins	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition S150-CSSV		Committee Counsel

SUMMARY: ***Senate Bill 150 would make the following changes to the Department of Transportation's outdoor advertising and selective vegetation removal policies:***

- ***Increases permit fee from $200 to $300 for outdoor advertising and vegetation removal.***
- ***Increases penalties for removing vegetation without a permit or in violation of restrictions.***
- ***Provides limits on spacing of outdoor advertising structures.***
- ***Provides for a portion of the outdoor advertising permit fee to be used for replacement planting on highway rights-of way.***
- ***Increases the vegetation removal zone for outdoor advertising.***
- ***Specifically prohibits removal of vegetation without a permit from the Department.***
- ***Allows vegetation removal permits only for outdoor advertising locations that have been permitted for at least two years.***
- ***Provides that if an outdoor advertising permit is revoked, and the responsible person appeals the revocation to a court but ultimately loses or settles, the person shall forfeit to the Department any revenue generated by the advertising from the date of revocation to the date of the court decision or settlement.***

The Proposed Committee Substitute changes the effective date.

BILL ANALYSIS: The North Carolina General Statutes generally authorize the Department of Transportation to regulate outdoor advertising and the removal of vegetation on State highway rights-of way. The Department has adopted rules that provide for permitting of these activities. Senate Bill 150 would amend the General Statutes to change the Department's policies on outdoor advertising and vegetation removal in the following ways:

Permit fee for vegetation removal. Section 1 would increase the permit fee for vegetation removal from $200 to $300.

Penalty for removing trees without permit. Section 2 would provide for a mandatory monetary penalty for trimming or removing trees on State highways without a permit. G.S. 136-93 prohibits trimming or removing trees without a permit and makes it a Class 1 misdemeanor to violate the provision. A Class 1 misdemeanor is punishable by up to 120 days and a fine in the discretion of the court. The bill would provide for a mandatory fine of $2000 per tree, with a maximum fine of $30,000.

Spacing of outdoor advertising structures. Section 3 would provide that outdoor advertising structures may not be spaced less than 500 feet apart on controlled routes with fully controlled access or controlled routes without fully controlled access outside incorporated municipalities. Currently, the rules prohibit structures less than 500 feet apart on controlled routes with fully controlled access and less than 300 feet apart on controlled routes without fully controlled access outside incorporated municipalities.

Permit fee for outdoor advertising. Section 3 would also increase the initial fee for outdoor advertising structures to $150 and the renewal fee to $90, with $30 of each going to restoration funds to be used for replacement planting on highway rights-of way. Additional fees for restoration would be prohibited. Currently, the rules provide for an initial fee of $120 and a renewal fee of $60.

Vegetation removal zone. Section 4 would increase the selective vegetation removal zone for outdoor advertising from 250 feet to 375 feet. The current rule allows for a removal zone that is 250 feet out at its farthest point from the face of a legally erected billboard. The outdoor advertising industry has asked to increase the zone to 500 feet, but the Department has not amended its policy. It also increases the removal zone at its farthest point from the face of the billboard from 250 feet to 375 feet.

Vegetation removal permit. Section 4 would also specifically prohibit removal of vegetation for the purpose of enhancing the visibility of outdoor advertising without a permit from the Department. Violation would be a Class 1 misdemeanor. It would also allow vegetation removal permits only for outdoor advertising locations that have been permitted for at least two years and then only at the discretion of the Department.

Additional penalties for violations. Section 4 would provide the following additional penalties for removing vegetation in violation of the provisions of this act:

- Removing vegetation without a permit, which has the effect of enhancing the visibility of the advertising – advertising would be considered illegal and responsible person would have to remove the advertising at that person's expense.
- Removing vegetation without a permit – person convicted would not be eligible for an outdoor advertising or vegetation removal permit at the location of the violation for one year for first violation, five years for second violation, and permanently for third violation.
- Removing vegetation without a permit or removing trees that are not eligible to be removed – person convicted would be required to reimburse the Department for cleaning and replanting at the site.

Forfeiture of revenue generated by unauthorized advertising. Section 4 would also provide that, if an outdoor advertising permit is revoked, and the responsible person appeals the revocation to a court but ultimately loses or settles, the person shall forfeit to the Department any revenue generated by the advertising from the date of revocation to the date of the court decision or settlement.

EFFECTIVE DATE: The act would become effective December 1, 2007, and apply to permits issued on or after or offenses committed on or after that date.

Wendy Ray, counsel to Senate Commerce, substantially contributed to this summary.

S0150e2-SMSV-CSSV

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 150 (Second Edition)

SHORT TITLE: Outdoor Adv. Vegetation Removal Changes.

SPONSOR(S): Senator Jenkins

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12

REVENUES: **Amount cannot be determined.**

EXPENDITURES:

Correction:

No significant impact is anticipated. Exact amount cannot be determined. See Assumptions and Methodology, p. 2-3

Judicial:

ADDITIONAL PRISON BEDS: **None anticipated; impact on local jails cannot be quantified.**

POSITIONS (cumulative): **None anticipated.**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Government

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: Changes the Department of Transportation outdoor advertising selective vegetation removal policy to authorize a five hundred foot removal zone, as recommended by the Joint Legislative Transportation Oversight Committee. (Identical to H 49)

The proposed committee substitute makes the following changes to the 1st edition of the bill:

- Amends GS 136-18.7 to increase the fee for a selective vegetation removal permit issued pursuant to GS 136-18(5), (7), and (9) from $200 to $300. Makes the fee nonrefundable.
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- Changes the title of the bill.

Source: Bill Digest S.B. 150v2

ASSUMPTIONS AND METHODOLOGY:

General

In effect, the addition of proposed G.S. 136-133.1, which delineates the maximum area and parameters for vegetation removal with regard to outdoor advertising, creates a new offense for violation of Article 11, Chapter 136. Current G.S. 136-135 provides that it is unlawful for anyone to place, erect, or "maintain" outdoor advertising along the interstate system or primary system in violation of Article 11 or rules adopted by the Department of Transportation. Therefore, *the removal of vegetation outside the boundaries prescribed by S.B. 150 would constitute "maintenance" of advertising in violation of Article 11, a Class 1 misdemeanor offense under G.S. 136-135.*

Because this proposed offense is new, there is no historical data from which to estimate the potential frequency of violation, or resultant charges and convictions. Thus, Fiscal Research cannot quantify the impact of this proposal. In addition, the Administrative Office of the Courts presently does not maintain an offense code for G.S. 136-135, indicating that offenses under this statute are infrequently charged and/or infrequently result in conviction. *Accordingly, given the nature of this offense and existing penalty level, Fiscal Research does not anticipate a significant impact due to this proposed legislation.*

Department of Correction: Division of Prisons

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.* Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

Because Class 1 misdemeanants serve their designated terms of incarceration within local jails, any resultant active sentence due to this proposal should not impact the state's prison population.[1] The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Accordingly, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

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Judicial Branch

There is no readily available data from which to determine the number charges that might occur for violation of G.S. 136-133.1. However, the Administrative Office of the Courts expects that any additional cases resulting from this proposal would increase court-time requirements and workloads for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. Presently, the estimated cost per Class 1 misdemeanor trial is $3,702; the estimated cost per plea is $243. Actual costs may vary from this general estimate, which includes indigent defense costs.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

[1] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

PREPARED BY: Jean Sandaire & Bryce Ball

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 17, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE FINANCE COMMITTEE
Wednesday, July 25, 2007 at 1:00 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met in room 544 of the Legislative Office Building, on Wednesday, July 25, 2007, at 1:00 p.m. Thirty-one members of the committee were present. Senator John Kerr and Senator Daniel Clodfelter presided. Sarah Shanks of Graham, Lauren Allen of Raleigh, David Kaminski of Stanley, Holly Norris of Wilmington, Nash Dunn of Asheboro, Elise Seay of Greensboro and Ashlyn Congdon of High Point served as pages.

S.B. 1492 – Solid Waste Management Act of 2007.

George Givens, Research Division staff attorney, was recognized to explain the bill. Robin Smith, Assistant Secretary of Environment, Department of Environment and Natural Resources; Jim Stephenson, NC Coastal Federation Policy Director; and Krista Wagner, NC Sierra Club, were recognized to speak in favor of the bill. David Barnes, Carolina Chapter/NC Solid Waste Management lobbyist; Paul Meyer, NC Association of County Commissioners; Greg Peverall, Solid Waste Management Services; Jack Cozort, Dell Computers lobbyist; and Thomas Moore, Hewlett Packard lobbyist; were recognized to speak in opposition to the bill and answer questions. Senator Cowell offered an amendment for mass computer manufacturers exemptions and moved for its adoption. The motion carried. Senator Smith offered an amendment and moved for its adoption. The motion carried. Senator Weinstein moved for a favorable report as amended and the motion carried. Senator Brunstetter excused himself from the room and did not participate in the vote. A copy of the bill, the summary, the fiscal note and the amendments is attached.

H.B. 429 – Canal Dredging Fee/Brunswick Fire Fees.

Representative Bonner was recognized to explain the bill. Senator Soles moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Hartsell moved for a favorable report and the motion carried. Senator Berger moved to reconsider the bill for an amendment offered by Senator Soles. The motion carried. Senator Soles moved to adopt the amendment and the motion carried. Senator Soles moved to adopt the proposed committee substitute as amended and the motion carried. A copy of the PCS, the fiscal note and the amendment is attached.

H.B. 291 – Sudan (Darfur) Divestment Act.

Representatives Jones, Coates, and Harrison were recognized to explain the bill. Adam Sterling, Sudan Divestment Task Force, and Carrie Gorman, NC Sudan Divestment Campaign, were recognized to speak in favor of the bill. Starla Huggins, State Treasurer's office, was recognized to express some concerns and requested changes. The bill was discussed, but not voted on. A copy of the bill is attached.

S.B. 684 – Spay/Neuter Funding.

Senator Kinnaird was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Hartsell moved for a favorable report, but Senator Clodfelter held the vote. Sam Hunt, Pet Adoption and Welfare Society cochair, was recognized to speak in favor of the bill and answer questions. Dr. Mary Ann McBride, Assistant State Veterinarian for the NC Department of Agriculture, spoke in favor of the bill. Henry Jones, NC Veterinary Medical Association lobbyist, was recognized to introduce Mollie Rasor, NC Veterinary Medical Association Executive Director, who spoke in opposition to the bill. A copy of the bill, the summary, the fiscal note and handouts is attached.

H.B. 862 – Amend Plant Protection and Conservation Act - AB.

Representative Hill was recognized to explain the bill. Senator Soles moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 535 – Criminal Background Reviews – EMS Personnel.

Senator Albertson moved to adopt the proposed committee substitute for discussion and the motion carried. Cindy Avrette, Research Division staff attorney, was recognized to explain the bill. Senator Tillman made a motion for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

S.B. 1392 – Sales Tax Relief for Certain Textbooks.

Senator Brown was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Greg Doucette, NC State University Student Senate President, was recognized to speak in favor of the bill and to answer questions. The bill was taken up for discussion only. A copy of the proposed committee substitute and the summary is attached.

S.B. 1073 – Tax Credit – Wheelchair Patient Exam Tables.

Senator Swindell was recognized to explain the bill and moved to adopt the proposed committee substitute for adoption. The motion carried. Dr. Willis Martin was recognized to speak in favor of the bill and to answer questions. The bill was taken up for discussion only. A copy of the proposed committee substitute, the summary, and the fiscal note is attached.

S.B. 1485 – Amend NC Appraisers Act/Fees.

Senator Soles moved to adopt the proposed committee substitute for discussion and the motion carried. Phillip Humphreys, NC Appraisal Board Executive Director, was recognized to explain the bill and answer questions. Senator Soles moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary, the fiscal note and handouts is attached.

H.B. 944 – Harnett/Subdivision Recreation Facilities.

This bill was pulled from the agenda.

S.B. 1391 – Sales Tax Relief for School Supplies.

Due to time constraints, this bill was not heard.

H.B. 825 – Child Support Collection Fee/Non-TANF Family AB.

Due to time constraints, this bill was not heard.

The meeting adjourned at 2:38 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	July 25, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 429	Beach Towns/Canal Dredging Fee.	Representative Stiller
HB 535	Criminal Background Reviews- EMS Personnel.	Representative Wainwright
HB 546	Gen. Stat. Comm. Technical Corrections - Arts.	Representative Ross
HB 825	Child Support Collection Fee/Non-TANF Family.-AB	Representative Goodwin
HB 862	Amend Plant Protection and Conservation Act.-AB	Representative Hill
HB 944	Harnett/Subdivision Recreation Facilities.	Representative Lewis
SB 684	Spay/Neuter Funding.	Senator Kinnaird
SB 1073	Tax Credit - Wheelchair Patient Exam Tables.	Senator Swindell IV
SB 1391	Sales Tax Relief For School Supplies.	Senator Brown
SB 1392	Sales Tax Relief For Certain Textbooks.	Senator Brown
SB 1485	Amend NC Appraisers Act/Fees.	Senator Rand

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, July 25, 2007

Senator KERR,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **1492** Solid Waste Management Act of 2007.

Draft Number:	65276
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, July 25, 2007

Senator KERR,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #2) **862** Amend Plant Protection and Conservation Act.-AB
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **1485** Amend NC Appraisers Act/Fees.
Draft Number: 55552
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **429** Beach Towns/Canal Dredging Fee.
Draft Number: 30524
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

H.B.(SCS #1) **535** Criminal Background Reviews- EMS Personnel.
Draft Number: 10268
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	DHHS
Greg Peverill	Solid W. & Mgmt Svcs.
Cor. Am Harris	LEDA
Amy McConkey	Smith Anderson
Erin Kinsey	NCCN
S Henri McClees	McClees Consulting
Phil Carter	Waste Industries
Sam McEwen	NCDOR
Anna Mitchell	NC DOR
Andy Sobol	NCDOR
Butch Gunnells	NC Bev. Ass'n

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mollie Rasor	NCVMA
JOHN SHAW	SCCA
Lennie Collins	NCDOR
Philip Humphries	N.C. Appraisal Board
Matt Moore	NC State Technician Newspaper
John McMillan	MFAS
Steve Wall	DENR
Jordan Schrader	Asheville Citizen-Times
Kelly McCall	UNC-TV
Mark Strupe	UNC-TV
[illegible]	BFA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Price	BGA
Lisa Martin	NC Home Builders
Casandra White	Gov. office
Chris Dillon	Pro Tem
Alastair Macaulay	NCSBA
Ben Comstock	WCSR
Dana Simpson	Smith Anderson
DD Ly	TNC
David McLeod	NCDACS
Mary C Emanuel	NHSS-MD
Lyn Hilburn	NCALTCF

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jim Harris	WCPSS
Jennifer Willis	Wake Co. govt
Doug Miskew	Capstrat
Beth Livingstone	Animal Kind
Laureen Bartfield, DVM	Spay-Neuter Assistance Program of N.C. info@snap-nc.org
Cam Cree	BPMHL
[illegible]	Greensboro
Penny Griffin	Daily Bulletin
Dan Moore	Alligator River Recycling
Steve Levitas	Kilpatrick Stockton
Regina G. Crawford	NCOEMS

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Drexdal Pratt	DHHS / office of EMS
Gordon A. Joyner	NCAREA EMS
Alice Garland	NCEL
Rick Feather	Allied Waste Services
FRANK FOLGER	HELMS MULLISS WICKER (ALLIED WASTE SERVICES)
Lee Hunter	NCDA&CS
Chris Anderson	
Steve Woodrum	NCFB
Kerry Gorman	NC Sudan Divestment Campaign
Adam Sterling	Genocide Intervention Network
Melissa Price	Young Democrats of NC
Thomas Doyle	Speaker's office
Jack Cozort	

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Margaret Tandman	NCACC
Kelli Bergeron Cmg	Capitol Tech
MICHAEL ZAPATA III	MARTIN INNOVATIONS
[illegible]	DHHS - DPH
CARL WILLIAMS	DHHS - DPH
Dan McCumber	City of Raleigh
Paul Meyer	NCACC
Anita Watkins	NCLM
Thomas Moore	Edvisors: Web

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Justin Helms	DOC
Daniella Seale	DOC
John Elias	NC State
BRANDON WRIGHT	NC State
Bobby Mills	NC State
Seth Palmer	NC State
Brian Mathis	NC State
Roger Bone	Bone Assoc
Julia Leggett	The Arc of NC.
Jim Stephenson	N.C. Coastal Federation
Christa Wagner	Sierra Club

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Geoffrey H Little	DENR/ SW Section
Ellen Lorschcider	" "
Charlotte Jesneck	DENR/DWM
Dexter Matthews	DENR DWM
Robin Smith	DENR
Elizabeth Self	DENR
Michele Tart	DSS
Barry Mills	DSS
Ruby Hunt	PAWS PO Box 2440 Bwl. NC
Sam Hunt	" "

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 25, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Romanet	NCLM
Mary Mumbacker	Poyner + Spruill
Robert Howard	NCIC
Lu-Ann C. Bennett	NCIC
Kristy Bailey	PFNC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 1492

Agriculture/Environment and Natural Resources Committee Substitute Adopted 7/23/07

Short Title: Solid Waste Management Act of 2007. (Public)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO: (1) CLARIFY THE CIRCUMSTANCES UNDER WHICH AN APPLICATION FOR A SOLID WASTE MANAGEMENT PERMIT MAY BE DENIED; (2) PROVIDE THAT SOLID WASTE MANAGEMENT PERMITS ARE NOT TRANSFERABLE; (3) INCREASE THE PENALTIES THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS; (4) REQUIRE THAT AN APPLICANT FOR A PERMIT AND A PERMIT HOLDER ESTABLISH FINANCIAL RESPONSIBILITY TO ENSURE THE AVAILABILITY OF SUFFICIENT FUNDS FOR PROPER DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, CLOSURE, AND POST-CLOSURE MONITORING AND MAINTENANCE OF A SOLID WASTE MANAGEMENT FACILITY; (5) REQUIRE THAT AN OWNER OR OPERATOR OF A SANITARY LANDFILL ESTABLISH FINANCIAL ASSURANCE SUFFICIENT TO COVER A MINIMUM OF THREE MILLION DOLLARS IN COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT THE FACILITY, IN ADDITION TO OTHER FINANCIAL RESPONSIBILITY REQUIREMENTS; (6) CLARIFY AND EXPAND THE SCOPE OF ENVIRONMENTAL COMPLIANCE REVIEW REQUIREMENTS; (7) CLARIFY THAT A PARENT, SUBSIDIARY, OR OTHER AFFILIATE OF THE APPLICANT OR PARENT, INCLUDING ANY BUSINESS ENTITY OR JOINT VENTURER WITH A DIRECT OR INDIRECT INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (8) PROVIDE FOR SITING OF COMBUSTION PRODUCTS LANDFILLS IN AREAS THAT HAVE BEEN FORMERLY USED FOR THE STORAGE OR DISPOSAL OF COMBUSTION PRODUCTS FROM COAL-FIRED GENERATING UNITS AT THE SAME FACILITY THAT GENERATED THE COMBUSTION PRODUCTS, AND TECHNICAL REQUIREMENTS FOR THESE LANDFILLS; (9) SPECIFY ADDITIONAL TECHNICAL

REQUIREMENTS FOR SOLID WASTE MANAGEMENT FACILITIES; (10) REQUIRE THAT ALL APPLICANTS FOR PERMITS FOR SANITARY LANDFILLS CONDUCT AN ENVIRONMENTAL IMPACT STUDY; (11) REQUIRE THAT CERTAIN APPLICANTS FOR SOLID WASTE MANAGEMENT FACILITY PERMITS CONDUCT A TRAFFIC STUDY; (12) CLARIFY THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (13) AUTHORIZE UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL LIAISONS; (14) ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL TAX TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE IN LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF PRE-1983 LANDFILLS AND FOR OTHER PURPOSES; (16) ESTABLISH A COMPUTER EQUIPMENT MANAGEMENT PROGRAM; (17) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A PROPOSED RECYCLING PROGRAM FOR FLUORESCENT LAMPS; (18) DIRECT THE ENVIRONMENT REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE FRANCHISE OF SOLID WASTE MANAGEMENT FACILITIES BY UNITS OF LOCAL GOVERNMENT AND THE TRANSPORTATION OF SOLID WASTE BY RAIL AND BARGE; AND (19) MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 130A-294, as amended by S.L. 2007-107, reads as rewritten:

"**§ 130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

(1) Develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;

(2) Advise, consult, cooperate and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;

(3) Develop and adopt rules to establish standards for qualification as a "recycling, reduction or resource recovering facility" or as "recycling, reduction or resource recovering equipment" for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall

be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

~~b. The issuance of permits for sanitary landfills operated by local governments is exempt from the environmental impact statements required by Article 1 of Chapter 113A of the General Statutes, entitled the North Carolina Environmental Policy Act of 1971. All sanitary landfill permits issued to local governments prior to July 1, 1984, are hereby validated notwithstanding any failure to provide environmental impact statements pursuant to the North Carolina Environmental Policy Act of 1971;~~

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.
2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Environmental Management Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.
3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Environmental Management Commission.
4. Construction or operation of the proposed facility would substantially limit or threaten access to or use of public trust waters or public lands.
5. The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety.
6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.
7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.
8. Construction or operation of the proposed facility would be inconsistent with the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.
9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of

facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964.

~~(4a) No permit shall be granted for any public or private sanitary landfill to receive solid non-radioactive waste generated outside the boundaries of North Carolina to be deposited, unless such waste has previously been inspected by the solid waste regulatory agency of that nation, state or territory, characterized in detail as to its contents and certified by that agency to be non-injurious to health and safety. The Commission shall adopt rules to implement this subsection.~~

(5) Repealed by Session Laws 1983, c. 795, s. 3.

(5a) Designate a geographic area within which the collection, transportation, storage and disposal of all solid waste generated within said area shall be accomplished in accordance with a solid waste management plan. Such designation may be made only after the Department has received a request from the unit or units of local government having jurisdiction within said geographic area that such designation be made and after receipt by the Department of a solid waste management plan which shall include:

a. The existing and projected population for such area;
b. The quantities of solid waste generated and estimated to be generated in such area;
c. The availability of sanitary landfill sites and the environmental impact of continued landfill of solid waste on surface and subsurface waters;
d. The method of solid waste disposal to be utilized and the energy or material which shall be recovered from the waste; and
e. Such other data that the Department may reasonably require.

(5b) Authorize units of local government to require by ordinance, that all solid waste generated within the designated geographic area that is placed in the waste stream for disposal be collected, transported, stored and disposed of at a permitted solid waste management facility or facilities serving such area. The provisions of such ordinance shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal, or prohibit collectors of solid waste from recycling materials or limit access to such materials as an incident to collection of such solid waste; provided such prohibitions do not authorize the construction and operation of a resource recovery facility unless specifically permitted pursuant to an approved solid waste management plan. If a private solid waste landfill shall be substantially affected by such ordinance then the unit of local government adopting the ordinance shall be

required to give the operator of the affected landfill at least two years written notice prior to the effective date of the proposed ordinance.

(5c) Except for the authority to designate a geographic area to be serviced by a solid waste management facility, delegate authority and responsibility to units of local government to perform all or a portion of a solid waste management program within the jurisdictional area of the unit of local government; provided that no authority over or control of the operations or properties of one local government shall be delegated to any other local government.

(5d) Require that an annual report of the implementation of the solid waste management plan within the designated geographic area be filed with the Department.

(6) ~~The Department is authorized to charge~~ Charge and collect fees from operators of hazardous waste disposal facilities. The fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during which the facility operator is required by applicable State and federal statutes, regulations or rules to remain responsible for post-closure monitoring and care. In establishing the fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility.

(7) Establish and collect annual fees from generators and transporters of hazardous waste, and from storage, treatment, and disposal facilities regulated under this Article as provided in G.S. 130A-294.1.

(a1) A permit for a solid waste management facility is not transferable.

(b) The Commission shall adopt and the Department shall enforce rules to implement a comprehensive statewide solid waste management program. The rules shall be consistent with applicable State and federal law; and shall be designed to protect the public health, safety, and welfare; preserve the environment; and provide for the greatest possible conservation of cultural and natural resources. Rules for the establishment, location, operation, maintenance, use, discontinuance, recordation, post-closure care of solid waste management facilities also shall be based upon recognized public health practices and procedures, including applicable epidemiological research and studies; hydrogeological research and studies; sanitary engineering research and studies; and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

~~(b0) The Commission shall adopt rules for financial responsibility to ensure the availability of sufficient funds for closure and post-closure maintenance and monitoring at solid waste management facilities, and for any corrective action the Department may require during the active life of a facility or during the closure and post-closure periods. The rules may permit demonstration of financial responsibility through the use of a~~

~~letter of credit, insurance, surety, trust agreement, financial test, or guarantee by corporate parents or third parties who can pass the financial test. The rules shall require that an owner or operator of a privately owned solid waste management facility demonstrate financial responsibility by a method or combinations of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and any corrective action that the Department may require will be available during the active life of the facility, at closure, and for a period of not less than 30 years after closure even if the owner or operator becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.~~

(b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this section, a "substantial amendment" means either:

a. An increase of ten percent (10%) or more in:

1. The population of the geographic area to be served by the sanitary landfill;
2. The quantity of solid waste to be disposed of in the sanitary landfill; or
3. The geographic area to be served by the sanitary landfill.

b. A change in the categories of solid waste to be disposed of in the sanitary landfill or any other change to the application for a permit or to the permit for a sanitary landfill that the Commission or the Department determines to be substantial.

(2) A person who intends to apply for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill shall include all of the following:

a. A statement of the population to be served, including a description of the geographic area.

b. A description of the volume and characteristics of the waste stream.

c. A projection of the useful life of the sanitary landfill.

d. An explanation of how the franchise will be consistent with the jurisdiction's solid waste management plan required under G.S. 130A-309.09A, including provisions for waste reduction, reuse, and recycling.

e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.

f. A facility plan for the sanitary landfill that shall include the ~~exact~~ boundaries of the proposed facility, proposed development of the facility site in five-year operational phases, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

(2a) A local government may elect to award a preliminary franchise. If a local government elects to award a preliminary franchise, the preliminary franchise shall contain, at a minimum, all of the information described in sub-subdivisions a. through e. of subdivision (2) of this subsection plus a general description of the proposed sanitary landfill, including the approximate number of acres required for the proposed sanitary landfill and its appurtenances and a description of any other solid waste management activities that are to be conducted at the site.

(3) Prior to the award of a franchise for the construction or operation of a sanitary landfill, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide at least 30 days' notice to the public of the public hearing. The notice shall include a summary of all the information required to be included in the franchise, and shall specify the procedure to be followed at the public hearing. The applicant for the franchise shall provide a copy of the application for the franchise that includes all of the information required to be included in the franchise, to the public library closest to the proposed sanitary landfill site to be made available for inspection and copying by the public.

(4) An applicant for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill shall request each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located to issue a determination as to whether the local government has in effect a franchise, zoning, subdivision, or land-use planning ordinance applicable to the sanitary landfill and whether the proposed sanitary

landfill, or the existing sanitary landfill as it would be operated under the renewed or substantially amended permit, would be consistent with the applicable ordinances. The request to the local government shall be accompanied by a copy of the permit application and shall be delivered to the clerk of the local government personally or by certified mail. In order to serve as a basis for a determination that an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill is consistent with a zoning, subdivision, or land-use planning ordinance, an ordinance or zoning classification applicable to the real property designated in the permit application shall have been in effect not less than 90 days prior to the date the request for a determination of consistency is delivered to the clerk of the local government. The determination shall be verified or supported by affidavit signed by the chief administrative officer, the chief administrative officer's designee, clerk, or other official designated by the local government to make the determination and, if the local government states that the sanitary landfill as it would be operated under the new, renewed, or substantially amended permit is inconsistent with a franchise, zoning, subdivision, or land-use planning ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of the determination shall be provided to the applicant when the determination is submitted to the Department. The Department shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant; provided that if a local government fails to submit a determination to the Department as provided by this subsection within 15 days after receipt of the request, the Department shall proceed to consider the permit application without regard to a franchise, local zoning, subdivision, and land-use planning ordinances. Unless the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the sanitary landfill as it would be operated under the new, renewed, or substantially amended permit is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Department shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the sanitary landfill under the permit, comply with all lawfully adopted local ordinances cited in the determination that apply to the sanitary landfill. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed

to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

(5) As used in this subdivision, "coal-fired generating unit" and "investor-owned public utility" have the same meaning as in G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no franchise shall be required for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

(b2) The Department ~~may~~ shall require an applicant for a permit or a permit holder under this Article to satisfy the Department that the applicant or permit holder, and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent:

(1) Is financially qualified to carry out the activity for which the permit is required. An applicant for a permit and permit holders for solid waste management facilities that are not hazardous waste facilities shall establish financial responsibility as required by ~~G.S. 130A-294(b0).~~G.S. 130A-295.2. An applicant for a permit and permit holders for hazardous waste facilities shall establish financial responsibility as required by G.S. 130A-295.04.

(2) Has substantially complied with the requirements applicable to any ~~solid waste management~~ activity in which the ~~applicant~~ applicant or permit holder, or a parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, or a joint venturer with a direct or indirect interest in the applicant, has previously engaged and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the ~~environment.~~environment as provided in G.S. 130A-295.3.

(b3) An applicant for a permit or a permit holder under this Article shall satisfy the Department that the applicant has met the requirements of subsection (b2) of this section before the Department is required to otherwise review the application. ~~In order to continue to hold a permit under this Article, a permittee must remain financially qualified and must provide any information requested by the Department to demonstrate that the permittee continues to be financially qualified.~~

...."

SECTION 1.(b) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date.

SECTION 2.(a) G.S. 130A-18 reads as rewritten:

"**§ 130A-18. Injunction.**

(a) If a person shall violate any provision of this ~~Chapter or~~ Chapter, the rules adopted by the Commission or rules adopted by a local board of health, or a condition or term of a permit or order issued under this Chapter, the Secretary or a local health director may institute an action for injunctive relief, irrespective of all other remedies at law, in the superior court of the county where the violation occurred or where a defendant resides.

(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12 of this Chapter."

SECTION 2.(b) This section becomes effective 1 August 2007 and applies to violations that occur on or after that date.

SECTION 3.(a) G.S. 130A-22(a) reads as rewritten:

"(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed ~~twenty-five thousand dollars ($25,000)~~thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed ~~twenty-five thousand dollars ($25,000)~~ thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator."

SECTION 3.(b) This section becomes effective 1 August 2007 and applies to violations that occur on or after that date.

SECTION 4.(a) G.S. 130A-22 is amended by adding a new subsection to read:

"(j) The Secretary of Environment and Natural Resources may also assess the reasonable costs of any investigation, inspection, or monitoring associated with the

assessment of the civil penalty against any person who is assessed a civil penalty under this section."

SECTION 4.(b) This section becomes effective 1 August 2007 and applies to violations that occur on or after that date.

SECTION 5.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.2. Financial responsibility requirements for applicants and permit holders for solid waste management facilities.**

(a) As used in this section:

(1) 'Financial assurance' refers to the ability of an applicant or permit holder to pay the costs of assessment and remediation in the event of a release of pollutants from a facility, closure of the facility in accordance with all applicable requirements, and post-closure monitoring and maintenance of the facility.

(2) 'Financial qualification' refers to the ability of an applicant or permit holder to pay the costs of proper design, construction, operation, and maintenance of the facility.

(3) 'Financial responsibility' encompasses both financial assurance and financial qualification.

(b) The Commission may adopt rules governing financial responsibility requirements for applicants for permits and for permit holders to ensure the availability of sufficient funds for the proper design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of solid waste management facilities and for any corrective action the Department may require during the active life of a facility or during the closure and post-closure periods.

(c) The Department may provide a copy of any filing that an applicant for a permit or a permit holder submits to the Department to meet the financial responsibility requirements under this section to the State Treasurer. The State Treasurer shall review the filing and provide the Department with a written opinion as to the adequacy of the filing to meet the purposes of this section, including any recommended changes.

(d) The Department may, in its sole discretion, require an applicant for a permit to construct a facility to demonstrate its financial qualification for the design, construction, operation, and maintenance of a facility. The Department may require an applicant for a permit for a solid waste management facility to provide cost estimates for site investigation; land acquisition, including financing terms and land ownership; design; construction of each five-year phase, if applicable; operation; maintenance; closure, and post-closure monitoring and maintenance of the facility to the Department. The Department may allow an applicant to demonstrate its financial qualifications for only the first five-year phase of the facility. If the Department allows an applicant for a permit to demonstrate its financial qualification for only the first five-year phase of the facility, the Department shall require the applicant or permit holder to demonstrate its financial qualification for each successive five-year phase of the facility when applying for a permit to construct each successive phase of the facility.

(e) If the Department requires an applicant for a permit or a permit holder for a solid waste management facility to demonstrate its financial qualification, the applicant or permit holder shall provide an audited, certified financial statement. An applicant who is required to demonstrate its financial qualification may do so through a combination of cash deposits, insurance, and binding loan commitments from a financial institution licensed to do business in the State and rated AAA by Standard & Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent, subsidiary, or other affiliate of the applicant or a permit holder, or a joint venturer with a direct or indirect interest in the applicant or permit holder, are proposed to be used to demonstrate financial qualification, then the party whose assets are to be used must be designated as a joint permittee with the applicant on the permit for the facility.

(f) The applicant and permit holder for a solid waste management facility shall establish financial assurance by a method or combination of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and any corrective action that the Department may require will be available during the active life of the facility, at closure, and for any post-closure period of time that the Department may require even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State. Rules adopted by the Commission may allow a business entity that is an applicant for a permit or a permit holder to establish financial assurance through insurance, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used. Assets used to meet the financial assurance requirements of this section shall be in a form that will allow the Department to readily access funds for the purposes set out in this section. Assets used to meet financial assurance requirements of this section shall not be accessible to the permit holder except as approved by the Department.

(g) In order to continue to hold a permit under this Article, a permit holder must maintain financial responsibility and must provide any information requested by the Department to establish that the permit holder continues to maintain financial responsibility. A permit holder shall notify the Department of any significant change in the: (i) identity of any person or structure of the business entity that holds the permit for the facility; (ii) identity of any person or structure of the business entity that owns or operates the facility; or (iii) assets of the permit holder, owner, or operator of the facility. The permit holder shall notify the Department within 30 days of a significant change. A change shall be considered significant if it has the potential to affect the financial responsibility of the permit holder, owner, or operator, or if it would result in a change in the identity of the permit holder, owner, or operator for purposes of either financial responsibility or environmental compliance review. Based on its review of the changes, the Department may require the permit holder to reestablish financial responsibility and may modify or revoke a permit, or require issuance of a new permit.

(h) To meet the financial assurance requirements of this section, the owner or operator of a sanitary landfill shall establish financial assurance sufficient to cover a minimum of three million dollars ($3,000,000) in costs for potential assessment and

corrective action at the facility. The Department may require financial assurance in a higher amount and may increase the amount of financial assurance required of a permit holder at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

(i) The Commission may adopt rules under which a unit of local government and a solid waste management authority created pursuant to Article 22 of Chapter 153A of the General Statutes may meet the financial responsibility requirements of this section by either a local government financial test or a capital reserve fund requirement."

SECTION 5.(b) G.S. 130A-309.27 reads as rewritten:

"**§ 130A-309.27. ~~Landfill escrow account.~~Joint and several liability.**

(a) As used in this section:

(1) "Owner or operator" means, in addition to the usual meanings of the term, any owner of record of any interest in land on which a landfill is or has been sited, ~~and~~ any person or ~~corporation which~~ business entity that owns a majority interest in any other corporation which is the owner or operator of a ~~landfill.~~landfill, and any person designated as a joint permittee pursuant to G.S. 130A-295.2(e).

(2) "Proceeds" means all funds collected and received by the Department, including interest and penalties on delinquent fees.

(b) Every owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law.

~~(c) The owner or operator of a landfill shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons on their own property is exempt from the provisions of this section.~~

~~(1) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet State and federal landfill closure requirements.~~

~~(2) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the Department an annual audit of the account. The audit shall be conducted by a certified public accountant and shall be filed no later than 31 December of each year. Failure to collect or report this revenue, except as allowed in subsection (d), is a noncriminal violation, punishable by a fine of not more than five thousand dollars ($5,000) for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for planning and construction of resource recovery or landfill facilities. Any moneys~~

~~remaining in the account after paying for proper and complete closure, as determined by the Department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund of the unit of local government.~~

~~(3) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of, or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with State and federal landfill closure requirements. The application or pledge may be made directly in the proceedings authorizing the bonds or in an agreement with an insurer of bonds to assure the insurer of this additional security.~~

~~(d) An owner or operator may establish proof of financial responsibility with the Department in lieu of the requirements of subsection (c). This proof may include surety bonds, certificates of deposit, securities, letter of credit, corporate guarantee, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with landfill closure requirements. The owner or operator shall estimate the costs to the satisfaction of the Department.~~

~~(e) This section does not repeal, limit, or abrogate any other law authorizing units of local government to fix, levy, or charge rates, fees, or charges for the purpose of complying with State and federal landfill closure requirements.~~

~~(f) The Commission shall adopt rules to implement this section.~~"

SECTION 5.(c) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date. The provisions of G.S. 130A-295.2(h), as enacted by this section, apply to the owner or operator of a sanitary landfill when the permit is next subject to renewal after 1 August 2009.

SECTION 6.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.3. Environmental compliance review requirements for applicants and permit holders.**

(a) For purposes of this section, "applicant" means an applicant for a permit and a permit holder and includes the owner or operator of the facility, and, if the owner or operator is a business entity, applicant also includes: (i) the parent, subsidiary, or other affiliate of the applicant; (ii) a partner, officer, director, member, or manager of the business entity, parent, subsidiary, or other affiliate of the applicant; and (iii) any person with a direct or indirect interest in the applicant, other than a minority shareholder of a publicly traded corporation who has no involvement in management or control of the corporation or any of its parents, subsidiaries, or affiliates.

(b) The Department shall conduct an environmental compliance review of each applicant for a new permit, permit renewal, and permit amendment under this Article. The environmental compliance review shall evaluate the environmental compliance history of the applicant for a period of five years prior to the date of the application and may cover a longer period at the discretion of the Department. The environmental compliance review of an applicant may include consideration of the environmental

compliance history of the parents, subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any business entity or joint venturer with a direct or indirect interest in the applicant, and other facilities owned or operated by any of them. The Department shall determine the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in this subsection is or has been an owner, operator, officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.

(c) The Department shall determine the extent to which the applicant, or a parent, subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or indirect interest in the applicant, has substantially complied with the requirements applicable to any activity in which any of these entities previously engaged, and has substantially complied with federal and State laws, regulations, and rules for the protection of the environment. The Department may deny an application for a permit if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions for the protection of the environment or for the conservation of natural resources as evidenced by civil penalty assessments, administrative or judicial compliance orders, or criminal penalties.

(d) A permit holder shall notify the Department of any significant change in its environmental compliance history or other information required by G.S. 130-295.2(g). The Department may reevaluate the environmental compliance history of a permit holder and may modify or revoke a permit or require issuance of a new permit."

SECTION 6.(b) G.S. 130A-309.06(b) is repealed.

SECTION 6.(c) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date.

SECTION 7. (a) G.S. 130A-290(a) is amended by adding three new subdivisions to read:

"(2a) "Coal-fired generating unit" means a coal-fired generating unit, as defined by 40 Code of Federal Regulations § 96.2 (1 July 2001 Edition), that is located in this State and has the capacity to generate 25 or more megawatts of electricity.

(2b) "Combustion products" means residuals, including fly ash, bottom ash, boiler slag, mill rejects, and flue gas desulfurization residue produced by a coal-fired generating unit.

(2c) "Combustion products landfill" means a facility or unit for the disposal of combustion products, where the landfill is located at the same facility with the coal-fired generating unit or units producing the combustion products, and where the landfill is located wholly or partly on top of a facility that is, or was, being used for the disposal or

storage of such combustion products, including, but not limited to, landfills, wet and dry ash ponds, and structural fill facilities."

SECTION 7. (b) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-295.4. Combustion products landfills.

(a) The definitions set out in G.S. 130A-290(a) apply to this section.

(b) The Department may permit a combustion products landfill to be constructed partially or entirely within areas that have been formerly used for the storage or disposal of combustion products at the same facility as the coal-fired generating unit that generates the combustion products, provided the landfill is constructed with a bottom liner system consisting of three components in accordance with this section. Of the required three components, the upper two components shall consist of two separate flexible membrane liners, with a leak detection system between the two liners. The third component shall consist of a minimum of two feet of soil underneath the bottom of those liners, with the soil having a maximum permeability of 1×10^{-7} centimeters per second. The flexible membrane liners shall have a minimum thickness of thirty one-thousandths of an inch (0.030"), except that liners consisting of high-density polyethylene shall be at least sixty one-thousandths of an inch (0.060") thick. The lower flexible membrane liner shall be installed in direct and uniform contact with the compacted soil layer. The Department may approve an alternative to the soil component of the composite liner system if the Department finds, based on modeling, that the alternative liner system will provide an equivalent or greater degree of impermeability.

(c) An applicant for a permit for a combustion products landfill shall develop and provide to the Department a response plan, which shall describe the circumstances under which corrective measures are to be taken at the landfill in the event of the detection of leaks in the leak detection system between the upper two liner components at amounts exceeding an amount specified in the response plan (as expressed in average gallons per day per acre of landfill, defined as an Action Leakage Rate). The response plan shall also describe the remedial actions that the landfill is required to undertake in response to detection of leakage in amounts in excess of the Action Leakage Rate. The Department shall review the response plan as a part of the permit application for the landfill. Compliance with performance of the landfill to prevent releases of waste to the environment may be determined based on leakage rate rather than monitoring well data.

SECTION 7.(c) This section becomes effective 1 August 2007. Any permit issued for a combustion products landfill as described in this subsection shall, for purposes of this bill, be considered to have been permitted on property described in a solid waste management facility permit that is in effect on 1 August 2007.

SECTION 8.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-295.5. Traffic study required for certain solid waste management facilities.

(a) An applicant for a permit for a sanitary landfill or for a transfer station shall conduct a traffic study of the impacts of the proposed facility. The Department shall include as a condition of a permit for a sanitary landfill or for a transfer station a

requirement that the permit holder mitigate adverse impacts identified by the traffic study. The study shall include all of the following at a minimum:

(1) Identification of routes from the nearest limited access highway used to access the proposed facility.

(2) Daily and hourly traffic volumes that will result along each approach route between the nearest limited access highway and the proposed facility.

(3) A map identifying land uses located along the identified approach routes, including, but not limited to, residential, commercial, industrial development, and agricultural operations. The map shall identify residences, schools, hospitals, nursing homes, and other significant buildings that front the approach routes.

(4) Identification of locations on approach routes where road conditions are inadequate to handle the increased traffic associated with the proposed facility and a description of the mitigation measures proposed by the applicant to address the conditions.

(5) A description of the potential adverse impacts of increased traffic associated with the proposed facility and the mitigation measures proposed by the applicant to address these impacts.

(6) An analysis of the impact of any increase in freight traffic on railroads and waterways.

(b) An applicant for a permit for a sanitary landfill or for a transfer station may satisfy the requirements of subsection (a) of this section by obtaining a certification from the Division Engineer of the Department of Transportation that the proposed facility will not have a substantial impact on highway traffic."

SECTION 8.(b) This section is effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date. The section shall not apply to:

(1) An amendment, modification, or other change to a permit for a landfill issued on or before 1 June 2006.

(2) A permit for a horizontal or vertical expansion of the landfill permitted on or before 1 June 2006.

(3) A permit to construct a new landfill within the facility boundary identified in the facility plan of a landfill permitted on or before 1 June 2006.

(4) A permit to operate a new landfill if a permit to construct the new landfill was issued on or before 1 June 2006.

(5) A permit for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

(6) A permit for a sanitary landfill determined to be necessary by the Secretary of Environment and Natural Resources in order to respond to an imminent hazard to public health or a natural disaster.

SECTION 9.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.6. Additional requirements for sanitary landfills.**

(a) The Department shall conduct a study of the environmental impacts of any proposed sanitary landfill. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. If an environmental impact statement is required, the Department shall publish notice of the draft environmental impact statement and shall hold a public hearing in the county where the landfill will be located no sooner than 30 days following the public notice. The Department shall consider the study of environmental impacts and any mitigation measures proposed by the applicant in deciding whether to issue or deny a permit. An applicant for a permit for a sanitary landfill shall pay all costs incurred by the Department to comply with this subsection including the costs of any special studies that may be required.

(b) The Department shall require a buffer between any stream or wetland and the nearest waste disposal unit of a sanitary landfill of at least 200 feet. The Department may approve a buffer of less than 200 feet, but in no case less than 100 feet, if it finds all of the following:

(1) The proposed sanitary landfill or expansion of the sanitary landfill will serve a critical need in the community.

(2) There is no feasible alternative location that would allow siting or expansion of the sanitary landfill with 200-foot buffers.

(c) A waste disposal unit of a sanitary landfill shall not be constructed within:

(1) A 100-year floodplain, except as authorized by variance granted under G.S. 143-215.54A(b). This subdivision does not apply to land removed from a 100-year floodplain designation pursuant to: (i) 44 Code of Federal Regulations Part 72 (1 October 2006 Edition) as a result of man-made alterations within the floodplain, such as the placement of fill; modification of a channel; construction or modification of a bridge, culvert, levee, or similar measure; or construction of single or multiple residential or commercial structures on single or multiple lots; and (ii) 44 Code of Federal Regulations Part 70 (1 October 2006 Edition) as a result of floodplain map correction made by a letter of map amendment.

(2) A wetland.

(d) The Department shall not issue a permit to construct any waste disposal unit of a landfill if at the time of the application for a permit any portion of the proposed waste disposal unit would be located within:

(1) Five miles of the outermost boundary of a National Wildlife Refuge.

(2) One mile of the outermost boundary of a State gameland.

(3) Two miles of the outermost boundary of a component of the State Parks System.

(e) A sanitary landfill for the disposal of construction and demolition debris waste shall be constructed with a liner system that consists of a flexible membrane liner over two feet of soil with a maximum permeability of 1×10^{-5} centimeters per second.

The flexible membrane liner shall have a minimum thickness of thirty one-thousandths of an inch (0.030"), except that a liner that consists of high-density polyethylene shall be at least sixty one-thousandths of an inch (0.060") thick. The flexible membrane liner shall be installed in direct and uniform contact with the soil layer. The Department may approve an alternative to the soil component of the liner system if the Department finds, based on modeling, that the alternative liner system will provide an equivalent or greater degree of impermeability.

(f) A sanitary landfill, other than a sanitary landfill for the disposal of construction and demolition debris waste, shall be constructed so that the post-settlement bottom elevation of the liner system, or the post-settlement bottom elevation of the waste if no liner system is required, is a minimum of four feet above both the seasonal high groundwater table and the bedrock datum plane contours. A sanitary landfill for the disposal of construction and demolition debris waste shall be constructed so that the post-settlement bottom elevation of the flexible membrane liner component of the liner system is a minimum of four feet above both the seasonal high groundwater table and the bedrock datum plane contours.

(g) A permit holder for a sanitary landfill shall develop and implement a waste screening plan. The plan shall identify measures adequate to ensure compliance with State laws and rules, and any applicable local ordinances that prohibit the disposal of certain items in landfills. The plan shall address all sources of waste generation. The plan is subject to approval by the Department.

(h) The following requirements apply to any sanitary landfill for which a liner is required:

(1) A geomembrane base liner system shall be tested for leaks and damage by methods approved by the Department that ensure that the entire liner is evaluated.

(2) A leachate collection system shall be designed to return the head of the liner to 30 centimeters or less within 72 hours. The design shall be based on the precipitation that would fall on an empty cell of the sanitary landfill as a result of a 25-year-24-hour storm event. The leachate collection system shall maintain a head of less than 30 centimeters at all times during leachate recirculation. The Department may require the operator to monitor the head of the liner to demonstrate that the head is being maintained in accordance with this subdivision and any applicable rules.

(3) All leachate collection lines shall be designed and constructed to permanently allow cleaning and remote camera inspection. All leachate collection lines shall be cleaned at least once a year, except that the Department may allow leachate collection lines to be cleaned once every two years if: (i) the facility has continuous flow monitoring; and (ii) the permit holder demonstrates to the Department that the leachate collection lines are clear and functional based on at least three consecutive annual cleanings. Remote camera inspections of the leachate collection lines shall occur upon completion of

construction, at least once every five years thereafter, and following the clearing of blockages.

(4) Any pipes used to transmit leachate shall provide dual containment outside of the disposal unit. The bottom liner of a sanitary landfill shall be constructed without pipe penetrations.

(i) The Department shall not issue a permit for a sanitary landfill that authorizes:

(1) A capacity of more than 55 million cubic yards of waste.

(2) A disposal area of more than 350 acres.

(3) A maximum height, including the cap and cover vegetation, of more than 250 feet above the mean natural elevation of the disposal area."

SECTION 9.(b) This section is effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date. To the extent that G.S. 130A-295.6, as enacted by this section, imposes requirements that are more stringent than those in effect prior to 1 August 2007, the more stringent requirements of those subsections do not apply to:

(1) An amendment, modification, or other change to a permit for a landfill issued on or before 1 June 2006.

(2) A permit for a horizontal or vertical expansion of the landfill permitted on or before 1 June 2006.

(3) A permit to construct a new landfill within the facility boundary identified in the facility plan of a landfill permitted on or before 1 June 2006.

(4) A permit to operate a new landfill if a permit to construct the new landfill was issued on or before 1 June 2006.

(5) A permit for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

(6) A permit for a sanitary landfill determined to be necessary by the Secretary of Environment and Natural Resources in order to respond to an imminent hazard to public health or a natural disaster.

SECTION 10.(a) G.S. 153A-292(b) reads as rewritten:

"(b) The board of county commissioners may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

The board of county commissioners may impose a fee for the use of a disposal facility provided by the county. The fee for use may not exceed the cost of operating the facility and may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. A county may not impose a fee for the use of a disposal facility on a city located in the county or a contractor or resident of the city unless the fee is based on a schedule that applies uniformly throughout the county.

The board of county commissioners may impose a fee for the availability of a disposal facility provided by the county. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the county

that benefits from the availability of the facility. A county may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the county. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the county disposal facility is not considered to benefit from a disposal facility provided by the county and is not subject to a fee imposed by the county for the availability of a disposal facility provided by the county. To the extent that the services provided by the county disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same county, the county may charge an availability fee to cover the costs of the additional services provided by the county disposal facility.

In determining the costs of providing and operating a disposal facility, a county may consider solid waste management costs incidental to a county's handling and disposal of solid waste at its disposal facility, including the costs of the methods of solid waste management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of 1989. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the county."

SECTION 10.(b) G.S. 160A-314.1(a) reads as rewritten:

"(a) In addition to a fee that a city may impose for collecting solid waste or for using a disposal facility, a city may impose a fee for the availability of a disposal facility provided by the city. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the city that benefits from the availability of the facility. A city may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the city. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the city disposal facility is not considered to benefit from a disposal facility provided by the city and is not subject to a fee imposed by the city for the availability of a disposal facility provided by the city. To the extent that the services provided by the city disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same city, the city may charge an availability fee to cover the costs of the additional services provided by the city disposal facility.

In determining the costs of providing and operating a disposal facility, a city may consider solid waste management costs incidental to a city's handling and disposal of solid waste at its disposal facility. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the city."

SECTION 10.(c) This section becomes effective 1 August 2007.

SECTION 11.(a) G.S. 153A-136 is amended by adding two new subsections to read:

"(e) A county that has planning jurisdiction over any portion of the site of a sanitary landfill may employ a local government landfill liaison. No person who is responsible for any aspect of the management or operation of the landfill may serve as a local government landfill liaison. A local government landfill liaison shall have a right to enter public or private lands on which the landfill facility is located at reasonable times to inspect the landfill operation in order to:

(1) Ensure that the facility meets all local requirements.

(2) Identify and notify the Department of suspected violations of applicable federal or State laws, regulations, or rules.

(3) Identify and notify the Department of potentially hazardous conditions at the facility.

(f) Entry pursuant to subsection (e) of this section shall not constitute a trespass or taking of property."

SECTION 11.(b) Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-325. Local government landfill liaison.**

(a) A city that has planning jurisdiction over any portion of the site of a sanitary landfill may employ a local government landfill liaison. No person who is responsible for any aspect of the management or operation of the landfill may serve as a local government landfill liaison. A local government landfill liaison shall have a right to enter public or private lands on which the landfill facility is located at reasonable times to inspect the landfill operation in order to:

(1) Ensure that the facility meets all local requirements.

(2) Identify and notify the Department of suspected violations of applicable federal or State laws, regulations, or rules.

(3) Identify and notify the Department of potentially hazardous conditions at the facility.

(b) Entry pursuant to this section shall not constitute a trespass or taking of property."

SECTION 11.(c) This section becomes effective 1 August 2007.

SECTION 12. [Reserved.]

SECTION 13.(a) G.S. 130A-290(a), as amended by S.L. 2007-107, is amended by renumbering subdivision (1a) as (1b), renumbering subdivision (1b) as (1c), renumbering subdivision (1c) as (1d), and by adding a new subdivision to read:

"(1a) 'Business entity' has the same meaning as in G.S. 55-1-40(2a)."

SECTION 13.(b) G.S. 130A-290(a), as amended by S.L. 2007-107, is amended by renumbering subdivision (21a) as (21b) and by adding a new subdivision to read:

"(21a) 'Pre-1983 landfill' means any land area, whether publicly or privately owned, on which municipal solid waste disposal occurred prior to 1 January 1983 but not thereafter, but does not include any landfill used primarily for the disposal of industrial solid waste."

SECTION 13.(c) This section becomes effective 1 August 2007.

SECTION 14.(a) Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) 'New permit' means any of the following:

a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to operate the constructed portion of a phase included in the permit to construct.

b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.

c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.

d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) 'Permit amendment' means any of the following:

a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described in the approved facility plan for a permitted solid waste management facility.

b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility.

c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility.

(3) 'Permit modification' means any of the following:

a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a 'permit amendment' or a 'new permit'.

b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.

(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $25,000.
(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment – $15,000.
(3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.
(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $50,000.
(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment – $30,000.
(6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Modification – $3,000.
(7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $15,000.
(8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment – $9,000.
(9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.
(10) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $30,000.
(11) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment – $18,500.
(12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Modification – $2,500.
(13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $15,000.
(14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment – $9,000.
(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.
(16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $30,000.
(17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment – $18,500.
(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Modification – $2,500.
(19) Tire Monofill, New Permit – $1,750.
(20) Tire Monofill, Amendment – $1,250.
(21) Tire Monofill, Modification – $500.
(22) Treatment and Processing, New Permit – $1,750.
(23) Treatment and Processing, Amendment – $1,250.
(24) Treatment and Processing, Modification – $500.
(25) Transfer Station, New Permit – $5,000.
(26) Transfer Station, Amendment – $3,000.

(27) Transfer Station, Modification – $500.
(28) Incinerator, New Permit – $1,750.
(29) Incinerator, Amendment – $1,250.
(30) Incinerator, Modification – $500.
(31) Large Compost Facility, New Permit – $1,750.
(32) Large Compost Facility, Amendment – $1,250.
(33) Large Compost Facility, Modification – $500.
(34) Land Clearing and Inert, New Permit – $1,000.
(35) Land Clearing and Inert, Amendment – $500.
(36) Land Clearing and Inert, Modification – $250.

(d) A permitted solid waste management facility shall pay an annual permit fee on or before 1 August of each year according to the following schedule:

(1) Municipal Solid Waste Landfill – $3,500.
(2) Post-Closure Municipal Solid Waste Landfill – $1,000.
(3) Construction and Demolition Landfill – $2,750.
(4) Post-Closure Construction and Demolition Landfill – $500.
(5) Industrial Landfill – $2,750.
(6) Post Closure Industrial Landfill – $500.
(7) Transfer Station – $750.
(8) Treatment and Processing Facility – $500.
(9) Tire Monofill – $500.
(10) Incinerator – $500.
(11) Large Compost Facility – $500.
(12) Land Clearing and Inert Debris Landfill – $500.

(e) The Department shall determine whether an application for a permit for a solid waste management facility that is subject to a fee under this section is complete within 90 days after the Department receives the application for the permit. A determination of completeness means that the application includes all required components but does not mean that the required components provide all of the information that is required for the Department to make a decision on the application. If the Department determines that an application is not complete, the Department shall notify the applicant of the components needed to complete the application. An applicant may submit additional information to the Department to cure the deficiencies in the application. The Department shall make a final determination as to whether the application is complete within the later of: (i) 90 days after the Department receives the application for the permit less the number of days that the applicant uses to provide the additional information; or (ii) 30 days after the Department receives the additional information from the applicant. The Department shall issue a draft permit decision on an application for a permit within one year after the Department determines that the application is complete. The Department shall hold a public hearing and accept written comment on the draft permit decision for a period of not less than 30 or more than 60 days after the Department issues a draft permit decision. The Department shall issue a final permit decision on an application for a permit within 90 days after the comment period on the draft permit decision closes. The Department and the applicant may

mutually agree to extend any time period under this subsection. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes."

SECTION 14.(b) This section becomes effective on 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date, except that during the period 1 August 2007 through 1 August 2008 the Department shall determine whether an application or a permit for a solid waste management facility is complete within 270 days after the Department receives the application for the permit.

SECTION 15.(a) Subchapter I of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5G.

"Solid Waste Disposal Tax.

"**§ 105-187.60. Definitions.**

The definitions set out in G.S. 105-164.3 and G.S. 130A-290 apply to this Article.

"**§ 105-187.61. Tax imposed.**

An excise tax is imposed on the disposal of municipal solid waste and construction and demolition debris in any landfill permitted pursuant to Article 9 of Chapter 130A of the General Statutes at a rate of one dollar and fifty cents ($1.50) per ton of waste. An excise tax is imposed on the transfer of municipal solid waste and construction and demolition debris to a transfer station permitted pursuant to Article 9 of Chapter 130A of the General Statutes for disposal outside the State at a rate of one dollar and fifty cents ($1.50) per ton of waste.

"**§ 105-187.62. Administration.**

The owner or operator of each landfill and transfer station permitted pursuant to Article 9 of Chapter 130A of the General Statutes shall maintain scales designed to determine waste tonnage that are approved by the Department of Agriculture and Consumer Services. Each owner or operator shall record waste tonnage at the time the waste is received on a form approved by the Department and shall calculate and record the tax due under this Article for each calendar month on a form approved by the Department. Each owner or operator shall report the number of tons of waste received and pay the tax due for each calendar month to the Department no later than the fifteenth day of the following calendar month.

"**§ 105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary shall credit taxes received pursuant to this Article, less the cost of collection, as follows:

(1) Sixty-seven percent (67%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) Thirty-three (33%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 15.(b) Part 2A of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.9. Solid waste disposal tax; use of proceeds.**

It is the intent that the proceeds of the solid waste disposal tax imposed by Article 5G of Chapter 105 of the General Statutes shall be used only for the following purposes:

(1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous Sites Cleanup Fund shall be used by the Department of Environment and Natural Resources to fund the assessment and remediation of pre-1983 landfills. Up to seven percent (7%) of the proceeds of the tax under this subdivision may be used to fund staff to administer contracts for the assessment and remediation of pre-1983 landfills.

(2) Funds credited pursuant to G.S. 105-187.63(2) to the Solid Waste Management Trust Fund shall be used by the Department of Environment and Natural Resources to fund grants to State agencies and units of local government to initiate or enhance local recycling programs. Up to seven percent (7%) of the net proceeds of the tax under this subdivision may be used by the Department to administer this Part."

SECTION 15.(c) G.S. 130A-310.6 is amended by adding four new subsections to read:

"(c) The Secretary shall use funds allocated to the Department under G.S. 130A-295.9(c)(1) to assess pre-1983 landfills, to determine the priority for remediation of pre-1983 landfills, and to develop and implement a remedial action plan for each pre-1983 landfill that requires remediation. Environmental and human health risks posed by a pre-1983 landfill may be mitigated using a risk-based approach for assessment and remediation.

(d) The Secretary shall not seek cost recovery for assessment and remedial action performed under subsection (c) of this section at a pre-1983 landfill from any otherwise potentially responsible party if the Secretary develops and implements a remedial action plan for that pre-1983 landfill and if the potentially responsible party cooperates with assessment of the site and implementation of control and mitigation measures at any site which the potentially responsible party owns or over which the potentially responsible party exercises control, including, but not limited to, granting access to the site, allowing installation of monitoring wells, allowing installation and maintenance of improvements to the landfill cap, allowing installation of security measures, agreeing to record and implement land-use restrictions, and providing access to any records regarding the pre-1983 landfill. The Secretary shall develop and implement remedial action plans for pre-1983 landfills in the order of their priority determined as provided in subsection (c) of this section. The Secretary shall not develop or implement a remedial action plan for a pre-1983 landfill unless the Secretary determines that sufficient funds will be available from the Inactive Hazardous Sites Cleanup Fund to pay the costs of development and implementation of a remedial action plan for that pre-1983 landfill.

(e) A unit of local government that voluntarily undertakes assessment or remediation of a pre-1983 landfill may request that the Department reimburse the costs of assessment of the pre-1983 landfill and implementation of measures necessary to remediate the site to eliminate an imminent hazard. The Department shall provide reimbursement under this subsection if the Department finds all of the following:

(1) The unit of local government undertakes assessment and remediation under a plan approved by the Department.

(2) The unit of local government provides a certified accounting of costs incurred for assessment and remediation.

(3) Each contract for assessment and remediation complies with the requirements of Articles 3D and 8 of Chapter 143 of the General Statutes.

(4) Remedial action is limited to measures necessary to abate the imminent hazard.

(f) The Department may undertake any additional action necessary to remediate a pre-1983 landfill based on the priority ranking of the site under subsection (c) of this section."

SECTION 15.(d) G.S. 130A-310.11 reads as rewritten:

"**§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

(a) There is established under the control and direction of the Department the Inactive Hazardous Sites Cleanup Fund. This fund shall be a revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, taxes, and other monies paid to it or recovered by or on behalf of the Department. The Inactive Hazardous Sites Cleanup Fund shall be treated as a nonreverting special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-309.295.9(c)."

SECTION 15.(e) This section becomes effective 1 July 2008.

SECTION 16.(a) The Commission for Health Services shall review rules governing the design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of solid waste management facilities to determine whether changes are required to protect public health, safety, welfare, and the environment; to improve the performance of solid waste management facilities; to take advantage of technological advances in landfill design, construction, operation, maintenance, and closure; and to provide additional protection to environmentally sensitive areas of the State. The Commission shall adopt rules necessary to minimize impacts from solid waste management facilities on public health, safety, welfare, and the environment. These rules shall:

(1) Establish standards for the collection, control, and utilization or destruction of landfill gasses at municipal solid waste landfills.

(2) Establish standards for the design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of bioreactor landfills.

(3) Establish criteria for development of bird and wildlife management plans.

(4) Incorporate measures necessary to minimize impacts to natural, historic, and cultural resources, including, but not limited to, wetlands, critical fisheries habitat, parks, recreation areas, cultural and historic sites, and potential water supplies.

SECTION 16.(b) This section is effective when it becomes law.

SECTION 17.1.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2E. Discarded Computer Equipment Management.

"**§ 130A-309.90. Findings.**

The General Assembly makes the following findings:

(1) The computer equipment waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.

(2) It is in the best interests of the citizens of this State to have convenient, simple, and free access to recycling services for discarded computer equipment.

(3) Collection programs operated by local government and nonprofit agencies are an efficient way to divert discarded computer equipment from disposal and to provide recycling services to all citizens of this State.

(4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment.

(5) No other system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment from disposal.

(6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment take part in a solution to the electronic waste problem.

(7) The recycling of discarded computer equipment recovers valuable materials for reuse and will create jobs and expand the tax base of the State.

"**§ 130A-309.91. Definitions.**

As used in this Part, the following definitions apply:

(1) 'Business entity' has the same meaning as in G.S. 55-1-40(2a).

(2) Computer equipment. – Any desktop central processing unit, any laptop computer, the monitor or video display unit for a computer system and the keyboard, mice, and other peripheral equipment. Computer equipment does not include a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer; an

automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

(3) Discarded computer equipment. – Computer equipment that is solid waste.

(4) Discarded computer equipment collector. – A municipal or county government, nonprofit agency, or retailer that accepts discarded computer equipment from the public.

(5) Certified computer equipment recycling facility. – A business that processes discarded computer equipment for reuse and recycling and that meets a minimum set of operational and material handling standards determined by the Department.

(6) Manufacturer. – A person who manufactures computer equipment sold under its own brand or label; sells under its own brand or label computer equipment produced by other suppliers; imports into the United States computer equipment that was manufactured outside of the United States; or owns a brand that it licenses to another person for use on computer equipment. Manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment.

(7) Orphan discarded computer equipment. – Any discarded computer equipment for which a manufacturer cannot be identified or for which the manufacturer is no longer in business and has no successor in interest.

(8) Retailer. – A person who sells computer equipment in the State to a consumer. Retailer includes a manufacturer of computer equipment that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person who sells computer equipment to a distributor or retailer through a wholesale transaction.

"**§ 130A-309.92. Responsibility for recycling discarded computer equipment.**

In addition to the specific requirements of this Part, discarded computer equipment collectors, certified computer equipment recycling facilities, and manufacturers share responsibility for the recycling of discarded computer equipment and the education of citizens of the State as to recycling opportunities for discarded computer equipment.

"**§ 130A-309.93. Requirements for manufacturers.**

(a) Registration and Fee Required. – Each manufacturer of computer equipment, before selling or offering for sale computer equipment in North Carolina, shall register with the Department and, at the time of registration, shall pay an initial registration fee

of ten thousand dollars ($10,000) to the Department. A computer equipment manufacturer that has registered shall pay an annual renewal registration fee of one thousand dollars ($1,000) to the Department. The annual renewal registration fee shall be paid each year no later than the first day of the month in which the initial registration fee was paid. The proceeds of these fees shall be credited to the Computer Equipment Management Account.

(b) Manufacturer Label Required. – A manufacturer shall not sell or offer to sell computer equipment in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) Computer Equipment Recycling Plan. – Each manufacturer of computer equipment shall develop and submit to the Department a plan for reuse or recycling of discarded computer equipment in the State produced by the manufacturer. The manufacturer shall submit a proposed plan to the Department within 120 days of registration as required by subsection (a) of this section. The plan shall:

(1) Describe any direct take-back program to be implemented by the manufacturer, including mail-back programs and collection events.

(2) Provide that the manufacturer will take responsibility for discarded computer equipment it manufactured when the discarded computer equipment is received by a certified computer equipment recycling facility.

(3) Provide that the manufacturer will take responsibility for its proportionate share of orphan discarded computer equipment received by a certified computer equipment recycling facility.

(4) Describe the contractual arrangement between the manufacturer and each certified computer equipment recycling facility under which the certified computer equipment recycling facility processes discarded computer equipment it manufactured for reuse and recycling and invoices the manufacturer on a quarterly basis and under which the manufacturer pays the invoices on a timely basis.

(5) Include a detailed description as to how the manufacturer will implement and finance the plan.

(6) Describe the performance measures that will be used by the manufacturer to document recovery and recycling rates for discarded computer equipment.

(7) Include a public education plan on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements.

(d) Computer Equipment Recycling Plan Revision. – A manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The Department may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out-of-date.

(e) Payment of Costs for Plan Implementation. – Each manufacturer is responsible for all costs associated with the development and implementation of its

plan. A manufacturer shall not collect a charge for the management of discarded computer equipment at the time the equipment is discarded.

(f) Payments to Certified Computer Equipment Recycling Facilities. – Each manufacturer:

(1) Shall pay each certified computer equipment recycling facility the reasonable costs of transportation of discarded computer equipment from computer equipment collectors to certified computer equipment recycling facilities, and the actual costs of recycling the discarded computer equipment by a certified computer equipment recycling facility.

(2) Shall pay each certified computer equipment recycling facility for the manufacturer's pro rata share of orphan discarded computer equipment from the previous calendar year, calculated as provided in G.S. 130A-309.97 and paid on an annual basis.

(3) May provide information to the Department on any certified computer equipment recycling facility whose cost charges are unreasonable for consideration by the Department under G.S. 130A-309.95.

(g) Joint Computer Equipment Recycling Plans. – A manufacturer may fulfill the requirements of this section by participation in a joint recycling plan with other manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

(h) Annual Report. – Each manufacturer shall submit a report to the Department by 1 February of each year that includes all of the following for the previous calendar year:

(1) A description of the collection and recycling services used to recover the manufacturer's products.

(2) The quantity and type of computer equipment sold by the manufacturer to retail consumers in this State.

(3) The quantity and type of discarded computer equipment collected by the manufacturer for recovery in this State for the preceding calendar year.

(4) Any other information requested by the Department.

"**§ 130A-309.94. Requirements for discarded computer equipment collectors.**

Each discarded computer equipment collector shall ensure that discarded computer equipment received by the collector is consolidated at central locations, properly stored, and either held for pickup by a certified computer equipment recycling facility or delivered to a certified computer equipment recycling facility.

"**§ 130A-309.95. Certification of computer equipment recycling facilities.**

(a) A manufacturer may include a computer equipment recycling facility in its computer equipment recycling plan only if the computer equipment recycling facility has been certified by the Department. A computer equipment recycling facility must be certified by the Department in order to be eligible to invoice a manufacturer for the costs of recycling discarded computer equipment.

(b) In order to become a certified computer equipment recycling facility, the business entity that owns or operates the facility must apply to the Department for

certification. The Department shall certify computer equipment recycling facilities that are located within the State or outside the State but within the United States or its territorial possessions. The Department may certify a computer equipment recycling facility if the Department finds all of the following:

(1) The business entity is in substantial compliance with all international, federal, and State agreements, laws, regulations, and rules for the protection of the environment, including those governing the export of used products and materials.

(2) The business entity actively uses recognized recycling industry auditing and certification programs to assess ongoing business and environmental performance.

(3) The business entity has in place adequate policies and procedures to inventory and account for materials as they are received, stored, processed, and shipped.

(4) The business entity has implemented a plan for hazardous materials identification and management.

(5) The business entity has implemented a plan for reporting and responding to accidents, spills, fires, and explosions.

(6) The business entity has implemented an occupational health and safety program that provides adequate protection for employees and for other persons who enter the facility.

(7) The business entity and its suppliers and subcontractors do not use prison labor to collect, process, or market discarded computer equipment.

(8) The business entity does not export intact nonworking cathode ray tubes either directly or indirectly.

(9) The business entity maintains in force general liability insurance or equivalent corporate guarantees with limits of not less than one million dollars ($1,000,000) per occurrence and not less than ten million dollars ($10,000,000) in the aggregate.

(10) The business entity has a plan for the disruption or cessation of operations that provides for the completion of all work in progress; closure of the facility in compliance with all applicable federal and State laws, regulations, and rules, including the removal of all hazardous materials; and full payment of all costs of compliance with this subdivision.

(c) Each applicant for certification shall provide its schedule of charges for transporting and recycling of discarded computer equipment from computer equipment collectors. Each applicant shall describe its experience and capacity to manage discarded computer equipment and its system of inventory management and cost accounting. The Department shall evaluate an applicant's schedule of charges in relation to the applicant's experience and capacity to manage discarded computer equipment. The Department shall consider an applicant's schedule of charges in relation to the schedules of charges of other computer equipment recycling facilities and shall certify

the computer equipment recycling facility only if it determines that those charges are just and reasonable.

(d) At the time the annual renewal fee is due under subsection (e) of this section, each owner or operator of a certified computer equipment recycling facility shall submit:

(1) Information sufficient to demonstrate continued compliance with the requirements of this section.

(2) The information required by subsection (c) of this section.

(e) Each applicant for certification as a computer equipment recycling facility, at the time of registration, shall pay an application fee of five thousand dollars ($5,000) to the Department and shall pay an annual renewal fee of two thousand five hundred dollars ($2,500) to the Department. The annual renewal fee shall be paid each year no later than the first day of the month in which the application fee was paid. The proceeds of these fees shall be credited to the Computer Equipment Management Account.

(f) Each computer equipment recycling facility is subject to inspection by the Department at the time of an application for certification. Each certified computer equipment recycling facility is subject to inspection by the Department at any time. The Department may revoke the certification of a computer equipment recycling facility if the Department finds that the facility fails to meet any of the requirements of this section.

"**§ 130A-309.96. Requirements for certified computer equipment recycling facilities.**

(a) Each certified computer equipment recycling facility shall maintain an accounting and itemized inventory of the discarded computer equipment delivered to the facility by quantity, type, and manufacturer. Discarded computer equipment that cannot be inventoried by the identity of its manufacturer shall be inventoried as orphan discarded computer equipment.

(b) Each certified computer equipment recycling facility shall work cooperatively with manufacturers and shall enter into contractual arrangements with manufacturers under which the certified computer equipment recycling facility processes discarded computer equipment for reuse and recycling and invoices each manufacturer on a quarterly basis and under which each manufacturer pays the invoices on a timely basis.

(c) Each certified computer equipment recycling facility shall submit a report to the Department by 1 February of each year that includes all of the following for the previous calendar year:

(1) The quantity, type, and manufacturer of discarded computer equipment received by the facility.

(2) The quantity and types of materials recovered from discarded computer equipment for reuse and recycling.

(3) The quantity and types of materials discarded as waste.

(4) Any other information requested by the Department.

"**§ 130A-309.97. Responsibilities of the Department.**

In addition to its other responsibilities under this Part, the Department shall:

(1) No later than 1 March of each year, based on the information supplied by manufacturers pursuant G.S. 130A-309.93(i)(2), calculate the market share of each manufacturer for the previous calendar year. The market share of each manufacturer for the previous calendar year shall be that manufacturer's pro rata share of the cost of management of orphan discarded computer equipment waste by each certified computer equipment recycling facility for the previous calendar year.

(2) No later than 15 March of each year, notify each manufacturer and each certified computer equipment recycling facility of each manufacturer's pro rata share of the cost of management of orphan discarded computer equipment.

(3) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.93 and provide the current list to the Department of Administration each time that the list is updated.

(4) Develop and maintain a list of certified computer equipment recycling facilities and supply this list to each manufacturer registered under G.S. 130A-309.93.

(5) Develop and implement a public education program on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements. The Department shall make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of G.S. 130A-309.93(c)(7). The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment collection centers and in the development and implementation of local public education programs.

(6) Maintain the confidentiality of any information that is required to be submitted by a manufacturer or certified computer equipment recycling facility under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.

"**§ 130A-309.98. Computer Equipment Management Account.**

The Computer Equipment Management Account is created as a nonreverting account within the Department. Funds in the Account shall be used by the Department to implement the provisions of this Part.

"**§ 130A-309.99. Enforcement.**

(a) This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

(b) If a manufacturer fails to pay the costs described in subdivisions (1) and (2) of G.S.130A-309.93(f), the Department may recover the unpaid costs plus all expenses of any action necessary to recover the unpaid costs from the manufacturer. The Attorney General may commence a civil action against a manufacturer to recover the costs and

expenses described in this section, which are in addition to any fines and civil penalties that may be imposed.

"**§ 130A-309.100. Annual report.**

No later than 1 April of each year, the Department shall submit a report on the recycling of discarded computer equipment in the State under this Part to the Environmental Review Commission. The report must include an evaluation of the recycling rates in the State for discarded computer equipment, a discussion of compliance and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment or other electronic devices."

SECTION 17.1(b) The Department shall include in the annual report for 1 April 2011, as required by G.S. 130A-309.100, as enacted by Section 17.1(a) of this act, an analysis of the feasibility and advisability of deleting the exclusion of printing devices from the definition of computer equipment as set out in G.S. 130A-309.91, as enacted by Section 17.1(a) of this act.

SECTION 17.2. G.S. 130A-309.09A(b)(6) reads as rewritten:

"(6) Include an assessment of current programs and a description of intended actions with respect to:

a. Education with the community and through the schools.

b. Management of special wastes.

c. Prevention of illegal disposal and management of litter.

d. Purchase of recycled materials and products manufactured with recycled materials.

e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer equipment, as defined in G.S. 130A-309.91."

SECTION 17.3. G.S. 130A-309.10(f) is amended by adding a new subdivision to read:

"(14) Discarded computer equipment, as defined in G.S. 130A-309.91."

SECTION 17.4. G.S. 130A-309.10(f1) is amended by adding a new subdivision to read:

"(7) Discarded computer equipment, as defined in G.S. 130A-309.91."

SECTION 17.5. Part 4 of Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-33.104. Purchase by State agencies and governmental entities of certain computer equipment prohibited.**

(a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

(b) No State agency, political subdivision of the State, or other public body shall purchase computer equipment, as defined in G.S. 130A-309.91, from any manufacturer determined not to be in compliance with the requirements of G.S. 130A-309.93 as determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.97(3).

(c) The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies. A manufacturer that is not

in compliance with the requirements of G.S. 130A-309.93 shall not sell or offer for sale computer equipment to the State, a political subdivision of the State, or other public body."

SECTION 17.6(a) Part 2E of Article 9 of Chapter 130A of the General Statutes, as enacted by Section 17.1(a) of this act, becomes effective as follows:

(1) G.S.130A-309.90 becomes effective 1 January 2008.
(2) G.S.130A-309.91 becomes effective 1 January 2008.
(3) G.S.130A-309.92 becomes effective 1 January 2008.
(4) G.S.130A-309.93(a) becomes effective 1 January 2008.
(5) G.S.130A-309.93(b) becomes effective 1 January 2008.
(6) G.S.130A-309.93(c) becomes effective 1 October 2008.
(7) G.S.130A-309.93(d) becomes effective 1 October 2008.
(8) G.S.130A-309.93(e) becomes effective 1 January 2008.
(9) G.S.130A-309.93(f) becomes effective 1 January 2009.
(10) G.S.130A-309.93(g) becomes effective 1 January 2008.
(11) G.S.130A-309.93(h) becomes effective 1 February 2010.
(12) G.S.130A-309.94 becomes effective 1 January 2009.
(13) G.S.130A-309.95 becomes effective 1 January 2008.
(14) G.S.130A-309.96(a) becomes effective 1 January 2009.
(15) G.S.130A-309.96(b) becomes effective 1 January 2008.
(16) G.S.130A-309.96(c) becomes effective 1 February 2010.
(17) G.S.130A-309.97(1) becomes effective 1 January 2010.
(18) G.S.130A-309.97(2) becomes effective 1 January 2010.
(19) G.S.130A-309.97(3) becomes effective 1 January 2008.
(20) G.S.130A-309.97(4) becomes effective 1 January 2009.
(21) G.S.130A-309.97(5) becomes effective 1 January 2008.
(22) G.S.130A-309.97(6) becomes effective 1 January 2008.
(23) G.S.130A-309.98 becomes effective 1 January 2008.
(24) G.S.130A-309.99 becomes effective 1 January 2008.
(25) G.S.130A-309.100 becomes effective 1 April 2010.

SECTION 17.6(b) Section 17.2 of this act becomes effective 1 January 2008. Sections 17.3 and 17.4 become effective 1 January 2011. Section 17.5 of this act becomes effective 1 July 2008. Subsection (b) of Section 17.1 of this act, Section 17.6 of this act and any other provision of this act for which an effective date is not specified become effective 1 January 2008.

SECTION 18.(a) G.S. 130A-295.01(g), as enacted by Section 1.7 of S.L. 2007-107, is recodified as G.S. 130A-295.01(c).

SECTION 18.(b) G.S. 130A-295.01(c), as enacted by Section 1.3 of S.L. 2007-107, is recodified as G.S. 130A-295.01(d).

SECTION 18.(c) Subsections (d), (e), (f), and (g) of G.S. 130A-295.01, as enacted by Section 1.4 of S.L. 2007-107, read as rewritten:

"~~(d)~~(e)

(1) Within 10 days of filing an application for a permit for a commercial hazardous waste facility, the applicant shall notify every person who

resides or owns property located within one-fourth mile of any property boundary of the facility that the application has been filed. The notice shall be by mail to residents and by certified mail to property owners, or by any other means approved by the Department, shall be in a form approved by the Department, and shall include all of the following:

~~(1)~~a. The location of the facility.

~~(2)~~b. A description of the facility.

~~(3)~~c. The hazardous and nonhazardous wastes that are to be received and processed at the facility.

~~(4)~~d. A description of the emergency response plan for the facility.

~~(e)~~(2) The permit holder for a commercial hazardous waste facility shall publish a notice that includes the information set out in ~~subsection (d)~~subdivision (1) of this ~~section~~ subsection annually beginning one year after the permit is issued. The notice shall be published in a form and manner approved by the Department in a newspaper of general circulation in the community where the facility is located.

~~(f)~~(3) The permit holder for a commercial hazardous waste facility shall provide the information set out in ~~subdivisions (1) through (4)~~ subdivision (1) of this subsection ~~(d) of this section~~ by mail to the persons described in subdivision (1) of this subsection ~~(d) of this section~~ at the midpoint of the period for which the permit is issued.

~~(g)~~(4) Each commercial hazardous waste facility applicant and permit holder shall provide documentation to demonstrate to the Department that the requirements set out in ~~subsections (d) through (f) of this section~~ subdivisions (1), (2), and (3) of this subsection have been met."

SECTION 18.(d) G.S. 130A-295.01(e), as enacted by Section 1.5 of S.L. 2007-107, is recodified as G.S. 130A-295.01(f).

SECTION 18.(e) G.S. 130A-295.01(f), as enacted by Section 1.6 of S.L. 2007-107, is recodified as G.S. 130A-295.01(g).

SECTION 18.(f) Subdivisions (6) and (7) of subsection (f) of Section 4.1 of S.L. 2007-107 read as rewritten:

"(6) Review the sprinkler requirements ~~for Hazardous Materials Facilities (Section 903.2.4)~~ under Section 903.2.4 of the State Building Code for facilities used to collect, store, process, treat, recycle, recover, or dispose of hazardous substance, as defined in 29 Code of Federal Regulations § 1910.120(a)(3) (1 July 2006 Edition), and determine whether sprinkler design criteria and coverage should be amended.

(7) Review the fire alarm requirements for ~~Hazardous Materials Facilities (Section 907.2.5)~~ under Section 903.2.4 of the State Building Code and determine whether the ~~relevant~~ facilities used to collect, store, process, treat, recycle, recover, or dispose of hazardous substance, as defined in 29 Code of Federal Regulations § 1910.120(a)(3) (1 July 2006 Edition), should have a full fire alarm system or, in the

alternative, full staffing as recommended by the Department of Environment and Natural Resources. If the Task Force determines that relevant facilities should have full staffing, the Task Force shall recommend the level of knowledge and training that should be required of the staff."

SECTION 19. The Division of Waste Management and the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources shall jointly develop a proposal for a recycling program for fluorescent lamps. The program will be developed so as to ensure that substantially all of the mercury contained in fluorescent lamps will be recovered so as to facilitate a phaseout of incandescent lamps without damage to public health and the environment from the increased use of mercury lamps as replacements for fluorescent lamps. The Department of Environment and Natural Resources shall report its findings and recommendations, including legislative proposals and cost estimates, to the Environmental Review Commission on or before 1 March 2008.

SECTION 20. The Environmental Review Commission shall study issues related to the franchise of solid waste management facilities by units of local government. The Environmental Review Commission, with the assistance of the Department of Justice, shall study issues related to the transportation of solid waste by rail or barge, including the extent to which regulation of the transportation of solid waste by rail or barge by state governments may be preempted by federal law. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the 2008 Regular Session of the General Assembly.

SECTION 21. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 22. Except as otherwise provided in this act, this act is effective when it becomes law.

SENATE BILL 1492:
Solid Waste Management Act of 2007

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 24, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Jennifer McGinnis
Version:	Second Edition		Staff Attorney

SUMMARY: The 2nd Edition of Senate Bill 1492 would:

- *Clarify the circumstances under which an application for a solid waste management permit may be denied.*
- *Provide that solid waste management permits are not transferable.*
- *Increase the penalties that may be imposed for solid waste violations.*
- *Amend financial responsibility requirements for applicants and permit holders for solid waste management facilities.*
- *Clarify and expand the scope of environmental compliance review requirements.*
- *Clarify that a parent, subsidiary, or other affiliate of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant is subject to financial responsibility and environmental compliance review.*
- *Provide for siting of combustion products landfills in areas that have been formerly used for the storage or disposal of combustion products from coal-fired generating units at the same facility that generated the combustion products, and technical requirements for these landfills.*
- *Specify additional technical requirements for solid waste management facilities.*
- *Require that permit applicants for certain solid waste facilities conduct environmental impact studies and traffic studies of the impacts of the proposed facility.*
- *Clarify the circumstances under which a unit of local government may collect a solid waste availability fee.*
- *Authorize certain units of local government to hire landfill liaisons.*
- *Establish fees applicable to permits for solid waste management facilities to support the solid waste management program; and require the Department to issue a draft permit decision on an application for a permit subject to a fee within one year after the Department determines the application is complete.*
- *Establish a solid waste disposal tax of 1.50 per ton of waste to be imposed on the disposal of municipal solid waste in landfills in the State and on the transfer of municipal solid waste for disposal outside the State.*
- *Enact provisions related to the recycling of discarded computer equipment.*

BILL ANALYSIS: The bill would -

1) Clarify the circumstances under which an application for a solid waste management permit may be denied. The Department of Environment and Natural Resources (Department) must deny a permit if it finds that:

- Construction or operation of the proposed facility, or the cumulative impacts of the proposed facility and other facilities in the area, would: (1) be inconsistent with or violate rules adopted by the Commission for Health Services (Commission); (2) result in a violation of water quality standards; (3) result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance; (4) limit or threaten access to or use of public trust waters; (5) be inconsistent with the State solid waste management policy and goals and with the State solid waste management plan; or (6) have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964.
- The proposed facility would be located in a natural hazard area, including a floodplain or an area subject to excessive seismic activity, such that the facility will present a risk to public health or safety.
- There is a practicable alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.
- The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria listed above.

(2) Provide that solid waste management permits are not transferable.

(3) Increase the penalties that may be imposed for solid waste violations.

The amount that may be assessed for a penalty involving non-hazardous waste would be increased from $5,000 per day to $15,000 per day. The amount that may be assessed for a penalty involving hazardous waste would be increased from $25,000 per day to $32,500 per day.

In addition, the bill provides that the Secretary of Environment and Natural Resources may also assess the reasonable costs of any investigation, inspection, or monitoring associated with the assessment of the civil penalty against any person who is assessed a civil penalty for solid waste violations.

(4) Amend financial responsibility requirements for applicants and permit holders for solid waste management facilities: The bill would create a new G.S. 130A- 295.2, which would:

- Add definitions for "financial assurance," "financial qualification," and "financial responsibility."
- Require the Commission to adopt rules governing financial responsibility to ensure availability of sufficient funds for design, construction, operation, and maintenance (the statutes currently require rules governing financial responsibility for closure and post-closure maintenance and monitoring, and for any corrective action the Department may require).
- Authorize the Department to submit any filings pertaining to financial responsibility to the State Treasurer for review and recommendations.
- With regard to financial responsibility, require a permit holder to: (i) maintain financial responsibility in order to continue to hold a permit; (ii) provide any information requested by the Department concerning maintenance of financial responsibility; and, (iii) notify the Department of any significant change in information that might affect financial responsibility. Based upon review of information provided, the Department may require a permit holder to reestablish financial responsibility and may modify or revoke a permit, or require issuance of a new permit.

- With regard to financial qualification, authorize the Department, in its sole discretion, to require an applicant to:
  - Demonstrate its financial qualification for the design, construction, operation, and maintenance of a facility. If the Department requires a demonstration of financial qualification, the applicant or permit holder: (i) must provide an audited, certified financial statement; (ii) may do so through a combination of cash deposits, insurance, and binding loan commitments from a financial institution licensed to do business in the State and rated AAA by Standard & Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent, subsidiary, or other affiliate of the applicant or a permit holder, or a joint venturer with a direct or indirect interest in the applicant or permit holder, are proposed to be used to demonstrate its financial qualification, then the party whose assets are to be used must be designated as a joint permittee with the applicant on the permit of the facility.
  - Provide cost estimates for site investigation; land acquisition, including financing terms and land ownership; design; construction of each five-year phase, if applicable; operation; maintenance; closure, and post-closure monitoring and maintenance of the facility to the Department.
- With regard to financial assurance:
  - Require an applicant and permit holder to establish financial assurance by a method or combination of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and any corrective action that the Department may require, will be available during the active life of the facility, at closure, and for any post-closure period of time that the Department may require.
  - The applicant or permit holder may establish financial assurance through insurance, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.
  - Assets used to meet financial assurance requirements must be in a form readily accessible to the Department, and inaccessible to the permit holder except as approved by the Department.
  - Require that the owner or operator of a sanitary landfill establish financial assurance sufficient to cover a minimum of $3,000,000 in costs for potential assessment and corrective action at the facility, and give the Department discretion to require financial assurance in a higher amount or increase the amount at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation.
  - Authorizes the Commission to adopt rules to allow a unit of local government or solid waste management authority to meet the financial responsibility requirements by either a local government financial test or a capital reserve fund requirement.

(5) Clarify and expand the scope of environmental compliance review requirements.

Under current statutory law, an applicant for a permit may be required to demonstrate that the applicant (and designated affiliated entities) has substantially complied with (i) the requirements applicable to any solid waste management activity in which the applicant has previously engaged, and (ii) federal and State laws, regulations, and rules for the protection of the environment.

The bill would create a new G.S. 130A-295.3 to require that the Department conduct an environmental compliance review of each applicant (and designated affiliated entities) to determine the extent to which the applicant has complied with (i) requirements applicable to activities in which it has previously engaged, and (ii) federal and state laws, regulations, and rules for the protection of the environment.. The bill authorizes the Department to deny an application for a permit if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions for the protection of the environment or for the conservation of natural resources.

(6) Clarify that a parent, subsidiary, or other affiliate of the applicant or parent, including any person with a direct or indirect interest in the applicant (other than a minority shareholder of a publicly traded corporation who has no involvement in the management or control of the corporation) is subject to financial responsibility and environmental compliance review.

(7) Provide for siting of combustion products landfills in areas that have been formerly used for the storage or disposal of combustion products from coal-fired generating units at the same facility that generated the combustion products, and technical requirements for these landfills.

(8) Specify additional technical requirements for solid waste management facilities. The bill would require:

- The Department to conduct a study of environmental impacts (EIS) from the proposed facility, and require the applicant to pay all costs incurred by the Department in connection with the study.
- A buffer of at least 200 feet between any stream or wetland and the nearest waste disposal unit of a sanitary landfill, except in certain circumstances.
- A sanitary landfill for the disposal of construction and demolition debris must be constructed with a composite liner system consisting of two components.
- A sanitary landfill must be constructed so that the post-settlement bottom elevation of the liner system, or the post-settlement bottom elevation of the waste if no liner system is required, is a minimum of four feet above both the seasonal high groundwater table and the bedrock datum plane contours.
- With respect to any sanitary landfill for which a liner is required, additional requirements for testing of geomembrane base liner systems for leaks and damage, and design and maintenance of leachate collection systems, lines, and pipes.
- A permit holder for a sanitary landfill to develop and implement a waste screening plan to ensure compliance with State laws and rules, and any applicable local ordinances, that prohibit the disposal of certain items in landfills.

The bill would prohibit:

- Construction of a waste disposal unit of a sanitary landfill in: a 100-year floodplain except as authorized by variance, a wetland; within 5 miles of the outermost boundary of a National Wildlife Refuge, 1 mile of the outermost boundary of a State gameland, or 2 miles of the outermost boundary of a component of the State Parks System.
- Issuance of a permit for a sanitary landfill that authorizes: (i) a capacity of more than 55 million cubic yards of waste; (ii) a disposal area of more than 350 acres; and (iii) a maximum height, including the cap and cover vegetation, of more than 250 feet above the mean natural elevation of the disposal area.

(9) Require that applicants for a permit for a sanitary landfill or for a transfer station conduct a traffic study of the impacts of the proposed facility.

(10) Clarify the circumstances under which a unit of local government may collect a solid waste availability fee.

(11) Authorize certain units of local government to hire landfill liaisons.

(12) Establish a schedule of fees applicable to permits for solid waste management facilities to support the solid waste management program. Requires the Department to issue a draft permit decision on an application for a permit subject to a fee within one year after the Department determines the application is complete.

(13) Establish a solid waste disposal tax of $1.50 per ton of waste to be imposed on the disposal of municipal solid waste in landfills in the State and on the transfer of municipal solid waste for disposal outside the State in order to provide funds for: (i) the assessment and remediation of orphan landfills (67%); and (ii) grants to units of local government to initiate or enhance local recycling programs (33%).

One designated use of the funds is remediation of pre-1983 landfills ("orphan" landfills) – the bill requires the Secretary of Environment and Natural Resources to assess these landfills, determine their priority for remediation, and to develop and implement a remedial action plan for each landfill that requires remediation. The bill provides that with regard to these landfills, the Secretary must not seek cost recovery from the potentially responsible parties for a particular site if the Secretary develops and implements a remedial action for the site and the party cooperates with the assessment and remediation program. The Secretary will develop and implement a remedial action plan only if funds are available to pay the cost of implementation.

(14) Enact provisions related to the recycling of discarded computer equipment. The bill:

- Establishes the North Carolina Producer Responsibility Program (program) for the recycling of discarded computer equipment.
- Prohibits the disposal of discarded computer equipment in landfills or by incineration effective 1 January 2011.
- Requires each manufacturer of computer equipment sold in the State to:
  - Register with the Department.
  - Pay a $10,000 initial registration fee and an annual registration fee. The proceeds of the fees would be credited to the Computer Equipment Management Account, a non-reverting account established within the Department.
  - Submit a plan to the Department for the recycling or reuse of computer equipment produced by the manufacturer and discarded by households in the State.
  - Pay the reasonable costs of operating a certified computer recycling facility that are attributable to handling discarded equipment by households in the State, the costs of transporting the discarded equipment, and the actual costs of recycling the discarded computer equipment.
  - Submit a report to the Department by 31 January of each year.
- Requires computers sold in the State to include a label identifying the manufacturer.
- Allows manufacturers to participate in collective recovery plans with other manufacturers.
- Prohibits manufacturers not in compliance with requirements from selling computer equipment to the State and to political subdivisions of the State.

- Provides that only computer equipment recycling facilities certified by the Department may accept discarded computer equipment for recycling and establishes environmentally sound management standards that must be met for a computer equipment recycling facility to be certified by the Department.
- In addition to certification of computer equipment recycling facility, the bill requires the Department to: (i) calculate each manufacturer's market share for the previous calendar year in order to determine the manufacturer's pro-rata share of orphan discarded computer equipment and to notify each manufacturers by 15 March of each year of their share; (ii) supply manufacturers with a list of certified recycling facilities; (iii) develop and maintain a list of manufacturers in compliance with the applicable provisions; (iv) develop and implement a public education program on recycling of discarded computer equipment and provide technical assistance to local governments and manufacturers; (v) submit a report on the recycling of discarded computer equipment to the Environmental Review Commission no later than 1 April of each year.
- Requires computer equipment collectors that participate in the program to ensure that discarded computer equipment is delivered to a certified recycling facility.
- Authorizes the Attorney General to commence a civil action against a manufacturer to recover costs, in addition to any fines or penalties imposed.

(15) Make related clarifying, conforming, and technical changes.

S1492e2-SMRI

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1492 (Second Edition)

SHORT TITLE: Solid Waste Management Act of 2007.

SPONSOR(S): Senator Clodfelter

FISCAL IMPACT
(in millions)

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
REVENUES:					
Civil Penalty & Forfeiture Fund	**$0.16**	**$0.16**	**$0.16**	**$0.16**	**$0.16**
Solid Waste Mgmt. Account	**$1.1**	**$1.1**	**$1.1**	**$1.1**	**$1.1**
Inactive Hazardous Sites Cleanup Fund	**$0**	**$12.65**	**$12.98**	**$13.31**	**$13.65**
Solid Waste Mgmt. Trust Fund	**$0**	**$6.22**	**$6.39**	**$6.56**	**$6.72**
Computer Equip. Mgmt. Account	**$0.82 - $0.9**	**$0.11 - $0.15**	**$0.11 - $0.15**	**$0.11 - $0.15**	**$0.11 - $0.15**
EXPENDITURES:					
DENR		**See Assumptions & Methodology**			
DOR		**$0.225**	**$0.225**	**$0.225**	**$0.225**
Local Governments		**No estimate available – See Assumptions & Methodology**			
Corrections		**See Assumptions & Methodology**			
Judicial		**See Assumptions & Methodology**			
Justice		**See Assumptions & Methodology**			
Info. Tech. Svcs.		**See Assumptions & Methodology**			
POSITIONS (cumulative):					
DENR	**16.5**	**34.0**	**33.0**	**32.0**	**32.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment & Natural Resources, Division of Waste Management; Local Governments; Department of Revenue; Office of Information Technology Services

EFFECTIVE DATE: Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14 effective August 1, 2007; Section 15 effective July 1, 2008; Section 17.6 effective numerous dates; All others when the bill becomes law

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY:
Senate Bill 1492 would:

- Clarify the circumstances under which an application for a solid waste management permit may be denied.
- Provide that solid waste management permits are not transferable.
- Increase the penalties that may be imposed for solid waste violations.
- Amend financial responsibility requirements for applicants and permit holders for solid waste management facilities.
- Clarify and expand the scope of environmental compliance review requirements.
- Clarify that a parent, subsidiary, or other affiliate of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant is subject to financial responsibility and environmental compliance review.
- Provide for siting of combustion products landfills in areas that have been formerly used for the storage or disposal of combustion products from coal-fired generating units at the same facility that generated the combustion products, and technical requirements for these landfills.
- Specify additional technical requirements for solid waste management facilities.
- Require that permit applicants for certain solid waste facilities conduct environmental impact studies and traffic studies of the impacts of the proposed facility.
- Clarify the circumstances under which a unit of local government may collect a solid waste availability fee.
- Authorize certain units of local government to hire landfill liaisons.
- Establish fees applicable to permits for solid waste management facilities to support the solid waste management program; and require the Department to issue a draft permit decision on an application for a permit subject to a fee within one year after the Department determines the application is complete.
- Establish a solid waste disposal tax of $1.50 per ton of waste to be imposed on the disposal of municipal solid waste in landfills in the State and on the transfer of municipal solid waste for disposal outside the State.
- Enact provisions related to the recycling of discarded computer equipment.

ASSUMPTIONS AND METHODOLOGY:

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Revenues

Section 3 – Administrative Penalties

Over the past five years, the Division of Waste Management (DWM) has collected an average of $52,474 annually in administrative penalties. DWM estimates that as the number of inspections increases, the number of penalties most likely will decrease due to improved compliance. However, DWM also anticipates that as inspections increase, the number of illegal or non-permitted facilities with violations will increase. Thus, DWM anticipates a steady state in the overall number of penalties assessed and anticipates collecting $157,423 annually in administrative penalties once the penalty increase is enacted. This penalty money goes to the Civil Penalty and Forfeiture Fund.

Section 14 – Landfill Permit Fees

Section 14 creates landfill permit fees for new permits, amendments, and modifications. The following table provides an estimate of anticipated yearly revenue from these fees.

New Permits, Amendments, & Modifications

Type	Total Number	Fee	Annual Number	Revenue
MSW (<99,999 tons/year)	20			
New Permit		$ 25,000	1.25	**$ 31,250**
Amendment		$ 15,000	4.00	**$ 60,000**
Modification		$ 1,500	10.00	**$ 15,000**
MSW (>100,000 tons/year)	20			
New Permit		$ 50,000	-	$ -
Amendment		$ 30,000	4.00	**$ 120,000**
Modification		$ 3,000	5.00	**$ 15,000**
C&D & Industrials (<99,999 tons/year)	61			
New Permit		$ 15,000	2.00	**$ 30,000**
Amendment		$ 9,000	14.20	**$ 127,800**
Modification		$ 1,500	10.00	**$ 15,000**
C&D & Industrials (>100,000 tons/yr)	13			
New Permit		$ 30,000	-	$ -
Amendment		$ 18,500	2.60	**$ 48,100**
Modification		$ 2,500	5.00	**$ 12,500**
Tire Monofills	2			
New		$ 1,750	-	$ -
Amendment		$ 1,250	0.40	**$ 500**
Modification		$ 500	1.00	**$ 500**
Treatment & Processing	39			
New		$ 1,750	5.00	**$ 8,750**
Amendment		$ 1,250	7.80	**$ 9,750**
Modification		$ 500	10.00	**$ 5,000**
Transfer Stations	85			
New		$ 5,000	0.25	**$ 1,250**

	Amendment		$ 3,000	17.20	$ **51,600**
	Modification		$ 500	5.00	$ **2,500**
Incinerators		5			
	New		$ 1,750	-	$ -
	Amendment		$ 1,250	1.00	$ **1,250**
	Modification		$ 500	1.00	$ **500**
Large Compost		10			
	New		$ 1,750	1.00	$ **1,750**
	Amendment		$ 1,250	2.00	$ **2,500**
	Modification		$ 500	1.00	$ **500**
LCID		139			
	New		$ 1,000	10.00	$ **10,000**
	Amendment		$ 500	27.80	$ **13,900**
	Modification		$ 250	10.00	$ **2,500**
	Subtotal Permit Fees	**394**		**158.50**	$ **587,400**

Section 14 also establishes annual permit fees and post-closure fees. The following table provides an estimate of anticipated yearly revenue from these fees.

Annual Fees

Type	Total Number	Fee	Annual Number	Revenue
MSW	55			
Annual		$ 3,500	40	$ **140,000**
Post-Closure		$ 1,000	15	$ **15,000**
C&D	69			
Annual		$ 2,750	65	$ **178,750**
Post-Closure		$ 500	4	$ **2,000**
Industrials	13			
Annual		$ 2,750	9	$ **24,750**
Post-Closure		$ 500	4	$ **2,000**
Transfer Stations	85	$ 750	85	$ **63,750**
Treatment and Processing	39	$ 500	39	$ **19,500**
Tire Monofills	2	$ 500	2	$ **1,000**
Incinerators	5	$ 500	5	$ **2,500**
Large Compost	10	$ 500	10	$ **5,000**
LCID	139	$ 500	139	$ **69,500**
Subtotal Annual Fees	**417**		**417**	$ **523,750**

Together these fees would generate $1,111,150 annually.

Section 15 – Solid Waste Disposal Tax

Section 15 of the bill imposes a tax on the disposal of municipal solid waste (MSW) and construction and demolition (C&D) debris of $1.50 per ton of waste.

The following table shows the projection for the amount of revenue collected under this tax:

Solid Waste Disposal Tax Revenue Projection

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Tons of Instate Waste Projection		12,431,131	12,764,270	13,097,408	13,430,547
Out of State Average*		125,482	125,482	125,482	125,482
Total Tons of Waste		12,556,613	12,889,752	13,222,890	13,556,029
Per ton fee		$1.50	$1.50	$1.50	$1.50
Revenue Generated		$18,646,697	$19,146,405	$19,646,112	$20,145,821
Less DOR Cost of Collection		($225,000)	($225,000)	($225,000)	($225,000)
Available Revenue		$18,871,697	$19,371,405	$19,871,112	$20,370,821

*a steady average is used for out-of-state waste because there is no discernible trend in collection

The revenue from this tax would be distributed as follows:

- 67% to the Inactive Hazardous Sites Cleanup Fund for assessment and remediation of pre-1983 landfills. Up to 7% of this amount may be used for administrative costs.
- 33% to the Solid Waste Management Trust Fund for grants for recycling programs. Up to 7% of this amount may be used for administrative costs.

The following table demonstrates the revenue distribution for each of these Funds:

Solid Waste Disposal Tax Revenue Distribution

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Available Revenue	$0	$18,871,697	$19,371,405	$19,871,112	$20,370,821
67% Inactive Hazardous Sites	$0	$12,644,037	$12,978,841	$13,313,645	$13,648,450
7% Admin. Allowance	$0	$885,083	$908,519	$931,955	$955,391
33% Solid Waste Mgmt. Trust Fund	$0	$6,227,660	$6,392,564	$6,557,467	$6,722,371
7% Admin. Allowance	$0	$435,936	$447,479	$459,023	$470,566

Section 17 – Discarded Computer Equipment Management

Section 17 requires each manufacturer of computer equipment to pay an initial registration fee of $10,000 and an annual renewal registration fee of $1,000. These fees would be credited to the Computer Equipment Management Account.

Based on experiences in other states, DENR estimates that there might be 75-80 registered manufacturers in North Carolina. Revenue from the first year would be between $750,000 and $800,000 and $75,000 to $80,000 in annual renewals thereafter.

Section 17 also requires computer equipment recycling facilities to pay an initial registration fee of $5,000 and an annual renewal fee of $2,500. These fees would also be credited to the Computer Equipment Management Account.

DENR estimates that there would be between 15 and 20 registered computer equipment recycling facilities. Revenue in the first year would be between $75,000 and $100,000 with $37,500 to $50,000 in annual renewals thereafter.

Expenditures

Revenue collected under the Solid Waste Disposal Tax for the Inactive Hazardous Sites Cleanup Fund and the Solid Waste Management Trust Fund would be expended by DENR as directed in the bill. The other costs for DENR would be for administrative expenses to administer these programs. DENR estimates that a total of 32 permanent positions would be needed and 2 time-limited positions. The following chart breaks out the number of positions by Division:

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Division of Waste Management					
Pre-1983 Landfills		7.0	7.0	7.0	7.0
Permitting Branch	14.0	14.0	14.0	14.0	14.0
Electronics Recycling	2.5	5.0	4.0	3.0	3.0
Division of Pollution Prevention & Environmental Assistance					
Recycling Grants		8.0	8.0	8.0	8.0
TOTAL	***16.5***	***34.0***	***33.0***	***32.0***	***32.0***

The following table details these positions by source of funding and by cost:

	Source of Funding	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Division of Waste Management						
Pre-1983 Landfills	Disposal Tax	$0	$560,000	$593,040	$628,029	$663,827
Permitting Branch	Permit Fees	$1,026,942	$1,183,037	$1,252,836	$1,326,753	$1,402,378
Elec. Recycling	Manuf. Reg. Fees	$193,706	$409,107	$350,623	$283,815	$299,992
Division of Pollution Prevention & Environmental Assistance						
Recycling Grants	Disposal Tax	$0	$540,378	$572,260	$606,024	$640,567
TOTAL		***$1,220,648***	***$2,692,522***	***$2,768,760***	***$2,844,621***	***$3,006,765***

LOCAL GOVERNMENTS

Revenues

Section 10 – Availability Fee

An estimate is not available as to how much revenue local governments might generate from the availability fee described in Section 10.

Expenditures

Section 9 - Landfill Construction Costs

If local governments construct a new landfill, they will have to conform to the landfill requirements as specified in Section 9.

The following table illustrates the five-year costs for a new MSW landfill to conform to these requirements. The table is based on an average-sized 76-acre landfill with 19 acres constructed in the first 5 years.

New MSW Landfill

Category	Item	Year 1	Year 2	Year 3	Year 4	Year 5
Capital Costs	Geomembrane CQA Leak Testing	$57,935	$0	$0	$0	$0
	Increased Horizontal Separation	$0	$0	$0	$0	$0
	100-Year Floodplain	$0	$0	$0	$0	$0
	Leachate System Design Improvement	$0	$0	$0	$0	$0
	Dual Containment of LCS Pipe	$11,020	$0	$0	$0	$0
O&M Cost	Annual LCS Cleaning & Inspection	$9,500	$9,500	$9,500	$9,500	$9,500
Studies	Traffic Study	$15,000	$0	$0	$0	$0
	Environmental Impact Study	$50,000	$0	$0	$0	$0
	TOTAL	***$143,455***	***$9,500***	***$9,500***	***$9,500***	***$9,500***

The following table illustrates the five-year costs for a new C&D landfill to conform to these requirements. The table is based on an average-sized 76-acre landfill with 19 acres constructed in the first 5 years.

New C&D Landfill

Category	Item	Year 1	Year 2	Year 3	Year 4	Year 5
Capital Costs	C&D Liner w/ Leachate Collection	$1,970,933	$0	$0	$0	$0
	Geomembrane CQA Leak Testing	$57,935	$0	$0	$0	$0
	Increased Horizontal Separation	$0	$0	$0	$0	$0
	100-Year Floodplain	$0	$0	$0	$0	$0
O&M Costs	Annual LCS Cleaning & Inspection	$9,500	$9,500	$9,500	$9,500	$9,500
	C&D Leachate Management	$208,050	$208,050	$208,050	$208,050	$208,050
Studies	Traffic Study	$15,000	$0	$0	$0	$0
	Environmental Impact Study	$50,000	$0	$0	$0	$0
	TOTAL	***$2,311,418***	***$217,550***	***$217,550***	***$217,550***	***$217,550***

Section 14 - Landfill Permit Fees

Local governments that operate their own landfills will have to pay the annual permit fees. If they modify or amend an existing landfill or build a new landfill, they will have to pay the corresponding permit fees. Of the estimated $1,111,150 in permit fees that DENR will collect annually, **$742,622 will be paid by publicly-owned facilities.**

Section 15 – Solid Waste Disposal Tax

Due to insufficient data related to local government waste collection, an estimate is not available as to how much local governments will pay of the approximately $19 million collected from the Solid Waste Disposal Tax.

INFORMATION TECHNOLOGY SERVICES

Revenues

The Office of Information Technology Services (ITS) does not receive any revenue. The proceeds of fees collected from manufacturers are credited to the Computer Equipment Management Account maintained by the Department of Environment and Natural Resources.

Expenditures

ITS makes bulk purchases of computers on a quarterly basis. State agencies provide ITS with information on their desktop and laptop requirements, standard configurations are advertised, and the lowest bidder is awarded a contract. From November 2004 through May 2007, desktop and laptop bulk purchases saved State agencies $18,928,441.78. Restricting the number of manufacturers eligible to compete for these contracts could reduce the State's ability to continue to realize the same level of savings. However, until DENR develops a list of eligible manufacturers, it is not possible to determine how significant this reduction might be.

JUSTICE SYSTEM

Expenditures

General expansion of the solid waste management permitting requirements, financial responsibility requirements, and other rules and restrictions may increase the potential for violation of the provisions of Chapter 130A or rules adopted by the Commission for Health Services – a Class 1 misdemeanor offense per G.S. 130A-25. In addition, the Sentencing and Policy Advisory Commission identifies the following new Class 1 misdemeanor offenses (per G.S. 130A-25(a) and 14-3(a)):

G.S. 130A-309.93., Requirements for manufacturers: Subsection (b) makes it a criminal offense for a manufacturer (as defined by statute) to offer for sale in North Carolina computer equipment without a visible, permanent label affixed that clearly identifies the manufacturer. Effective January 1, 2008, and would apply to sales that occur on or after that date.

G.S. 130A-309.94., Requirements for discarded computer equipment collectors: Makes it a criminal offense for a collector to fail to ensure that received equipment is consolidated at central locations, properly stored, and either held for pickup by a certified computer equipment recycling facility, or delivered to a certified computer equipment recycling facility. Effective January 1, 2009.

G.S. 130A-309.96., Requirements for certified computer equipment recycling facilities: This section makes it a criminal offense for a certified computer equipment recycling facility to do any of the following:

a. fail to maintain an accounting and itemized inventory of discarded computer equipment delivered to its facility.
b. fail to "work cooperatively" with manufacturers and to enter into contractual agreements providing for the reuse and recycling of discarded equipment, under which the recycler appropriately invoices manufacturers and manufacturers make timely payments; or
c. fail to submit annual reports as provided.

Subsection (a) is effective January 1, 2009; subsection (b) is effective January 1, 2008; and subsection (c) is effective January 1, 2010.

SECTION 17.3: Amends G.S. 130A-309.10., Prohibited acts relating to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited, to add subdivision (f)(14) which makes it a criminal offense for a person to knowingly dispose of discarded computer equipment in a landfill. Effective January 1, 2011, and would apply to offenses that occur on or after that date.

SECTION 17.4: Amends G.S. 130A-309.10., Prohibited acts relating to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited, to add subdivision (f1) (7) which makes it a criminal offense for a person to knowingly dispose of discarded computer equipment by incineration in an incinerator for which a permit is required under Chapter 130A, Article 9. Effective January 1, 2011, and would apply to offenses that occur on or after that date.

Although the Division of Waste Management anticipates an increase in violations among illegal or non-permitted facilities as inspections increase, it is not known how many additional criminal charges or convictions might result from this proposed legislation. Nor is it known how many

administrative penalty appeals or injunctive relief actions will be commenced. Consequently, the potential impact on the justice system is indeterminate.

Department of Correction

Because Class 1 misdemeanants serve their designated terms of incarceration within local jails, any resultant active sentence due to this proposal should not impact the state's prison population.[1] The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Accordingly, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

The remaining 80% of Class 1 misdemeanants in FY 2005-06 received non-active, intermediate or community punishments. Thus, if new convictions were to occur, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision. Included below is a brief overview of DCC sanction costs, per offender:

- General supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of $0.69 per offender sentenced to the Community Service Work Program.
- The daily cost per offender on intermediate sanction is much higher, ranging from $7.71 to $14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated $14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

Though the number of number of resultant Class 1 misdemeanor charges is indeterminate, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Presently the estimated costs per Class 1 misdemeanor trial and plea are $3,702 and $243, respectively.[2]

Court-time requirements could also increase, depending on the number of resultant administrative penalty appeals and injunctive relief actions.

Department of Justice

Where authorized, the Attorney General may commence actions for injunctive relief of believed violations of the Chapter. Accordingly, some additional workload could be assumed, contingent upon the number of petitions for relief. The degree of such impact is indeterminate.

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[1] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

[2] Cost estimates account for indigent defense; however, actual costs may vary with time requirements and disposition.

SOURCES OF DATA: Department of Environment & Natural Resources; Moody's economy.com; Office of Information Technology Services; N.C. Sentencing and Policy Advisory Commission; Administrative Office of the Courts.

TECHNICAL CONSIDERATIONS:
Section 15 allows the Department of Revenue (DOR) to retain up to $225,000 of the Solid Waste Disposal Tax for the costs of collection. However, HB 1473, 5th edition and 8th edition contain provisions increasing this amount up to $425,000 for two other similar taxes - the White Goods Tax and the Scrap Tire Tax.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Kristin Walker, Bryce Ball, and Karlynn O'Shaughnessy

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 24, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1492

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

S1492-ARI-21 [v.2]

Date 7/25/ ,2007

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Senator Cowell ~~Atherton~~

moves to amend the bill on page 32, line 6,
by rewriting that line to read:

"Management Account. A manufacturer of computer equipment that sells 1,000 items of computer equipment or less per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.".

SIGNED Janet Cowell
Amendment Sponsor

SIGNED
Committee Chair if Senate Committee Amendment

ADOPTED √ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 2nd

H. B. No. _____ DATE 7/25/07

S. B. No. 1492 Amendment No. 2

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE 2

Rep.)
Sen.) Smith

1 moves to amend the bill on page 19, line 14

2 ( ) WHICH CHANGES THE TITLE

3 by inserting between the words "any" and

4 "stream" the word "perennial".

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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

To: Honorable Members of the Senate

From: Christa Wagner, Director of Government Relations, NC Sierra Club
Jim Stephenson, Director of Policy, NC Coastal Federation
John Runkle, General Counsel, Conservation Council of NC
Chandra Taylor, Staff Attorney, Southern Environmental Law Center
Heather Jacobs, Pamlico-Tar RIVERKEEPER®
Brian Buzby, Executive Director, North Carolina Conservation Network

Date: July 25, 2007

Re: SB 1492, Solid Waste Management Act of 2007

On behalf of our organizations, we write to express our support for SB 1492, Solid Waste Management Act of 2007. SB 1492 stands to become the most comprehensive and important update of North Carolina's solid waste laws since 1991.

Keeping pace with rapid population growth and the influx of solid waste that will come on its heels, SB 1492 will protect public health and the environment while keeping disposal options affordable for all of North Carolina.

As participants in the stakeholder process, we wish to emphasize the following provisions as critical elements that must remain a part of the final bill language:

- ✓ New safeguards to protect drinking water supplies, wetlands, streams, sensitive soils and public lands, particularly plastic single liners for construction and demolition waste and 200 foot buffers from streams and wetlands.
- ✓ Close the loophole that excludes publicly owned landfills from a state level environmental review, and create a comparable environmental review process for privately owned landfills.
- ✓ Protect North Carolina's investment in resources held in the public trust by requiring significant buffers between landfills and state parks and gamelands, as well as National Wildlife Refuges.
- ✓ Encourage North Carolina's growing recycling economy by directing a portion of revenue from the per ton tip fee to local and state government recycling programs and a portion per ton for cleaning up unlined landfills.
- ✓ Create an efficient and convenient computer collection and recovery system at no charge to the State.
- ✓ Protect taxpayers by requiring landfill applicants demonstrate financial assurance, and require disclosure of all owners and operators with a financial interest in landfills.

We urge the Senate to pass SB 1492 including all of the provisions above

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 429

Committee Substitute Favorable 3/29/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H429-CSSVf-50 [v.2]

7/25/2007 12:06:51 PM

Short Title: Canal Dredging Fee/Brunswick Fire Fees. (Local)

Sponsors:

Referred to:

March 1, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWNS OF OCEAN ISLE BEACH, EMERALD ISLE, AND HOLDEN BEACH TO SET CANAL DREDGING FEES BASED ON A PROPERTY OWNER'S FRONTAGE ABUTTING A DREDGING PROJECT, AND TO MODIFY BRUNSWICK COUNTY'S FIRE PROTECTION FEES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2004-104 reads as rewritten:

"**SECTION 3.** Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system on the ~~island.~~ island and shall be made on the basis of one of the following:

(1) The frontage abutting the project at an equal rate per foot of frontage.

(2) Per unit or parcel of property."

SECTION 2. Section 1 of S.L. 1999-323, as amended by S.L. 2001-74, reads as rewritten:

"**Section 1.** Fee-supported fire districts.

"**Section 1.(a)** Request for Fee-Supported District. – A county may create a fee-supported fire district for insurance grading purposes if it receives one of the following:

(1) A written request to create the district signed by at least two-thirds of the members of the board of directors of a fire department that contracts with the county to provide fire protection within an area of the county.

(2) A petition requesting creation of a district signed by fifteen percent (15%) of the resident freeholders living in an area in the county. The petition must describe the area to be designated as the district.

"**Section 1.(b)** Creation of Fee-Supported District. – Upon receipt of a request as provided in subsection (a), the county may adopt a resolution establishing a fee-supported fire district and imposing annual fees for the provision of fire protection services within the district. The fee may be established or changed only after the county board of commissioners has received the recommendations of the committee for that district, established under subsection (b1) of this section. The district may not include any area that is within (i) a tax-supported fire district established under Article 3A of Chapter 69 of the General Statutes; (ii) a county service district established under Article 16 of Chapter 153A of the General Statutes for fire protection purposes; or (iii) another fee-supported fire district. The district may not include any area that is within the corporate limits of a municipality unless the governing body of the municipality agrees to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

"**Section 1.(b1)** Committee for District. – Each district shall have a committee to allow local control over the fee-setting process. In each district that does not include any territory in a participating municipality, the committee shall consist of five members as follows: The Fire Chief, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In each district that does include any territory in a participating municipality, the committee shall consist of members as follows: The Fire Chief, the mayor of each participating municipality in the district, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In either type of district, the Fire Marshal shall chair the committee, but may vote only to break a tie. The committee shall conduct an inquiry into the amount of funds required by the district to meet its needs, and shall make findings on the issue. The committee will communicate these findings to the board of county commissioners and recommend a fee. The board of county commissioners will then set the fee. The same process shall be used for changes to the fee once established.

"**Section 1.(c)** Fees. – The fees imposed by the county may not exceed the cost of providing fire protection services within the district and may be imposed on owners of all real property that benefits from the availability of fire protection and on owners of all manufactured or mobile homes that benefit from the availability of fire protection. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the

following classes of property and the fee on each class of property shall not exceed the following maximums:

(1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed:

a. Fifty dollars ($50.00) per site per year for homes ~~1,500~~ 1,000 square feet of heated floor area or less.

b. One hundred dollars ($100.00) per site per year for homes greater than ~~1,500~~ 1,000 square feet of heated floor area but less than ~~2,500~~ 2,000 square feet of heated floor area.

c. ~~One hundred fifty dollars ($150.00)~~ Two hundred dollars ($200.00) per site per year for homes ~~2,500 square feet of heated floor area and above.~~greater than 2,000 square feet of floor area but not greater than 3,000 square feet of heated floor area.

d. Three hundred dollars ($300.00) per site per year for homes greater than 3,000 square feet of floor area but not greater than 4,000 square feet of heated floor area.

e. Four hundred dollars ($400.00) per site per year for homes greater than 4,000 square feet of floor area but not greater than 5,000 square feet of heated floor area.

f. Five hundred dollars ($500.00) per site per year for homes greater than 5,000 square feet of floor area but not greater than 6,000 square feet of heated floor area.

g. Six hundred dollars ($600.00) per site per year for homes greater than 6,000 square feet of floor area but not greater than 7,000 square feet of heated floor area.

h. Seven hundred dollars ($700.00) per site per year for homes greater than 7,000 square feet of floor area but not greater than 8,000 square feet of heated floor area.

i. Eight hundred dollars ($800.00) per site per year for homes greater than 8,000 square feet of heated floor area.

(2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The county may establish a maximum fee for unimproved land as follows:

a. Up to five acres, ~~five dollars ($5.00).~~ ten dollars ($10.00).

b. Five acres or more but less than 25 acres, ~~ten dollars ($10.00).~~twenty dollars ($20.00).

c. 25 acres or more but less than ~~100~~ 50 acres, fifty dollars ($50.00).

d. ~~100~~ 50 acres or more but less than ~~500~~100 acres, ~~one hundred twenty-five dollars ($125.00).~~one hundred dollars ($100.00).

e. 100 acres or more but less than 200 acres, one hundred fifty dollars ($150.00).

f. 200 acres or more but less than 300 acres, two hundred dollars ($200.00).
g. 300 acres or more but less than 400 acres, three hundred dollars ($300.00).
h. 400 acres or more but less than 500 acres, four hundred dollars ($400.00).
~~e.~~i. 500 acres or more, ~~two hundred fifty dollars ($250.00).~~five hundred dollars ($500.00).

(3) An animal production or horticultural operation. The fee on this class of property may not exceed ten dollars ($10.00) per site per year.

(4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed for a commercial facility:

a. Less than 5,000 square feet, ~~one hundred dollars ($100.00).~~two hundred dollars ($200.00).
b. 5,000 square feet but less than 10,000 square feet, ~~two hundred dollars ($200.00).~~four hundred dollars ($400.00).
c. 10,000 square feet but less than 20,000 square feet, ~~five hundred dollars ($500.00).~~eight hundred dollars ($800.00).
d. 20,000 square feet but less than ~~50,000~~ 30,000 square feet, one thousand dollars ($1,000).
d1. 30,000 square feet but less than 40,000 square feet, one thousand five hundred dollars ($1,500).
d2. 50,000 square feet but less than 50,000 square feet, two thousand dollars ($2,000).
e. 50,000 square feet but less than ~~100,000~~ 60,000 square feet, ~~two thousand five hundred dollars ($2,500).~~ three thousand dollars ($3,000).
e1. 60,000 square feet but less than 70,000 square feet, four thousand dollars ($4,000).
e2. 70,000 square feet but less than 80,000 square feet, five thousand dollars ($5,000).
e3. 80,000 square feet but less than 90,000 square feet, six thousand dollars ($6,000).
e4. 90,000 square feet but less than 100,000 square feet, seven thousand dollars ($7,000).
f. 100,000 square feet or over, ~~three thousand dollars ($3,000).~~eight thousand dollars ($8,000).

(5) A multiple-family dwelling. Each unit in a multiple-family dwelling shall be treated as a single-family dwelling under subdivision (1) of this subsection.

(6) Any other class of property selected by the county. The fee on these classes of property may not exceed one hundred dollars ($100.00) per year.

(7) Outbuildings and special structures that fail to fall into any category above will be classified based on the most appropriate category determined by the specific use of the type of structure.

"**Section 1.(d)** Billing of Fees. – The county may include a fee imposed under this section on the property tax bill for the real property, or the manufactured or mobile home, on which the fee is imposed.

"**Section 1.(e)** Use of Fees. – The county shall credit the fees collected within the district to a separate fund to be used only to furnish fire protection in the district. The board of commissioners shall administer the fund to provide fire protection by one or more of the following methods:

(1) Contracting with any municipality, any incorporated nonprofit volunteer or community fire department, or the Department of Environment and Natural Resources.

(2) Furnishing fire protection itself if it maintains an organized fire department.

(3) Establishing a fire department in the district.

"**Section 1.(f)** Audit of Fire Department. – If the county contracts with a fire department to provide fire protection services in a fee-supported fire district, the fire department shall prepare an annual budget based on anticipated revenues and shall submit the budget to the county for processing and approval through the county's regular budget procedure. The fire department shall contract for quarterly bookkeeping/accounting services from an independent accountant for each fiscal year July 1 through June 30. The independent accountant must be approved in advance by the County Finance Officer. The fire department is to submit all invoices, cash receipts, bank statements with canceled checks or facsimiles, check registers or stubs, and other financial source documents to the accountant within 15 days of the end of each fiscal quarter. The accountant is to provide a monthly bank reconciliation for each month of the quarter, an itemized schedule of all disbursements for the quarter, and an itemized schedule of cash receipts for the quarter, a quarterly financial report, and a year-to-date financial report directly to the County Fire Marshal's office within 45 days of the end of each fiscal quarter. Funding will not be disbursed until the financial report is accepted by the Finance Officer. The fire department agrees to contract for an independent financial audit conducted by a certified public accountant in accordance with generally accepted accounting principles, for each fiscal year July 1 through June 30 to be completed by October 31 after that fiscal year and submitted to the Brunswick County Emergency Services Department by November 10 following that fiscal year and will comply with federal and State laws and regulations related to financial and compliance audits. Towns will handle all financing and accounts that are spent for the town fire departments. The Town will follow all accounting principles and practices as required by the State of North Carolina. The Treasurer of any fee-supported department shall be bonded for at least one and one-half times the department's annual budget. ~~Upon request of the county, the fire department shall make quarterly or semiannual reports to the county detailing its revenues, expenditures, and activities.~~ The county may audit the fire department's financial records upon reasonable notice to the fire department. Any fees

collected by the county to be disbursed to a fee-supported department will be withheld until all fiscal issues are resolved to the satisfaction of the County Finance Officer.

"**Section 1.(g)** Extension of Area of District. – The county may by resolution annex to any fee-supported fire district any territory that it could include in a new district under subsection (c) of this section, upon finding that:

(1) The area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district; and

(2) The area to be annexed requires the services of the district.

The county may also by resolution annex to any fee-supported fire district any territory it could include in a new district under subsection (c) of this section if seventy-five percent (75%) of the real property owners in the territory to be annexed have petitioned the board of commissioners for annexation to the service district.

The area of any fee-supported fire district may be increased by including within the boundaries of the district any adjoining territory lying within a municipality if the territory is not already included in another fire protection district, and both the municipal governing body and the county commissioners of the county in which the district is located agree by resolution to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

"**Section 1.(h)** Annexation of District. – When any portion of a fee-supported fire district has been annexed by a municipality furnishing fire protection to its citizens, and the municipality has not agreed to allow territory within it to be in the district, then the portion of the district annexed is no longer part of a fee-supported district. For the purposes of this section and regardless of the actual effective date of annexation, the date of annexation shall be considered to be a date in the month of June. When any portion of a fee-supported fire district is annexed by a municipality furnishing fire protection to its citizens, there is debt associated with the prior fee-supported district providing the fire protection to that area, an assumption of debt shall be paid to the fee-supported district at a rate of not less than one-half the fees that are collected from the annexed area for a period of not less than three years. This shall in no way limit or restrict a municipality from contracting with a fee-supported district to provide fire protection services nor shall it require a fee-supported district to provide fire protection services without an additional contract.

"**Section 1.(i)** Abolition of District. – Upon finding that there is no longer a need for a given fee-supported fire district, the board of commissioners may repeal the resolution establishing the district and thus abolish the district.

"**Section 1.(j)** Administrative Oversight. – Each nonmunicipal department shall bring any purchase in excess of ten thousand dollars ($10,000) for approval to a fire protection oversight board that is determined by the board of commissioners of the county and is chaired by the Emergency Services Director or his designee. Failure to adhere to the recommendations of the committee could lead to forfeiture of collected fees. All departments that receive funding from a fee-supported district shall participate

in countywide strategic planning sessions conducted by the emergency services office no less than once a year.

"**Section 1.(k)** Collection Remedies. – A county may foreclose fire fee liens under any procedure provided by law for the foreclosure of property tax liens, except that: (i) lien sales and lien sale certificates are not required, and (ii) foreclosure may be begun at any time after 30 days after the due date. The county is not entitled to a deficiency judgment in an action to foreclose a fire fee lien. The lien of fire fees is inferior to all prior and subsequent liens for State, local, and federal taxes, and superior to all other liens."

SECTION 3. Section 2 of this act becomes effective January 1, 2008. The remainder of this act is effective when it becomes law.

HOUSE BILL 429:
Canal Dredging Fee/Brunswick Fire Fees

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Rep. Stiller	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition H429-CSSVf-50		Committee Counsel

SUMMARY: House Bill 429 2nd edition gives the Towns of Ocean Isle, Emerald Isle, and Holden Beach the option of basing the canal dredging fee amount either on a per unit or parcel of property or on the frontage abutting the project at an equal rate per foot of frontage. Under current law, the towns may base fees only on a per unit or per parcel basis.

The Proposed Committee Substitute adds a provision modifying the Brunswick County fees for providing emergency services by fire departments.

CURRENT LAW: In 2004, the General Assembly authorized the Town of Ocean Isle Beach to create a fee-supported canal dredging district for properties that are contiguous to a canal within the town limits (S.L. 2004-104). In 2005, the General Assembly extended this same authority to the Towns of Emerald Isle (S.L. 2005-47) and Holden Beach (S.L. 2005-90). The legislation provided the following:

- The annual fee may not exceed the cost of providing for the dredging of canals, both natural and concrete.
- The fee would be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system.
- The dredging fee may be included on the property tax bill and collected in the same manner as property taxes. The remedies for collection of taxes will also apply to the collection of these fees.
- The fees collected shall be placed in a separate fund to be used only to pay the bill for canal dredging.

This legislation was proposed to provide the means to remove the silt and sand that have flowed into the canals in the towns impeding the navigability of the canals. These canals provide water access from the Intracoastal Waterway to lots and rights-of-way within the towns' limits.

BILL ANALYSIS:

Section 1 of House Bill 429 would give Ocean Isle, Emerald Isle, and Holden Beach an option with regard to setting the annual fee amount to be assessed on owners of property who benefit from a canal dredging project. The fee amount would be determined based upon one of the following:

- The frontage abutting the project at an equal rate per foot of frontage.
- Per unit or parcel of property.

Under current law, the towns may base fees only on a per unit or per parcel basis. This bill offers an additional option based on frontage. The bill does not change the manner in which the fees are collected. The fees may be imposed annually, must be established by July 1 of each year, and are collected in the same manner as property tax.

This section would be effective when it becomes law.

Section 2 of the House Bill 429 would modify the Brunswick County fees for providing emergency services by fire departments.

this section would become effective January 1, 2008.

BACKGROUND: The current law was patterned after fire fee district legislation. Under that type of legislation, fees are based on a per unit or per parcel basis. Ocean Isle has requested that it be able to set the fees based on the frontage abutting the canal dredging project because it more fairly apportions the cost among the property owners. Thus a property owner who owns two lots equaling 500 feet would pay less than a property owner with one lot measuring over 1,000 feet. This method of determining fees is similar to the basis for determining special assessments. However, Ocean Isle would like to continue collecting the fees in the same manner as it is currently collecting them and not under the procedures for special assessments.

Emerald Isle would like to retain the option of basing the fees on a per unit or per parcel basis. Since all three towns derive their fee authority for canal dredging projects from the same local act, the bill has been amended to provide both options for setting fees to all three towns.

H0429e2-SMSV-CSSVf-50

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. H429-CSSVf-50 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Sen.) Soles

1 moves to amend the bill on page 3, line 13-14

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting the line to read:

4 "~~heated floor area and above~~. 2000 square feet

5 or greater of floor area but not greater

6 than 3000 square feet of heated floor".

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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 291
Second Edition Engrossed 4/3/07

Short Title:	Sudan (Darfur) Divestment Act.	(Public)
Sponsors:	Representatives Luebke, Coates, Harrison, Jones (Primary Sponsors); Adams, Alexander, Allen, Allred, Barnhart, Blue, Blust, Coleman, Cunningham, Farmer-Butterfield, Fisher, Glazier, Goodwin, Hall, T. Harrell, Holliman, Insko, Jeffus, Lucas, Martin, McAllister, Michaux, Mobley, Rapp, Samuelson, Tarleton, Underhill, Wainwright, Weiss, and Womble.	
Referred to:	Finance.	

February 21, 2007

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR HOW THE STATE TREASURER SHALL ADDRESS CERTAIN STATE INVESTMENTS RELATING TO SUDAN.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative findings.

(1) On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide."

(2) On September 9, 2004, Secretary of State Colin L. Powell told the U.S. Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility."

(3) On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, "At this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide."

(4) On December 7, 2004, the U.S. Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves."

(5) Also on December 7, 2004, Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers

to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter."

(6) On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan."

(7) On September 26, 2006, the U.S. House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the [Darfur] crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad."

(8) The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities genocide.

(9) The Federal Government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

(10) According to a former chair of the U.S. Securities and Exchange Commission, "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company."

(11) Since 1993, the U.S. Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

(12) A 2006 U.S. House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment."

(13) In response to the financial risk posed by investments in companies doing business with a terrorist-sponsoring state, the Securities and Exchange Commission established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies.

(14) The current Sudan divestment movement encompasses nearly 100 universities, cities, states, and private pension plans.

(15) Companies facing such widespread divestment present further material risk to remaining investors.

(16) It is a fundamental responsibility of the State of North Carolina to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors.

(17) It is the prerogative and desire of the State of North Carolina in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital-providing capacity with entities that provide significant practical support for genocide, including certain non-United States companies presently doing business in Sudan.

(18) It is the judgment of the General Assembly that this act should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the Federal Government.

(19) It is the judgment of this General Assembly that mandatory divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously. A Congressional and Presidential declaration of genocide satisfies this high threshold.

SECTION 2. Definitions.

As used in this act, the following definitions apply:

(1) "Active Business Operations" means all Business Operations that are not Inactive Business Operations.

(2) "Business Operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(3) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

(4) "Complicit" means taking actions during any preceding 20-month period which have directly supported or promoted the genocidal campaign in Darfur, including, but not limited to, preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur, actively working to deny, cover up,

or alter the record on human rights abuses in Darfur, or other similar actions.

(5) "Direct Holdings" in a Company means all securities of that Company held directly by the Public Fund or in an account or fund in which the Public Fund owns all shares or interests.

(6) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), and does not include the regional government of southern Sudan.

(7) "Inactive Business Operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.

(8) "Indirect Holdings" in a Company means all securities of that Company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the provisions of this act.

(9) "Marginalized Populations of Sudan" include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's North-South civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(10) "Military Equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including, but not limited to, radar systems or military-grade transport vehicles; or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(11) "Mineral Extraction Activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including by providing supplies or services in support of such activities.

(12) "Oil-Related Activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field

infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered Oil-Related Activities.

(13) "Power Production Activities" means any Business Operation that involves a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar Government of Sudan entity whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.

(14) "Public Fund" means any funds held by the State Treasurer to the credit of:

a. The Teachers' and State Employees' Retirement System.
b. The Consolidated Judicial Retirement System.
c. The Firemen's and Rescue Workers' Pension Fund.
d. The Local Governmental Employees' Retirement System.
e. The Legislative Retirement System.
f. The Legislative Retirement Fund.
g. The North Carolina National Guard Pension Fund.

(14a) "Scrutinized Business Operations" means Business Operations that have resulted in a Company becoming a Scrutinized Company.

(15) "Scrutinized Company" means any Company that meets the criteria in sub-subdivisions a., b., or c. below:

a. The Company has Business Operations that involve contracts with and/or provision of supplies or services to the Government of Sudan, to companies in which the Government of Sudan has any direct or indirect equity share, Government of Sudan-commissioned consortiums or projects, or to Companies involved in Government of Sudan-commissioned consortiums or projects and at least one of the following conditions is satisfied:

1. More than ten percent (10%) of the Company's revenues or assets linked to Sudan involve Oil-Related Activities or Mineral Extraction Activities; less than seventy-five percent (75%) of the Company's revenues or assets linked to Sudan involve contracts with and/or provision of Oil-Related or Mineral Extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the Company has failed to take Substantial Action.

2. More than ten percent (10%) of the Company's revenues or assets linked to Sudan involve Power Production Activities; less than seventy-five percent (75%) of the Company's Power Production Activities include projects whose intent is to provide power or electricity to the Marginalized Populations of Sudan; and the Company has failed to take Substantial Action.

b. The Company is Complicit in the Darfur genocide.

c. The Company supplies Military Equipment within Sudan, unless it clearly shows that the Military Equipment cannot be used to facilitate offensive military actions in Sudan or the Company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of such equipment by the Company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

Notwithstanding anything herein to the contrary, a Social Development Company which is not Complicit in the Darfur genocide shall not be considered a Scrutinized Company.

(16) "Social Development Company" means a Company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to Oil-Related Activities, Mineral Extraction Activities, or Power Production Activities.

(17) "Substantial Action" means adopting, publicizing, and implementing a formal plan to cease Scrutinized Business Operations within one year and to refrain from any such new Business Operations; undertaking significant humanitarian efforts on behalf of one or more Marginalized Populations of Sudan; or through engagement with the Government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

SECTION 3. Identification of companies.

(a) Within 90 days of this act becoming effective, the Public Fund shall make its best efforts to identify all Scrutinized Companies in which the Public Fund has Direct or Indirect Holdings or could possibly have such holdings in the future. Such efforts shall include, as appropriate:

(1) Reviewing and relying, as appropriate in the Public Fund's judgment, on publicly available information regarding Companies with Business Operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

(2) Contacting asset managers contracted by the Public Fund that invest in Companies with Business Operations in Sudan; or

(3) Contacting other institutional investors that have divested from and/or engaged with Companies that have Business Operations in Sudan.

(b) By the first meeting of the Public Fund following the 90-day period described in subsection (a), the Public Fund shall assemble all Scrutinized Companies identified into a "Scrutinized Companies List."

(c) The Public Fund shall update the Scrutinized Companies List on a quarterly basis based on evolving information from, among other sources, those listed in subsection (a) of this section.

SECTION 4. Required actions.

(a) General. The Public Fund shall adhere to the procedure for Companies on the Scrutinized Companies List as provided in this section:

(b) Engagement.

(1) The Public Fund shall immediately determine the Companies on the Scrutinized Companies List in which the Public Fund owns Direct or Indirect Holdings.

(2) For each Company identified in subdivision (1) of this section with only Inactive Business Operations, the Public Fund shall send a written notice informing the Company of this act and encouraging it to continue to refrain from initiating Active Business Operations in Sudan until it is able to avoid Scrutinized Business Operations. The Public Fund shall continue such correspondence on a semiannual basis.

(3) For each Company newly identified in subdivision (1) of this section with Active Business Operations, the Public Fund shall send a written notice informing the Company of its Scrutinized Company status and that it may become subject to divestment by the Public Fund. The notice shall offer the Company the opportunity to clarify its Sudan-related activities and shall encourage the Company, within 90 days, to either cease its Scrutinized Business Operations or convert such operations to Inactive Business Operations in order to avoid qualifying for divestment by the Public Fund.

(4) If, within 90 days following the Public Fund's first engagement with a Company pursuant to subdivision (3) of this section that Company ceases Scrutinized Business Operations, the Company shall be removed from the Scrutinized Companies List and the provisions of this Section shall cease to apply to it unless it resumes Scrutinized Business Operations. If, within 90 days following the Public Fund's

first engagement, the Company converts its Scrutinized Active Business Operations to Inactive Business Operations, the Company shall be subject to all provisions relating thereto.

(c) Divestment.

(1) If, after 90 days following the Public Fund's first engagement with a Company pursuant to subdivision (b)(3) of this section, the Company continues to have Scrutinized Active Business Operations, and only while such Company continues to have Scrutinized Active Business Operations, the Public Fund shall sell, redeem, divest, or withdraw all publicly traded securities of the Company within 15 months after the Company's most recent appearance on the Scrutinized Companies List.

(2) If a Company that ceased Scrutinized Active Business Operations following engagement pursuant to subdivision (b)(3) of this section resumes such operations, subdivision (1) of this subsection shall immediately apply, and the Public Fund shall send a written notice to the Company. The Company shall also be immediately reintroduced onto the Scrutinized Companies List.

(d) Prohibition. At no time shall the Public Fund acquire securities of Companies on the Scrutinized Companies List that have Active Business Operations, except as provided below.

(e) Exemption. No Company which the United States Government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan shall be subject to divestment or investment prohibition pursuant to subsections (c) and (d) of this section.

(f) Excluded Securities. Notwithstanding anything herein to the contrary, subsections (c) and (d) of this section shall not apply to Indirect Holdings in actively managed investment funds. The Public Fund shall, however, submit letters to the managers of such investment funds containing Companies with Scrutinized Active Business Operations requesting that they consider removing such Companies from the fund or create a similar actively managed fund with Indirect Holdings devoid of such Companies. If the manager creates a similar fund, the Public Fund shall replace all applicable investments with investments in the similar fund in an expedited time frame consistent with prudent investing standards. For the purposes of this section, "private equity" funds shall be deemed to be actively managed investment funds.

SECTION 5. Reporting.

(a) The Public Fund shall file a publicly available report to the General Assembly that includes the Scrutinized Companies List within 30 days after the list is created.

(b) Annually thereafter, the Public Fund shall file a publicly available report to the General Assembly and send a copy of that report to the United States Presidential Special Envoy to Sudan (or an appropriate designee or successor) that includes:

(1) A summary of correspondence with Companies engaged by the Public Fund under Sections 4(b)(2) and (b)(3) of this act.

(2) All investments sold, redeemed, divested, or withdrawn in compliance with Section 4(c) of this act.
(3) All prohibited investments under Section 4(d) of this act; and
(4) Any progress made under Section 4(f) of this act.

SECTION 6. Expiration of this act. This act expires upon the occurrence of any of the following:

(1) The Congress or President of the United States declaring that the Darfur genocide has been halted for at least 12 months.
(2) The United States revoking all sanctions imposed against the Government of Sudan.
(3) The Congress or President of the United States declaring that the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.
(4) The Congress or President of the United States, through legislation or executive order, declaring that mandatory divestment of the type provided for in this act interferes with the conduct of United States foreign policy.

SECTION 7. Other legal obligations. With respect to actions taken in compliance with this act, including all good faith determinations regarding Companies as required by this act, the Public Fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations in respect to choice of asset managers, investment funds, or investments for the Public Fund's securities portfolios.

SECTION 8. Reinvestment in certain companies with Scrutinized Active Business Operations. Notwithstanding anything in this act, the Public Fund is permitted to cease divesting from certain Scrutinized Companies pursuant to Section 4(c) of this act and/or reinvest in certain Scrutinized Companies from which it divested pursuant to Section 4(c) of this act if clear and convincing evidence shows that the value for all assets under management by the Public Fund becomes equal to or less than 99.50% (50 basis points) of the hypothetical value of all assets under management by the Public Fund assuming no divestment for any company had occurred under Section 4(c) of this act. Cessation of divestment, reinvestment, and/or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of divestment, reinvestment, and/or subsequent ongoing investment authorized by this section, the Public Fund shall provide a written report to the General Assembly in advance of initial reinvestment, updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, and/or remain invested in Companies with Scrutinized Active Business Operations. This section has no application to reinvestment in Companies on the ground that they have ceased to have Scrutinized Active Business Operations.

SECTION 9. Enforcement. The Attorney General is charged with enforcing the provisions of this act and, through any lawful designee, may bring such actions in court as are necessary to do so.

SECTION 10. Severability. If any one or more provision, section, subsection, sentence, clause, phrase, or word of this legislation or the application thereof to any person or circumstance is found to be invalid, illegal, unenforceable, or unconstitutional, the same is hereby declared to be severable and the balance of this legislation shall remain effective and functional notwithstanding such invalidity, illegality, unenforceability, or unconstitutionality. The General Assembly declares that it would have passed this legislation, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared invalid, illegal, unenforceable, or unconstitutional, including, but not limited to, each of the engagement, divestment, and prohibition provisions of this legislation.

SECTION 11. This act becomes effective July 1, 2007.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 291

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H291-ARB-66 [v.1]

Date _____,2007

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Senator _____

moves to amend the bill on page 6, line 35, by rewriting the line to read:

"significant humanitarian efforts in conjunction with an international organization, the Government of Sudan, the regional government of southern Sudan, or a non-profit entity and evaluated and certified by an independent third party to be substantial in relationship to the company's Sudan Business Operations and of benefit to one or more Marginalized";

And on page 10, line 15, by rewriting the line to read:

"**SECTION 11.** This act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 291:
Sudan (Darfur) Divestment Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Reps. Luebke, Coates, Harrison, Jones	**Summary by:**	Martha Walston
Version:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 291 requires the public retirement and pension funds (hereinafter Public Fund) held by the State Treasurer to address certain investments relating to the situation in Darfur, Sudan as follows:***

- ***Identify within 90 days of the act all scrutinized companies in which the Public Fund has direct or indirect holdings or could have such holdings in the future. A scrutinized company is defined as one that has business operations or other activity relating to Sudan.***
- ***Assemble a list of scrutinized companies and determine whether the Public Fund owns direct or indirect holdings in the company.***
- ***Take actions based upon the status of the companies on the list. These actions may include the sale, redemption, divestment, or withdrawal of all publicly traded securities of the company.***

CURRENT LAW: On November 1, 2006, the North Carolina Department of State Treasurer adopted a policy on Sudan-related investments. According to the Department, the policy states that companies providing monetary or military support to the Sudanese government, but failing to provide humanitarian aid or helping to improve the welfare of the Sudanese people, should not be held by the North Carolina Retirement System (NCRS). Since adoption of the policy, the NCRS has divested interest in nine companies that were found to be conducting business contrary to the policy, and has directed its managers not to acquire securities in these companies in the future.[1]

BILL ANALYSIS: House Bill 291 would enact the following legislation governing the Public Fund's treatment of companies with ties to Sudan:

- Section 1 of the act lists legislative findings regarding the history of the U.S. Government's recognition and position on the atrocities in Darfur, Sudan. The findings also state that it is North Carolina's responsibility to decide the investment of financial resources in its control, that it is the State's desire not to participate with entities that provided support for genocide, that this act should remain in affect as long as it does not interfere with U.S. foreign policy, and that mandatory divestment of public funds from certain companies should be employed sparingly and judiciously.
- Section 2 of the act defines terms used in the act. A scrutinized company is a company that meets the criteria in a., b., or c, below:
  a. The company has business operations that involve contracts with or provision of supplies or services to the Government of Sudan, to companies in which Sudan has any equity share, Sudan-commissioned consortiums or projects , or to companies involved in such consortiums or projects, AND at least one of the following conditions is met: the

[1] The nine companies are: Bharat Heavy Electricals, China Petroleum and Chemical Corp., Nam Fatt, Oil & Natural Gas Company, PECD Berhad, PetroChina Company, Sudan Telecom Company, Tatneft OAO, and Videocon Industries Limited.

company has a certain percentage of its revenue or assets linked to Sudan involved oil-related or mineral extraction activities; or the company has a certain percentage of its assets linked to power production activities in Sudan.

b. The company is complicit in the Darfur genocide.

c. The company supplies military equipment within Sudan.

- Section 3 requires the Public Fund to identify within 90 days of the act all scrutinized companies in which the Public Fund has direct or indirect holdings or could have such holdings in the future. The Fund must assemble a list of scrutinized companies and determine whether the Fund owns direct or indirect holdings in the company.
- Section 4 sets out the following actions the Public fund must take based upon the status of the companies on the list:
  - If the company has only inactive business operations with Sudan, the Public Fund will send written notice to the company informing it of its status and encouraging the company to continue to refrain from active business operations. If the company ceases inactive operations with Sudan within 90 days, it will be removed from the scrutinized companies list.
  - If the company has active business operations with Sudan, the Public Fund will notify the company that it may be divested. The company will have 90 days to either cease its active business operations or convert to inactive business operations. If the company does not cease its active business operations with Sudan, the Public Fund will sell, redeem, divest, or withdraw all publicly traded securities of the company within 15 months after the company's most recent appearance on the scrutinized companies list..
- Section 4 also sets out the following restrictions on the actions of the Public Fund:
  - The Public Fund is prohibited from acquiring securities of companies on the scrutinized companies list that have active business operations, unless the U.S. Government declares the company to be excluded from federal sanctions relating to Sudan.
  - The Public Fund may not divest or prohibit acquisition of indirect holdings in actively managed investment funds. Indirect holdings are defined as securities of a company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the act. Private equity funds are considered actively managed investment funds
- Section 5 of the acts sets out reporting requirements of the Public Fund. The Fund must file a report with the General Assembly that includes the scrutinized companies list within 30 days after the list is created. Thereafter, the report must be filed annually and a copy sent to the United States Presidential Special Envoy to Sudan.
- Section 6 of the act provides that the act expires if the Darfur genocide has been halted for 12 months, the U.S. revokes all sanctions against Sudan, Sudan has honored certain commitments, or the U.S. declares that mandatory divestment interferes with the conduct of U.S. foreign policy.

- Section 7 exempts the Public Fund from conflicting statutory or common law obligations, with respect to actions taken in compliance with the act.
- Section 8 provides that the Public Fund may cease divesting from or reinvest in scrutinized companies if clear and convincing evidence shows that the value for all assets under management by the Fund becomes equal to or less than 99.50% of the hypothetical value of all assets under management by the Fund assuming no divestment had occurred.
- Section 9 provides enforcement of the act by the Attorney General.
- Section 10 provides for severability in case any part of the act is found to be illegal or unconstitutional.

EFFECTIVE DATE: The act becomes effective July 1, 2007.

BACKGROUND: The following states have adopted legislation to prohibit state investment in the government of Sudan and companies doing business in Sudan: Arizona, California, Louisiana, New Jersey, and Oregon. Colleges and universities throughout the United States have also reviewed their portfolios. They include Harvard, Stanford, University of California, Amherst, Brown University, Dartmouth, University of Pennsylvania, Princeton, Williams College, Smith, Swarthmore, and Yale.

In 2005, the Illinois Legislature adopted legislation that prohibits state investment in the government of Sudan and companies doing business in or with Sudan. Fund managers responsible for Illinois's state pension and retirement funds were given 18 months to divest from such companies. In February, 2007, a federal district court enjoined enforcement of the legislation. *National Foreign Trade Council, Inc v. Giannoulias,* No. 06 C 4251 (Feb. 23, 2007). Specifically, the court found that the amendments to the state pension code violated the Foreign Commerce Clause of the U.S. Constitution, which gives Congress the power to regulate commerce with foreign nations.

H0291e2-SMLA

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 27, 2007

TO: Senate Finance Committee

FROM: Brian Reynolds and Amna Cameron
Fiscal Research Division

RE: HB 291v2 Sudan (Darfur) Divestment Act

FISCAL IMPACT

	Yes ( )	No (X)	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
EXPENDITURES:	$0	$0	$0	$0	$0
POSITIONS (cumulative):	0	0	0	0	0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of the State Treasurer, State Employee Pension and Retirement Programs

EFFECTIVE DATE: July 1, 2007

BILL SUMMARY: This bill requires the public fund, within 90 days of the act becoming effective, to identify all scrutinized companies in which the public fund has direct or indirect holdings or could possibly have such holdings in the future. The bill defines *public fund* to mean any funds held by the State Treasurer to the credit of: (1) the Teachers' and State Employees' Retirement System, (2) the Consolidated Judicial Retirement System, (3) the Firemen's and Rescue

Workers' Pension Fund, (4) the Local Governmental Employees' Retirement System, (5) the Legislative Retirement System, (6) the Legislative Retirement Fund, or (7) the North Carolina National Guard Pension Fund. This bill defines *scrutinized company* as a company that has business operations or other activity relating to Sudan. This bill also lists required actions, from engagement to divestment. This bill prohibits investment in scrutinized companies that have active business operations, provides exemptions and exclusions, and requires periodic reporting by the public fund to the General Assembly. This bill directs the Attorney General to enforce the act and sets out occurrences that trigger the expiration of the act. This legislation is effective July 1, 2007.

ASSUMPTIONS AND METHODOLOGY:
Two primary areas of potential fiscal impact are associated with this bill. First, monies invested in the Public Fund to Scrutinized Companies must be divested within a certain timeframe and then reinvested in other funds. This reinvestment will theoretically result in no real net gain or net loss in the amount of money in the funds, as the total amount on money invested will not change. While some gain or loss is conceivable, as rates of return will differ from one stock to another, it is impossible to estimate the magnitude of such a change. There is, therefore, no substantive fiscal impact associated with the divestment of funds from Scrutinized Companies.

Second, the Department of the State Treasurer requested two Investment Assistant positions to facilitate the completion of the work detailed in this legislation. The Department reports that it would not be in the best interest of the Pension Fund to have an asset manager determine the appropriateness of how and when divestment is done. The Department also reports that it is the Treasurer's fiduciary responsibility to oversee this very deliberate and sensitive process. Of the 28 states that have either passed or introduced similar legislation, none include provisions for their respective Departments of the State Treasurer to receive positions in order to divest funds. Therefore, Fiscal Research concludes that no additional positions are required to carry out the provisions of this bill.

SOURCES OF DATA: Department of the State Treasurer, National Council of State Legislatures

TECHNICAL CONSIDERATIONS:
In 2005, the Illinois Legislature adopted legislation that prohibits the investment of state monies in the government of Sudan and companies doing business in or with Sudan. Fund managers responsible for Illinois's state pension and retirement funds were given 18 months to divest from such companies. In February 2007, the US District Court for the District of Illinois found this legislation unconstitutional. Specifically, the court found that the portions of the act that limit pension investments violated the federal government's right to regulate foreign commerce per the US Constitution. It is important to note that this bill includes a severability clause.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 516*
PROPOSED COMMITTEE SUBSTITUTE S516-CSTB-10 [v.2]

5/2/2007 8:51:30 PM

Short Title: Sudan (Darfur) Divestment Act. (Public)

Sponsors:

Referred to:

March 6, 2007

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR HOW THE STATE TREASURER SHALL ADDRESS CERTAIN STATE INVESTMENTS RELATING TO SUDAN.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative findings.

(1) On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide."

(2) On September 9, 2004, Secretary of State Colin L. Powell told the U.S. Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility."

(3) On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, "At this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide."

(4) On December 7, 2004, the U.S. Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves."

(5) Also on December 7, 2004, Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced

from their villages and homes without any means of sustenance or shelter."

(6) On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan."

(7) On September 26, 2006, the U.S. House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the [Darfur] crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad."

(8) The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities genocide.

(9) The Federal Government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

(10) According to a former chair of the U.S. Securities and Exchange Commission, "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company."

(11) Since 1993, the U.S. Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

(12) A 2006 U.S. House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment."

(13) In response to the financial risk posed by investments in companies doing business with a terrorist-sponsoring state, the Securities and Exchange Commission established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies.

(14) The current Sudan divestment movement encompasses nearly 100 universities, cities, states, and private pension plans.

(15) Companies facing such widespread divestment present further material risk to remaining investors.

(16) The State Treasurer has contacted federal officials in the Departments of State, Treasury, and Commerce seeking assistance with determining a list of companies that are doing business in the Sudan, but the requested information has not been provided.

(17) The State Treasurer has been working with a coalition of the largest state pension funds to share information and to develop a coordinated engagement action for companies that may be doing business in the Sudan.

(18) The Department of State Treasurer has already divested of nine companies that have been found to be providing monetary or military support to the Sudan government, and who have failed to undertake humanitarian efforts.

(19) It is the judgment of the General Assembly that this Act should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the Federal Government.

(20) It is the judgment of this General Assembly that mandatory divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously. A Congressional and Presidential declaration of genocide satisfies this high threshold.

SECTION 2. Definitions.

(1) "Public Fund" means any funds held by the State Treasurer to the credit of:

a. The Teachers' and State Employees' Retirement System.
b. The Consolidated Judicial Retirement System.
c. The Firemen's and Rescue Workers' Pension Fund.
d. The Local Governmental Employees' Retirement System.
e. The Legislative Retirement System.
f. The Legislative Retirement Fund.
g. The North Carolina National Guard Pension Fund.

SECTION 3. Required Actions.

(1) The Public Fund shall make no investments in Sudan government bonds, notes, or similar bills of the nation of Sudan.

(2) The Public Fund shall make no investment in companies conducting business activities in Sudan that are directly related to genocide, as expressly identified by the U.S. State Department, Treasury Department, or any other authorized agency of the U.S. Federal Government.

(3) The Public Fund shall seek to avoid investments in international or non-U.S. companies that are providing significant military or monetary support to the government of Sudan, and that have failed to take

humanitarian or other actions to aid the people of the Darfur region of Sudan.

(4) The Public Fund shall use best efforts to identify such companies meeting the provisions of Subsection (3) of this Section through sources that may include any of the following, as appropriate:
   a. Publicly available information.
   b. Federal agencies.
   c. Other institutional investors.
   d. Entities such as the Council of Institutional Investors, research firms or non-profit organizations specifically engaged on the Sudan issues.

(5) This Act does not require exit or divestment from any index or commingled public equity investment vehicle. For all actively-managed public equity stock and fixed income investment vehicles which hold investments in international or non-U.S. companies doing direct business in Sudan, reasonable efforts will be made to actively engage these companies that may be in violation of the provisions of Subdivision (3) of this section. Companies will be encouraged to cease suspect business operations in Sudan and/or to adopt practices designed to assist the people who have suffered from the genocide.

(6) Where companies fail to respond adequately to engagement efforts, the Public Fund shall divest within 15 months.

(7) This Act does not apply to real estate or private equity investments and is subject to the fiduciary obligations of the Public Fund and its officers.

SECTION 4. Reporting.

(1) The Public Fund shall report annually on engagement and divestment actions taken pursuant to this Act, in its Annual Report.

SECTION 5. Expiration. This Act expires upon the occurrence of any of the following:

(1) The Congress or President of the United States declaring that the Darfur genocide has ended.

(2) The United States revoking all sanctions imposed against the Government of Sudan.

(3) The Congress or President of the United States declaring that the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(4) The Congress or President of the United States, through legislation or executive order, declaring that mandatory divestment of the type provided for in this act interferes with the conduct of United States foreign policy.

SECTION 6. This act becomes effective July 1, 2007.

SENATE BILL 516:
Sudan (Darfur) Divestment Act

BILL ANALYSIS

Committee:	Senate Commerce, Small Business and Entrepreneurship	**Date:**	May 3, 2007
Introduced by:	Sen. Shaw	**Summary by:**	Walker Reagan Committee Co-Counsel
Version:	PCS to First Edition S516-CSTB-10		Denise Huntley Committee Staff

SUMMARY: The Proposed Committee Substitute for Senate Bill 516 requires the public retirement and pension funds (hereinafter Public Fund) held by the State Treasurer to address certain investments relating to the situation in the Darfur region of Sudan.

[As introduced, this bill was identical to H291, as introduced by Reps. Luebke, Coates, Harrison, Jones, which is currently in Senate Finance.]

CURRENT LAW: On November 1, 2006, the North Carolina Department of State Treasurer adopted a policy on Sudan-related investments. According to the Department, the policy states that companies providing monetary or military support to the Sudanese government, but failing to provide humanitarian aid or helping to improve the welfare of the Sudanese people, should not be held by the North Carolina Retirement System (NCRS). Since adoption of the policy, the NCRS has divested interest in nine companies that were found to be conducting business contrary to the policy, and has directed its managers not to acquire securities in these companies in the future.

BILL ANALYSIS: Senate Bill 516 would enact the following legislation governing the Public Fund's treatment of companies with ties to Sudan:

- Section 1 of the bill lists legislative findings regarding the history of the U.S. Government's recognition and position on the atrocities in Darfur, Sudan. The findings also state that it is North Carolina's responsibility to decide the investment of financial resources in its control, that it is the State's desire not to participate with entities that provided support for genocide, that this act should remain in affect as long as it does not interfere with U.S. foreign policy, and that mandatory divestment of public funds from certain companies should be employed sparingly and judiciously.
- Section 2 defines "Public Fund" as any fund held by the State Treasurer to the credit of 7 specific areas.
- Section 3 prohibits the Public Fund from making investments in Sudan government bonds, notes, or similar bills of the nation of Sudan and in companies conducting business activities in Sudan that are directly related to genocide as defined by federal agencies. The Public Fund shall avoid investments in international or non-U.S. companies that provide significant military or monetary support to Sudan and have failed humanitarian action to the people in Darfur. The Public Fund shall use best efforts to identify companies these companies. The bill does not require exit or divestment from any index or commingled public equity investment vehicle, although reasonable efforts will be made to engage companies actively managing public equity stock and fixed income investment vehicles that hold investments in companies doing direct business in Sudan. If these companies do not respond adequately to engagement efforts, the Public Fund shall divest within 15 months. This bill does not apply to real estate or private equity investments.

- Section 4 of the bill requires the Public Fund to report annually on engagement and divestment actions taken pursuant to this Act in its Annual Report.
- Section 5 of the Act states incidences the bill may expire. These include the Congress or President declaring the genocide in Darfur to have ended, revoking all sanctions imposed against Sudan, declaring Sudan has honored its commitments to cease civilian attacks, demobilize and demilitarize the Janjaweed, grant access for deliveries of humanitarian aid. The bill would also expire if the President or Congress declared mandatory divestment of this type interferes with America's foreign policy.

EFFECTIVE DATE: The act becomes effective July 1, 2007.

BACKGROUND: The following states have adopted legislation to prohibit state investment in the government of Sudan and companies doing business in Sudan: Arizona, California, Louisiana, New Jersey, and Oregon. Colleges and universities throughout the United States have also reviewed their portfolios. They include Harvard, Stanford, University of California, Amherst, Brown University, Dartmouth, University of Pennsylvania, Princeton, Williams College, Smith, Swarthmore, and Yale.

In 2005, the Illinois Legislature adopted legislation that prohibits state investment in the government of Sudan and companies doing business in or with Sudan. Fund managers responsible for Illinois's state pension and retirement funds were given 18 months to divest from such companies. In February, 2007, a federal district court enjoined enforcement of the legislation. *National Foreign Trade Council, Inc v. Giannoulias,* No. 06 C 4251 (Feb. 23, 2007). Specifically, the court found that the amendments to the state pension code violated the Foreign Commerce Clause of the U.S. Constitution, which gives Congress the power to regulate commerce with foreign nations.

S0516e1-SMTB-CSTB

Martha Walston, counsel to the Senate Finance Committee, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 684
PROPOSED COMMITTEE SUBSTITUTE S684-CSSVf-49 [v.5]

7/25/2007 10:35:00 AM

Short Title: Spay/Neuter Funding. (Public)

Sponsors:

Referred to:

March 13, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FUNDING FOR THE STATEWIDE SPAY AND NEUTER PROGRAM FROM THE SALE OF RABIES VACCINATION TAGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-190 reads as rewritten:

"**§ 130A-190. Rabies vaccination tags.**

(a) Issuance. – A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words "North Carolina" or the initials "N.C." and the words "rabies vaccine." Dogs and cats shall wear rabies vaccination tags at all times. However, cats may be exempted from wearing the tags by local ordinance.

(b) Fee. – Rabies vaccination tags, ~~links and~~ links, and rivets may be obtained from the Department. The Secretary is authorized to establish by rule a fee for the rabies tags, ~~links and rivets.~~ links, and rivets in accordance with this subsection. ~~Except as otherwise authorized in this section, the fee shall not exceed the actual cost of the rabies tags, links and rivets, plus transportation costs. The Secretary may increase the fee beyond the actual cost plus transportation, by an amount not to exceed five cents ($.05) per tag, to fund rabies education and prevention programs.~~ The fee for each tag is the sum of the following:

(1) The actual cost of the rabies tag, links, and rivets.

(2) Transportation costs.

(3) Five cents ($.05). This portion of the fee shall be used to fund rabies education and prevention programs.

(4) Twenty cents ($.20). This portion of the fee shall be credited to the Spay/Neuter Account established in G.S. 19A-62 and used to fund statewide spay/neuter programs. This portion of the fee shall not be

imposed for tags provided to persons who own and vaccinate ten or more dogs per year.

~~(c) The Department shall make available a special edition rabies tag to be known as the "I Care" tag. This tag shall be different in shape from the standard tag and shall carry the inscription "I Care" in addition to the information required by subsection (a) of this section. The Secretary is authorized to establish a fee for the "I Care" rabies tag equal to the amount set forth in subsection (b) of this section plus an additional fifty cents ($.50). The additional fifty cents ($.50) shall be credited to the Spay/Neuter Account established in G.S. 19A-62.~~"

SECTION 2. G.S. 19A-62 reads as rewritten:

"**§ 19A-62. Spay/Neuter Account established.**

(a) Creation. – The Spay/Neuter Account is established as a nonreverting special revenue account in the Department of Health and Human Services. The Account consists of the following:

(1) ~~Fifty cents (50¢) of the fee imposed by G.S. 130A-190(c) on the costs of obtaining rabies vaccination tags~~ The portion of the fee imposed under G.S. 130A-190(b)(4) for obtaining a rabies vaccination tag from the Department of Health and Human Services.

(2) Ten dollars ($10.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.

(3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. – The revenue in the Account shall be used by the Department of Health and Human Services as follows:

(1) If the revenue generated by the portion of the fee imposed under G.S. 130A-190(b)(3) is less than $47,500 for the fiscal year, then funds up to the difference between $47,500 and the amount of revenue generated may be used from this Account to fund rabies education and prevention programs."

(2) Twenty percent (20%) shall be used to develop and implement the statewide education program component of the Spay/Neuter Program established in G.S. 19A-61(a).

~~(2)~~(3) Up to twenty percent (20%) of the money in the Account may be used to defray the costs of administering the Spay/Neuter Program established in this Article.

~~(3)~~(4) Funds remaining after deductions for the education program and administrative expenses shall be distributed quarterly to eligible counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed during the previous year. A county or city is ineligible to receive funds under this subdivision unless it requires the owner to show proof of rabies vaccination at the time of the procedure or, if none, require vaccination at the time of the procedure."

SECTION 3. This act becomes effective January 1, 2008.

SENATE BILL 684: Spay/Neuter Funding

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Sen. Kinnaird	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S684-CSSVf-49		Committee Counsel

SUMMARY: Senate Bill 684 does the following:

- ***It would increase the fee for obtaining a rabies vaccination tag. The proceeds derived from the increase would be used to fund statewide spay/neuter programs.***
- ***It would limit funds for reduced-cost spay/neuter programs to those local governments that require proof of rabies vaccination, or if none, require vaccination at the time of the procedure.***
- ***It would ensure that funds dedicated for rabies education and prevention programs remain at the current level.***

CURRENT LAW: Dogs and cats are required to be vaccinated against rabies. However, cats may be exempted by local ordinance. Issued by a licensed veterinarian or a certified rabies vaccinator, a rabies tag represents proof of vaccination and must be worn at all times by the animal. Veterinarians and other vaccinators may obtain the tags from either the Department of Health and Human Services or the private market. The fee for tags provided by the Department may not exceed the actual cost of the tag, links, and rivets, transportation costs, plus an amount not to exceed five cents ($.05) to fund rabies education and prevention programs. The actual cost plus the transportation cost is currently two cents ($.02).

The Department also makes available a special edition rabies tag known as the "I Care" tag. The fee for this special edition tag is an additional fifty cents ($.50). The proceeds from the additional fifty cents are credited to the Spay/Neuter Account. The Spay/Neuter Account is also funded by the additional fee charged for the Animal Lovers special license plate and any other funds available from appropriations or from contributions or grants from public or private sources.

The funds in the Account may be used as follows:

- 20% is used to develop and implement the statewide education component of the Spay/Neuter Program.
- Up to 20% may be used to defray costs of administering the Spay/Neuter Program.
- Remaining funds are distributed quarterly to eligible counties and cities seeking reimbursement for the reduced-costs spay/neuter surgeries performed during the previous year.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 684 does the following:

- It eliminates the voluntary "I Care" special edition tag.
- It increases the fee for all rabies tags by twenty cents ($.20). The proceeds from the increase are to be credited to the Spay/Neuter Account and used for statewide spay/neuter programs.
- It exempts from the additional $.20-cent-portion of the fee, persons who own and vaccinate ten or more dogs per year.

- It provides that if the revenue generated by the $.05-cent-portion of the rabies tag fee is less than $47,500 in a fiscal year, which represents the current funding level, then the difference between $47,500 and the amount generated may be used from the Spay/Neuter Account for rabies education and prevention programs.
- It would provide that a county or city is ineligible to receive funds for reimbursement for reduced-cost spay/neuter surgeries unless it requires proof of rabies vaccination at the time of the procedure or, if there is none, that the provider vaccinate at the time of the procedure

EFFECTIVE DATE: This act becomes effective January 1, 2008.

S0684e1-SMSV-CSSVf-49

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 25, 2007

TO: Senate Finance Committee

FROM: Andrea Poole
Fiscal Research Division

RE: Senate Bill 684 (PCS to First Edition S684-CSSVf-49))

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Division of Public Health; local municipalities.

EFFECTIVE DATE: January 1, 2008

BILL SUMMARY:
The Proposed Committee Substitute amends the General Statutes in two places, G.S. 130A-190 and G.S. 19A-62, to do the following:

- Eliminate the voluntary "I Care" special edition tag.
- Increase the fee for all rabies tags by twenty cents ($.20). The proceeds from the increase are to be credited to the Spay/Neuter Account and used for statewide spay/neuter programs.
- Exempt from the additional $.20-cent-portion of the fee, persons who own and vaccinate ten or more dogs per year.
- Provide that if the revenue generated by the $.05-cent-portion of the rabies tag fee is less than $47,500 in a fiscal year, which represents the current funding level, then funds from the Spay/Neuter Account up to the difference between that amount and the amount generated may be used for rabies education and prevention programs.
- Provide that a county or city is ineligible to receive funds for reimbursement for reduced-cost spay/neuter surgeries unless it requires proof of rabies vaccination at the time of the procedure or, if there is none, that the provider give the vaccination at the time of the procedure

ASSUMPTIONS AND METHODOLOGY:
Currently, the fee structure is as shown in the table below (Table 1: Current Fee Structure): the cost of the tag itself ($.02), the fee for the rabies education and prevention programs ($.05), and the optional fee for the "I Care" tag ($.50). The table includes estimates of the number of tags the Department issued in FY 2006-07 (from the Department of Health and Human Services) subject to each fee category. These estimates were used to calculate the total estimated revenue from each part of the fee structure. A total of 9,700 "I Care" tags were purchased for total additional revenue of $4,850. All tags purchased were subject to the Rabies Education Fee ($.05), which created total estimated revenue of $47,485 for these programs.

Table 1: Current Fee Structure

	Cost	# of Tags	Revenue
Tag	$0.02	949,700	$18,994
Rabies Education Fee	$0.05	949,700	$47,485
"I Care" Fee	$0.50	9,700	$4,850
Total Revenue			**$71,329**
Less Cost of Tags			($18,994)
Total Net Revenue			**$52,335**

Table 2, (next page), shows the proposed fee structure. It also shows the potential additional revenues if there were no changes to the number of tags purchased. However, it is anticipated that there may be a reduction in the number of tags purchased because of this increase in fees. According to the Department of Health and Human Services, Division of Public Health, the private market cost of these tags ranges from $.09 to $.23. The proposed changes would bring the total cost per tag to $.27 – higher than the private market cost. It is assumed that some veterinarians and certified rabies vaccinators currently purchasing their tags from the Department at $.07 per tag would chose to purchase their tags in the private market if the proposed fees were to take effect.

There is no estimate of the number of tags that would no longer be purchased from the Department and therefore it is not possible to estimate the fiscal impact of these proposed changes. The impact is likely to range between a loss of $52,335 if no tags are purchased (the current amount of net revenue, see Table 1) and a gain of $237,425 if there is no change in the number of tags purchased (see Table 2). The impact would be both to the Department of Health and Human Services, Division of Public Health and to the cities and counties that receive reimbursement for spay/neuter programs from the Spay/Neuter Account.

Table 2: Proposed Fee Structure with No Change in Tags Purchased

	Cost	# of Tags	Revenue
Tag	$0.02	949,700	$18,994
Rabies Education Fee	$0.05	949,700	$47,485
Spay/Neuter Fee	$0.20	949,700	$189,940
Total Revenue			**$256,419**
Less Cost of Tags			*($18,994)*
Total Net Revenue			**$237,425**

However, it is possible to estimate the minimum number of tags that would need to be purchased under the proposed fees for the programs to "break-even". The PCS provides that if the revenue generated by the $.05-cent-portion of the rabies tag fee is less than $47,500 in a fiscal year, which represents the current funding level, then funds from the Spay/Neuter Account up to the difference between that amount and the amount generated may be used for rabies education and prevention programs – in other words, as fewer tags are purchased from the Department, more funding will come from the Spay/Neuter Account to make up the difference. If at least 209,340 tags (22% of the tags currently purchased) are purchased under the proposed fees (see Table 3, below), the new $.20 fee will generate enough revenue to make up the difference and still contribute the current amount of funding of $4,850 (currently from the "I Care" tag, see Table 1) to the Spay/Neuter Account for the current Spay/Neuter Account purposes.

Table 3: Minimum Number of Tags Purchased Needed to Avoid Reducing Spay/Neuter Account Funding

	Cost	# of Tags	Revenue
Tag	$0.02	209,340	$4,187
Rabies Education Fee	$0.05	209,340	$10,467
Spay/Neuter Fee	$0.20	209,340	$41,868
Amount of Spay/Neuter Fee into Rabies Education			*$37,018*
Amount of Spay/Neuter Fee into Spay/Neuter Account			*$4,850*
Total Revenue			**$56,522**
Less Cost of Tags			($4,187)
Total Net Revenue			**$52,335**

SOURCES OF DATA: Department of Health and Human Services, Division of Public Health

TECHNICAL CONSIDERATIONS: None

Number of Dogs and Cats Killed in Animal Shelters Each Year

Location	Animals Killed Per 1000 People	Year	1000's People	Number of Animals Killed
Connecticut	0.08	2003	3,483	2,647
Michigan	13.3	2004	9,991	133,000
New Jersey	5.9	2003	8,638	50,637
North Carolina	**28.1**	**2004**	**8,407**	**236,327**
Oregon	9.3	2002	3,560	33,132
Virginia	15.7	2005	7,568	118,760
Washington	11.1	2005	6,132	68,054
U. S. Total	14.8		296,410	4,381,680

Location	Animals Killed Per 1000 People	Year	1000's People	Number of Animals Killed
Alamance County, NC*	**46.0**	**2006**	**125**	**5,751**
Baltimore	9.2	2003	762	7,003
Buncombe County, NC	**25.5**	**2005**	**213**	**5,444**
Dallas, Texas	10.8	2005	2,306	25,000
Houston, Texas	22.2	2004	3,596	80,000
McDowell County, NC	**79.7**	**2004**	**44**	**3,500**
St. Louis, MO	15.6	2003	1,365	21,336
Wake County, NC	**15.2**	**2003**	**656**	**10,000**
West Palm Beach	13.5	2005	1,216	16,411

For additional information, go to *www.animalpeoplenews.org*

This chart prepared by Sam and Vicky Hunt, Pet Adoption and Welfare Society
PO Box 2440, Burlington, NC, 27216, Phone # 336.565.8677

Animal Shelter Reporting Data 2005

Total Number in Shelter	Total Number Euthanized	Total Cost
318,358	241,790	$28,040,727.42

Number in Shelter	Number Euthanized	Cost
3,095	2672	$469,711.00
3,016	2097	
1,123	992	$103,335.00
1,255	1,006	
310	309	$34,468.32
787	771	
799	749	$179,481.00
865	665	
1,374	1,329	$165,457.78
1,562	1,306	
341	255	$58,794.00
423	204	
1,131	689	$98,796.00
2,195	1,517	
4,018	3,692	$554,455.78
3,197	1,904	
3,897	3,181	$696,319.00
4,084	2,253	
2,456	2,368	$209,000.00
3,029	2,262	
2,367	2,212	$561,595.00
2,579	1,775	
2,650	2,393	$320,871.45
2,817	2,342	
2,578	2,096	$231,764.00
1,622	666	
962	856	$81,428.53
1,224	960	
3,688	3,327	$472,799.00
3,400	2,299	
808	411	$357,113.00
1,153	458	
806	711	$179,290.00
745	478	
3,215	3,153	$377,583.00
3,875	3,441	
1,833	1,715	$157,997.00
2,131	1,536	
132	88	$66,739.96
172	31	
3,216	3,037	$318,449.73
2,886	2,192	
5,316	4,750	$853,336.00
6,180	4,627	
336	190	$33,751.29

1,084	924	$279,099.00
705	227	
139	130	$131,831.22
103	26	
3,446	3,275	$362,603.00
3,893	3,093	
740	656	$103,097.20
1,015	661	
1,179	946	$124,454.00
2,278	1,442	
2,745	2,170	$705,390.00
3,640	2,451	
373	362	$38,638.13
258	195	
415	370	$127,406.34
1,028	696	
1,148	820	$0
1,643	748	
3,924	3,627	$1,012,125.00
4,519	3,720	
484	437	$105,593.00
411	326	
339	307	$70,359.30
584	464	
6,076	3,863	$105,026.67
7,632	4,044	
694	666	$202,367.48
1,264	1,104	
2,115	1,619	$295,643.00
3,204	2,132	
1,514	1,431	$324,881.00
1,956	1,082	
1,691	1,420	$556,612.00
1,795	1,176	
677	572	$106,411.00
1,182	614	
3,534	3,360	$689,373.34
3,532	2,863	
434	229	$146,271.45
608	234	
251	75	$53,681.74
460	95	
1,314	1,275	$369,968.52
1,911	1,549	
807	169	$174,024.00
772	384	
1,395	1,356	$113,730.41
1,715	1,441	
7,497	6,236	$4,500,000.00
10,229	6,019	
603	399	$72,963.52
785	389	

602	598	$127,597.60
947	866	
2,274	1,576	$617,137.00
2,354	1,505	
758	465	$156,300.00
1,279	635	
1,637	1,588	$271,403.77
1,500	1,287	
2,176	1,642	$1,058,528.00
2,370	1,083	
290	239	$61,904.82
304	231	
2,131	1,036	$1,018,468.00
2,250	843	
1,844	1395	$155,425.94
1,381	378	
1,029	792	$158,581.67
1,229	787	
308	268	$55,576.00
289	225	
984	944	$142,000.00
1,355	1,169	
2,211	1,522	$463,005.00
2,679	1,444	
2,775	2,655	$271,602.00
3,270	2,831	
1,631	1,279	$362,886.88
2,741	1,901	
1,336	1,124	$244,610.61
3,973	2,874	
2,328	2,262	$112,350.00
2,726	2,446	
8	8	$931.97
$7.00	7	
4,372	3,271	$509,122.00
3,825	2,326	
1,594	1,594	$215,311.28
2,509	1,467	
2,162	2,119	$176,852.66
3,456	3,212	
616	416	$179,605.46
1,074	545	
2,187	2,142	$268,896.20
1,682	1,248	
1,546	1,310	$176,559.00
1,296	1,278	$248,299.06
1,894	1,687	
196	140	$42,079.00
418	214	
3,397	3,087	$1,643,179.34
3,497	2,576	
527	500	$83,000.00

1,852	1,734	
4,398	3,563	$501,325.00
4,248	2,097	
502	501	$38,108.00
814	776	
736	308	$173,500.00
658	75	
3,394	3,232	$291,258.00
3,132	2,619	
2,811	2,548	$374,660.00
3,109	2,364	
1,295	1,194	$327,676.00
1,548	1,335	
579	360	$158,901.00
670	213	
318,358	**241,790**	**$28,040,727.42**

	Animals killed per 1,000 people	YEAR	1,000s of people	Animals killed
CONNECTICUT	0.8	2003	3,483	2,647
Ithaca, NY	2.2	2003	97	214
New York City	2.6	2005	8,086	21,171
Onandaga County, NY	4.2	2003	311	1,300
Oswego, NY	7.5	2003	18	135
Madison County, NY	7.8	2003	70	548
NORTHEAST (36%)	2.2		33,495	72,322
NEW JERSEY	5.9	2003	8,638	50,637
Pittsburgh, PA	8.6	2003	1,261	10,907
Baltimore	9.2	2003	762	7,003
Harford Cnty, MD	11.2	2002	219	2,448
Berks County, PA	11.8	2002	85	4,489
Frederick Cnty, MD	13.7	2003	203	2,784
Philadelphia	19.7	2002	1,518	29,935
MID-ATLANTIC (43%)	8.5		30,759	261,851
Richmond, VA	7.1	2005	194	1,371
Miami/Dade County	9.2	2003	2,300	21,205
West Palm Beach	13.5	2005	1,216	16,411
Wake Cty, NC	15.2	2003	656	10,000
VIRGINIA	15.7	2005	7,568	118,760
Lee County, FL	18.7	2002	463	8,667
Alachua Cty, FL	21.5	2005	224	4,820
Tallahassee	22.4	2004	239	5,350
Coweta Cty, GA	22.6	2004	101	2,288
Buncombe Cty, NC	25.5	2005	213	5,444
Muskogee Cnty, GA	27.5	2003	275	7,500
Volusia County, FL	28.6	2003	455	13,000
*NORTH CAROLINA	28.1	2004	8,407	236,327
Tampa	32.4	2002	1,000	32,431
Columbia, SC	37.0	2004	332	12,275
Gastonia, NC	38.9	2005	193	7,511
Polk County, FL	40.3	2005	511	20,566
Augusta, GA	45.3	2004	198	8,967
Waynesville, NC	51.4	2004	55	2,850
McDowell Cty, NC	79.7	2004	44	3,500

* The official count was 205,504, but jurisdictions with 15% of the state human population did not report.

SO. ATLANTIC (55%) 22.3 47,368 1,052,451

Loudon Cty TN	18.9	2003	40	754
Nashville, TN	18.9	2004	511	9,647
Chattanooga	22.5	2004	307	6,918
Blount Cty, TN	22.6	2003	108	2,437
Knoxville	27.6	2004	393	10,848
Roane Cty, TN	32.1	2003	52	1,669
Anderson Cty, TN	32.3	2003	72	2,327
Spartanburg TN	32.8	2004	261	8,562
Union Cty, TN	42.8	2003	18	788
Lincoln County, KY	43.7	2003	24	1,045
Sevier Cty, TN	44.4	2003	74	3,275
Louisville	42.9	2005	700	30,000
Jefferson Cty TN	53.1	2003	45	2,390

APPALACHIA (15%) 26.6 12,915 344,488

Dallas	10.8	2005	2,306	25,000
Dallas/FtWorth rgn	14.2	2005	5,753	82,000
LaPlace, LA	20.8	2003	50	1,042
Houston	22.2	2004	3,596	80,000
Birmingham	23.8	2005	818	19,438
Fort Worth	24.9	2005	603	15,000
Lafayette, LA	28.0	2004	195	5,439
El Paso, TX	31.4	2004	700	22,000
Mobile	30.6	2004	400	12,243
Tuskaloosa, AL	31.2	2004	187	5,832
San Antonio	35.3	2003	1,418	50,000
San Marcos	43.9	2004	43	1,888
Shreveport/Caddo	48.0	2005	250	12,000
Amarillo	50.9	2002	174	8,859
Gulfport	52.7	2004	190	10,000
Hattiesburg, MS	56.2	2002	73	4,100
Longview, TX	70.8	2005	114	8,070

GULF COAST (38%) 26.6 34,863 927,356

Denver	5.8	2002	1,961	11,407

Salt Lake City	6.0	2005	1,016	6,094
Weld County, CO	8.5	2005	211	1,800
Larimer Count, CO	11.6	2005	267	3,093
Las Vegas area	14.5	2003	1,641	23,758
Billings	14.6	2004	133	1,941
UTAH	14.4	2005	2,352	33,854
Phoenix/Maricopa	16.0	2005	3,389	54,125
Payette, ID	16.6	2002	60	1,000
Albuquerque	26.9	2004	581	15,600
Flagstaff, AZ	30.7	2003	59	1,848
Santa Fe, NM	38.2	2005	130	5,000
Kingman area, AZ	39.5	2003	162	6,404
Navajo Nation	136.0	2003	46	6,952
WEST (62%)	15.1		17,721	266,848

	Animals killed per 1,000 people	YEAR	1,000s of people	Animals killed
Milwaukee	4.8	2005	1,700	8,162
Chicago	6.9	2005	2,869	19,706
Cincinnati	13.1	2002	835	10,951
MICHIGAN	13.3	2004	9,991	133,000
Tippecanoe Cty, IN	15.2	2003	155	2,360
St. Louis	15.6	2003	1,365	21,336
Butler County, OH	15.8	2002	835	5,329
Kansas City	16.6	2002	1,500	25,000
Springfield, MO	16.9	2002	594	9,689
Minneapolis	17.9	2002	1,115	20,000
Indianapolis	18.5	2005	783	14,444
Jefferson Cty, MO	18.9	2003	198	3,745
Winnebago Cty, IL	19.2	2004	284	5,449
Clermnt Cnty, OH	20.3	2002	182	3,700
Kansas City, KS	21.6	2004	158	3,412
Oklahoma City	22.2	2004	677	15,000
Madison/St Clair IL	24.5	2003	515	12,627
Warren County, OH	27.1	2002	169	4,572
Fort Wayne, IN	28.6	2004	340	9,724
Athens, OH	46.6	2004	64	3,000
Columbia, MO	50.4	2002	80	4,033
MIDWEST (36%)	14.4		63,810	919,086

Mission Viejo, CA	1.0	2005	166	113
Santa Cruz Cty, CA	2.0	2005	251	5,000
San Francisco	2.5	2004	771	1,892
Snohomish Cty, WA	4.7	2005	639	3,000
Santa Barbara	5.0	2004	403	2,002
San Diego	5.9	2004	2,931	17,421
Portland/Multnomah	6.8	2004	686	4,714
SF Bay area	7.1	2003	7,039	50,000
Los Angeles	7.2	2006	9,948	71,357
Silicon Valley	8.5	2005	1,668	14,097
OREGON	9.3	2002	3,560	33,132
Eugene, OR	10.1	2005	336	3,378
WASHINGTON [prjtd]	11.1	2005	6,132	68,054
Sacramento	13.4	2002	1,269	17,000
Lodi, CA	13.9	2005	57	788
Merced, CA	14.3	2005	147	4,013
Lindsay/Porterville	14.6	2005	56	817
Clark County, WA	14.6	2003	361	5,283
Grants Pass, OR	17.8	2003	78	1,400
San Bernardino	18.5	2002	1,766	32,656
Riverside, CA	24.3	2002	1,636	39,687
Valley Oak, CA	25.4	2005	210	5,336
Bakersfield, CA	26.2	2005	644	16,904
Clovis, CA	27.5	2005	90	2,471
Victorville, CA	28.6	2002	300	8,598
Modesto	30.5	2004	489	14,903
Longview, WA	31.3	2002	80	2,500
Madera County, CA	35.2	2005	144	5,071
Kings County, CA	27.2	2005	147	4,013
Tulare Cty, CA	40.3	2005	154	6,203
Fresno, CA	42.3	2005	787	33,255
Visalia, CA	81.1	2002	100	8,100
PACIFIC (87%)	10.1		48,000	537,278
U.S. TOTAL	14.8		296,410	4,381,680

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June 30, 2007

For Poor Families, an Added Burden of Too Many Pets

By ERIK ECKHOLM

SELMER, Tenn. — Phillip Swetman is an accidental owner of 13 dogs. Most, Mr. Swetman said, came from "drive-bys."

"They hear a dog bark and they throw theirs in the ditch," he said. "Then for us, it's either let them starve or get hit by a car, or take them in."

Midnight dumping of unwanted dogs is common here on the southern tail of the Appalachian Mountains, where large numbers of poor people are attached to multiple pets but cannot afford to sterilize or vaccinate them, and where impoverished county governments do not maintain animal shelters, require licensing or enforce requirements for rabies shots.

The combination of pets and poverty, veterinary experts say, brings similar results to many rural areas: unhealthy conditions for oversized animal populations, desperate efforts by often-overwhelmed individuals to help and a lurking threat to human health.

Dr. Bob Sumrall, a veterinarian in nearby Henderson, in Chester County, estimated that more than 75 percent of the thousands of dogs in the county alone have not had rabies shots. "This poses a definite health risk," he said.

Excess animals, dropped on dark roads that wind through oak and pine forests and cornfields here, tend to end up in the care of people with bigger hearts than bank accounts. People like Mr. Swetman and his wife, Alicia, who have a hard enough time paying their own mortgage and gasoline bills on what Mr. Swetman earns as a machinist at a bathtub factory but have ended up with a large menagerie nonetheless, mostly because of abandoned animals and unplanned births.

The Swetmans live on a back-country road near Finger. They keep two dogs in their cluttered concrete-block house, two tethered to trees and the rest in three wire pens. They somehow eke out $26 a week to buy two 50-pound sacks of dog food.

"I'd do without food myself before they do," Ms. Swetman said. But they say with some despair

that veterinary care, which can run $100 a year per animal for vaccines and $100 or more for spaying or neutering, is far beyond their reach.

"A lot of poor people here end up with lots of dogs and they get a feeling of hopelessness, they don't know what to do," said Sherrye McKinney, who works for pet-rescue groups in the region.

So the Swetmans were grateful to get an appointment at a temporary free clinic for their latest two puppies, even if there were no slots left in the oversubscribed five-day program for their eight older unspayed females.

The clinic was set up in Selmer's National Guard armory in mid-June by Rural Area Veterinary Services, a program of the Humane Society of the United States that sends volunteer veterinarians and students to Appalachia, Indian reservations and other areas to sterilize and treat pets whose owners live in poverty.

"With every animal we prevent from having a litter, we're making a difference," said Tammy Rouse, Appalachian coordinator for the volunteer service. Inside the hall, three veterinarians and 28 veterinary students spent 15-hour days sterilizing up to 50 dogs and cats a day and provided vaccinations, deworming and other treatments.

But the volunteer service faces a Sisyphean task, Ms. Rouse said.

"It's like putting a Band-Aid on a gushing artery," she said. "Spay-neuter has to go hand in hand with education and legislation."

Tina Churchwell, head of the humane society in McNairy County, where Finger and Selmer are situated, calls 12 dogs her own and has set up a makeshift shelter at her home, kennels holding 22 other dogs she hopes might be adopted. The society is searching for money to build a proper shelter on land the county has offered, but community support is lacking, Ms. Churchwell said.

Lacking money for the normal accoutrements of pet care, some people improvise. James Cotner, 64, and his wife live on $9,000 a year in a wood-heated, tin-roofed house. Fifteen cats wander the grounds and the Cotners have three dogs, the latest taken in after being found dumped on the road. "I tried to give her away but nobody wanted a big dog because they eat too much," Mr. Cotner said

Buying feed at Wal-Mart has stretched their budget, he said, and he was grateful for the free clinic, which sterilized the dogs and provided rabies shots. "I've been afraid they'd bite somebody and I'd get sued," he said.

To fight fleas and ticks, he has used a folk remedy. A tobacco chewer, he saves the juice and sprays it on the lawn.

Janet Stanford Brown, 28, took two cats to the armory for spaying and one of the four dogs her family now keeps. The brown mixed-breed, Punkin, had an infected wound on her shoulder, probably a bite, Ms. Brown feared, from a young pit bull they had recently taken in.

"I'd take her to the vet if we had the money," Ms. Brown said as Dr. Lydia Love, chief veterinarian at the free clinic, examined the nasty wound and made arrangements for treatment. "Punkin is my son's dog and if it came to that, I'd borrow the money to get her cared for."

Her husband, an apprentice electrician, does not earn high wages. Their animals feed on table scraps and hunt for food, dragging in rabbits and other creatures.

Each evening of the clinic, as the staff finished long hours of surgery and hands-on comforting of animals groggily recovering from anesthesia, owners, many pacing with the anxiety of relatives in a human hospital, waited to pick up their pets.

Alicia Swetman looked especially anguished because she learned that one of her puppies, the one with one blue eye and one brown eye, had a health problem that made surgery too dangerous. To Ms. Swetman's relief, as the puppies were brought out, their tails wagging furiously at the reunion, Dr. Love said it was probably a curable worm infection.

"I'd happily give these two away to a good home, where they'd be loved," Ms. Swetman said, not entirely convincingly, as she hugged the afflicted puppy.

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 862*

Committee Substitute Favorable 4/4/07

Committee Substitute #2 Favorable 4/26/07

Short Title: Amend Plant Protection and Conservation Act.-AB (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PLANT PROTECTION AND CONSERVATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-202.15 reads as rewritten:

"**§ 106-202.15. Powers and duties of the Board.**

The Board shall have all of the following powers and duties:

(1) To adopt ~~and publish by July 1, 1980, an endangered species list, a threatened species list and a list of species of special concern, as provided for in G.S. 106-202.16,~~and maintain a list of protected plant species for North Carolina, identifying each entry by the common name and scientific ~~name and cross-referencing by family, genus, and species number as found in the current edition of "The Manual of the Vascular Flora of the Carolinas," or if not found in this edition, as identified by the American Society of Plant Taxonomists;~~ name, along with its status as endangered, threatened, or of special concern, as provided under G.S. 106-202.16.

(2) To reconsider and revise the lists from time to time in response to public proposals and as the Board deems ~~necessary;~~necessary.

(3) To conserve and to regulate the collection and shipment of those plant species or higher taxa that are of such similarity to endangered and threatened species that they cannot be easily or readily distinguished from an endangered or threatened ~~species;~~species.

(4) To regulate within the State any exotic species, in the same manner as a resident species if the exotic species is on the Federal Endangered and Threatened Species List or it is listed in the Appendices to the International Treaty to Conserve Endangered and Threatened ~~Species;~~Species.

(5) To determine that certain plant species growing in North Carolina, whether or not they are on the endangered or threatened species list, are of special concern and to limit, regulate or forbid sale or collection of these ~~plants;~~plants.

(6) To conduct investigations to determine whether a plant should be on the protected plant lists and the requirements for survival of resident species of ~~plants;~~plants.

(7) To adopt regulations to protect, conserve and enhance resident and exotic species of plants on the lists, or to otherwise affect the intent of this ~~Article;~~Article.

(8) To develop, establish and coordinate conservation programs for endangered species and threatened species of plants, consistent with the policies of the Endangered Species Act, including the acquisition of rights to land or aquatic ~~habitats;~~habitats.

(9) To enter into and administer cooperative agreements through the Commissioner of Agriculture, in concert with the North Carolina Botanical Garden and other agencies, with the U.S. Department of Interior or other federal, State or private organizations concerning endangered and threatened species of plants and their conservation and ~~management;~~management.

(10) To cooperate or enter into formal agreements with any agency of any other state or of the federal government for the purpose of enforcing any of the provisions of this ~~Article;~~Article.

(11) Through the Commissioner, to receive funds, donations, grants or other moneys, issue grants, enter contracts, employ personnel and purchase supplies and materials necessary to fulfill its ~~duties;~~duties.

(12) To ~~promulgate regulations~~adopt rules under which the Department of Agriculture and Consumer Services may issue permits to licensed nurserymen, commercial growers, scientific supply houses and botanical gardens for the sale or distribution of plants on the protected list provided that the plants are nursery propagated ~~and~~ or grown ~~horticulturally from seeds or by vegetative propagation of cuttings, meristems or other similar materials and that the plants bear the grower's permit number.~~horticulturally.

(13) To stop the sale of or to seize any endangered, threatened, or special concern plant species, or part thereof possessed, transported, or moved within this State or brought into this State from any place outside the State if such is found by the Board or its duly authorized agent to be in violation of this Article or rules adopted pursuant to this Article. Such plants shall be moved or disposed of at the direction of the Board or its agent or by court order.

(14) To establish fees for permits authorized in this Article."

SECTION 2. G.S. 106-202.17(b) reads as rewritten:

"(b) The Scientific Committee shall consist of the Directors of The University of North Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the North Carolina State Museum of Natural Sciences and the North Carolina Natural Heritage Program of the Department of Environment and Natural Resources or their designees, a representative of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a representative of ~~the Garden Club of North Carolina, Incorporated, the North Carolina Chapter of the Nature Conservancy or the North Carolina Wild Flower Preservation Society, Inc., a~~ conservation organization, appointed by the Commissioner. Members shall serve for three-year terms and may succeed themselves."

SECTION 3. G.S. 106-202.18 reads as rewritten:

"**§ 106-202.18. Powers and duties of the Scientific Committee.**

The Scientific Committee shall have all of the following powers and duties:

(1) To gather and provide information and data and advise the Board with respect to all aspects of the biology and ecology of endangered and threatened plant ~~species;~~species.

(2) To develop and present to the Board management and conservation practices for preserving endangered or threatened plant ~~species;~~species.

(3) To recommend habitat areas for acquisition to the extent that funds are available or ~~expected;~~expected.

(4) To investigate and make recommendations to the Board as to the status of endangered, threatened plant species, or species of special ~~concern;~~concern.

(5) To make recommendations to the Board concerning regulation of the collection and shipment of endangered or threatened plant species within North ~~Carolina;~~Carolina.

(6) To review and comment on ~~botanical aspects of~~ environmental impact statements prepared by ~~North Carolina~~State agencies ~~or other agencies as appropriate;~~on projects that may affect protected plants; and

(7) To advise the Board on matters submitted to the Scientific Committee by the Board or the Commissioner which involve technical questions and the development of pertinent rules and regulations, and make any recommendations as deemed by the Scientific Committee to be worthy of the Board's consideration."

SECTION 4. G.S. 106-202.19(a1) reads as rewritten:

"(a1) Any person convicted of violating this Article, or any rule of the Board adopted pursuant to this Article shall be guilty of a Class ~~3 misdemeanor, and for a first violation shall only be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00); and upon a subsequent conviction shall only be fined not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000).~~2 misdemeanor. Each illegal movement or distribution of a protected plant shall constitute a separate violation. In addition, if any person continues to violate or

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 862 (Third Edition)

SHORT TITLE: Amend Plant Protection and Conservation Act.-AB

SPONSOR(S): Representative Hill

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
Agriculture	**No estimate available. See Assumptions and Methodology.**				
EXPENDITURES					
Correction	**No significant fiscal impact anticipated. See Assumptions and Methodology.**				
Judicial					
TOTAL EXPENDITURES:	**Amount cannot be determined.**				
ADDITIONAL PRISON BEDS: (cumulative)*	**None anticipated.**				
POSITIONS: (cumulative)	**Amount cannot be determined.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Agriculture and Consumer Services; Department of Correction; Judicial Branch.

EFFECTIVE DATE: December 1, 2007.

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY: Amends GS 106-202.15 to include in the duties of the North Carolina Plant Conservation Board maintaining a list of protected plant species that includes each plant's status. Also includes the duty of establishing permit fees. Removes reference to 1980 publishing duties and to entering cross references in the species list. Amends GS 106-202.17 to require that the Scientific Committee (Committee) include a member of a conservation organization, instead of a

member of specifically listed organizations. Amends GS 106-202.18 to give the Committee authority to review and comment on, but not veto, state agency projects that have the potential to affect protected plants (was, review and comment on botanical aspects of environmental impact statements). Amends GS 106-202.19 to increase the penalty for violations of the Plant Protection and Conservation Act (Act) from a Class 3 misdemeanor with a fine only to a Class 2 misdemeanor. Amends GS 106-202.19 to allow an agent of the Department of Agriculture and Consumer Services to inspect papers and records related to the Act. Make technical changes. Effective October 1, 2007.

Second edition (House committee substitute) changes the effective date from October 1, 2007 to offenses committed on or after December 1, 2007.

Third edition (House committee substitute) makes the following changes to the second edition: *Provides that the Scientific Committee has the power and duty to review and comment on environmental impact statements prepared by state agencies on projects that may affect protected plants. Current law provides for review and comment on botanical aspects of environmental impact statements prepared by state and other agencies as appropriate. The previous editions of the bill provided for review and comment on projects in N.C. proposed by state or other agencies that could affect protected plants or habitats and specified that approval by the committee or the North Carolina Plant Conservation Board is not required. Makes technical changes.*

Source: Bill Digest H.B. 862 (03/14/0200).

ASSUMPTIONS AND METHODOLOGY:

Revenues:

The Department of Agriculture and Consumer Services' Plant Industry Division is responsible for the listing and protection of North Carolina's endangered plants and threatened plant species. Guided by the 1979 Plant Conservation and Protection Act, the Division maintains a list of endangered, threatened, and special concern plant species for the State and enforces regulations and issues permits concerning State-listed plant species.

Currently, fees are not assessed on permits related to the collection, propagation and sale of protected plants. Under the proposed legislation, the Plant Conservation Board would be given the authority to set fees for these permits. Additionally, the Plant Conservation Board has the authority to adopt rules to create new types of permits. Therefore, because the level of permit fees has not been determined, no fiscal estimate can be provided.

General - Expenditures

G.S. 106-202.19, Unlawful acts; penalties; enforcement, makes it a Class 3 misdemeanor (punished by a fine only) for a person to violate any of the provisions of Article 19B of Chapter 106 of the General Statutes, or any rule of the North Carolina Plant Conservation Board adopted pursuant to Article 19B. Accordingly, because this bill reclassifies violation to a Class 2 misdemeanor offense, any additional charge would be expected to generate some additional fiscal impact.

The Administrative Office of the Courts presently does not maintain an offense code for G.S. 106-202.19, indicating that such offense is infrequently charged and/or infrequently results in conviction. *Thus, given the nature of offense and proposed penalty level, Fiscal Research does not anticipate a significant impact due to this proposed legislation.*

Department of Correction: Division of Prisons

Because Class 2 misdemeanants serve their designated terms of incarceration within local jails, any resultant active sentence due to this proposal should not impact the state's prison population.[1] The potential impact on local jail populations is unknown.

In FY 2005-06, 17% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 13 days. To the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 2 misdemeanor active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Department of Correction: Division of Community Corrections

In FY 2005-06, 83% of Class 2 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if future convictions under G.S. 106-202.19 were to occur, the Division of Community Corrections (DCC) could assume some additional costs for offenders placed under its supervision.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of $0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from $7.71 to $14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated $14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial

Under current law, violations are subject only to fines, in the amounts specified by the statute. As amended, violations would be subject to incarceration (depending on prior conviction level, from one to 60 days, G.S.15A-1340.23) as well as a fine. In addition, this bill could also increase the amount of fine a person would be subject to. Fines now range from $100 to $500 for a first offense, and from $500 to $1,000 for subsequent offenses. As amended, the amount of fine imposed could reach $1,000 for all offenses (the maximum fine amount for Class 2 misdemeanors in G.S. 15A-1340.23).

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[1] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

The AOC presently does not have an offense code in its automated system for G.S. 106-202, which is some indication that there are relatively few charges. Nevertheless, the proposed penalty enhancement is expected to be accompanied by more vigorous defense and prosecution, resulting in increased court time and the costs of case disposal. Moreover, all indigent costs assumed would constitute additional costs, since these would not have been incurred under current law (no chance of incarceration).

Presently, the estimated cost per Class 2 misdemeanor trial is $2,770; the estimated cost per plea is $230. Actual costs may vary from this general estimate, which includes indigent defense costs.

SOURCES OF DATA: Department of Agriculture and Consumers Services; Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and Office of State Construction.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and Joy Hicks

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 24, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

SECTION 5. G.S. 106-202.19(b) reads as rewritten:

"(b) The Commissioner or any employee or agent of the Department of Agriculture and Consumer Services designated by the Commissioner to enforce the provisions of this Article, may enter any place within the State at all reasonable times where plant materials are being grown, ~~transported~~ transported, or offered for sale and require the presentation for inspection of all pertinent papers and records relative to the provisions of this Article, after giving notice in writing to the owner or custodian of the premises to be entered. If he refuses to consent to the entry, the Commissioner may apply to any district court judge and the judge may order, without notice, that the owner or custodian of the place permit the Commissioner to enter the place for the purposes herein stated and failure by any person to obey the order may be punished as for contempt."

SECTION 6. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

HOUSE BILL 862:
Amend Plant Protection and Conservation Act.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Rep. Hill	**Summary by:**	Trina Griffin
Version:	Third Edition		Committee Counsel

SUMMARY: ***House Bill 862 is an agency bill that would amend the Plant Protection and Conservation Act to do the following:***

- ***Clarify that under the Plant Protection and Conservation Act, the Board currently has the authority to issue permits but not fees.***
- ***Authorize the North Carolina Plant Conservation Board to establish permit fees.***
- ***Provide that the membership of the North Carolina Plant Conservation Scientific Committee would include a member of a conservation organization, rather than one of three specified organizations.***
- ***Limit review and comment by the Scientific Committee to environmental impact statements prepared by State agencies on projects that may affect protected plants.***
- ***Increase the punishment for violation of the Act from a Class 3 misdemeanor, with a fine only, to a Class 2 misdemeanor.***
- ***Allow an agent of the Department of Agriculture to inspect papers and records related to the Act.***

House Bill 862 received a favorable report in Senate Agriculture and is in Senate Finance because it authorizes the NC Plant Conservation Board to establish permit fees.

CURRENT LAW & BILL ANALYSIS:

Section 1. of the bill amends the powers and duties of the North Carolina Plant Conservation Board ("Board") in several ways:

- Requires adoption of and maintenance of a list of protected plants, broken down by status of endangered, threatened or special concern. Currently the Board is required to adopt individual lists of endangered, threatened or special concern plants. The definition of 'protected plant' includes the categories of endangered, threatened and special concern. G.S. 106-202.12.
- **Allows the Board to establish fees for permits authorized by Article 19B of Chapter 106, Plant Protection and Conservation Act.** Under current law the statutes governing the Plant Protection and Conservation Act require a ginseng dealer to hold an annual permit. The statutes also authorize the Board to promulgate regulations under which the Department of Agriculture and Consumer Services may issue permits to licensed nurserymen, commercial growers, scientific supply houses and botanical gardens for the sale or distribution of plants on the protected list. The Board has statutory authority to deny, suspend, revoke, or modify any permit issued under the statutes. The regulations adopted by the Board provide for the following permits: ginseng dealer's permit, special concern endangered and threatened plant propagation permit, protected plant commerce permit, and protected plant permit. The permits are issued without any fee, because there is no statutory authority for the Board to set permit fees.
- Makes technical clean ups.

Section 2. of the bill amends the membership of the North Carolina Plant Conservation Scientific Committee ("Scientific Committee") to provide that a member of a conservation group shall serve, in lieu of a member of one of three specified organizations. The three specified organizations are: Garden Club of North Carolina, NC Chapter of the Nature Conservancy, and the NC Wild Flower Preservation Society.

Section 3. of the bill amends the powers and duties of the Scientific Committee to allow that Committee to review and comment on environmental impact statements prepared by State agencies on projects that may affect protected plants. The authority to review and comment does not include approval.

Section 4. of the bill amends the punishment for violation of Article 19B of Chapter 106, Plant Protection and Conservation Act. Current punishment is a Class 3 misdemeanor, and a first time violation is punished by a fine only, not to exceed $100.00, and subsequent violations are also fine only, not to exceed $500.00. The bill would increase punishment to a Class 2 misdemeanor. A Class 2 misdemeanor carries a maximum fine of $1,000.00 and 1-30 days jail with no prior conviction.

Section 5. of the bill adds an agent of the Department of Agriculture and Consumer Services to the list of individuals who may inspect pertinent papers and records related to the Act. Currently, only the Commissioner or any employee of the Department has that authority.

EFFECTIVE DATE: The act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

R. Erika Churchill, committee counsel to House Agriculture,and Martha Walston, counsel to House Finance, substantially contributed to this summary.

H0862e3-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 535

Committee Substitute Favorable 3/29/07
Committee Substitute #2 Favorable 4/23/07
Senate Judiciary II (Criminal) Committee Substitute Adopted 7/10/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H535-CSSVf-51 [v.1]

7/25/2007 12:53:54 AM

Short Title: Criminal Background Reviews - EMS Personnel. (Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CRIMINAL BACKGROUND REVIEWS FOR CURRENT AND FUTURE EMS PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-159 is amended by adding a new subsection to read:

"(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials is subject to a criminal background review by the Department. At the request of the Department, the Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee shall keep all information obtained pursuant to this subsection confidential. The Medical Care Commission shall adopt rules to implement the provisions of this subsection, including rules to establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant to G.S. 114-19.21."

SECTION 2. Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.21. Criminal record checks of EMS personnel.**

The Department of Justice may provide to the Department of Health and Human Services the criminal history from the State and National Repositories of Criminal Histories of an individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials, when the criminal history is requested by the Department. The Department of Health and Human Services shall provide to the

Department of Justice the request for the criminal history, the fingerprints of the individual to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The Department of Health and Human Services and Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall keep all information obtained pursuant to this section confidential. The Department of Justice shall charge a reasonable fee to offset the costs incurred by it to conduct the checks of criminal history records authorized by this section."

SECTION 3. G.S. 143-519(a) reads as rewritten:

"(a) There is created ~~an~~ the Emergency Medical Services Disciplinary ~~Committee which~~Committee. The Committee shall review and make recommendations to the Department regarding all disciplinary matters relating to credentialing of emergency medical services personnel. At the request of the Department, the Committee shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials."

SECTION 4. This act becomes effective October 1, 2007.

HOUSE BILL 535:
Criminal Background Reviews - EMS Personnel

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Rep. Wainwright	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to Fourth Edition H535-CSSVf-51		

SUMMARY: House Bill 535 would provide for criminal background reviews of individuals who apply for emergency medical service (EMS) credentials, seek to renew EMS credentials, or hold EMS credentials. The proposed committee substitute makes one technical citation change.

CURRENT LAW: Under current law, the Department of Health and Human Services (DHHS) credentials EMS personnel. DHHS may deny, suspend, amend, or revoke the credentials of an EMS worker in any case in which DHHS finds that there has been a substantial failure to comply with the statutes or rules regulating emergency medical services. DHHS rules provide that DHHS may deny, suspend, or revoke the credentials of an EMS worker for any conviction of a felony or a crime involving moral turpitude or scope of practice.

Prior to taking a disciplinary action against an EMS worker, DHHS must consider the recommendations of the EMS Disciplinary Committee. The EMS Disciplinary Committee reviews and makes recommendations to DHHS regarding all disciplinary matters relating to credentialing EMS personnel.

BILL ANALYSIS:

House Bill 535 would provide for criminal background reviews by DHHS of individuals who apply for EMS credentials, seek to renew EMS credentials, or hold EMS credentials. At the request of DHHS, the EMS Disciplinary Committee will review criminal background information and make a recommendation regarding the eligibility of an individual to obtain, renew, or maintain EMS credentials. DHHS and the EMS Disciplinary Committee will keep all criminal background information confidential. The Medical Care Commission will adopt rules to implement the criminal background reviews, including rules to establish a reasonable fee to offset the actual costs of obtaining criminal history information from the Department of Justice (DOJ).

House Bill 535 would authorize DOJ to provide to DHHS the criminal histories from the State and National Repositories of Criminal Histories of individuals who apply for EMS credentials, seek to renew EMS credentials, or hold EMS credentials when the criminal history information is requested by DHHS. DHHS will provide to DOJ the fingerprints of the individual to be checked, additional information required by DOJ, and a form signed by the individual to be checked consenting to the criminal record check and the use of fingerprints and other identifying information. DHHS and the EMS Disciplinary Committee will keep all criminal background information confidential. DOJ shall charge a reasonable fee to offset the cost incurred to conduct the criminal history check.

House Bill 535 would authorize the EMS Disciplinary Committee to, at the request of DHHS, review criminal background information and make recommendations regarding the eligibility of individuals to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials

EFFECTIVE DATE: This act becomes effective October 1, 2007.

Ben Popkin, counsel to Senate Judiciary II, substantially contributed to this summary. *H0535e4-SMSV-CSSVf-51*

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1392
PROPOSED COMMITTEE SUBSTITUTE S1392-CSMC-42 [v.3]

7/24/2007 5:57:23 PM

Short Title: Sales Tax Relief For Certain Textbooks. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A SALES TAX EXEMPTION FOR PURCHASES OF SCHOOL INSTRUCTIONAL MATERIAL ASSIGNED BY A COURSE INSTRUCTOR AT POSTSECONDARY EDUCATIONAL INSTITUTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(37b) School instructional material. – Defined in the Streamlined Agreement.

(37d) School supply. – An item that is commonly used by a student in the course of study and is considered a 'school supply', a 'school art supply', or 'school instructional material' under the Streamlined Agreement.

...."

SECTION 2. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(14b) Sales of school instructional material to students enrolled at accredited postsecondary educational institutions and assigned by a course instructor."

SECTION 3. This act becomes effective October 1, 2007, and applies to sales made on or after that date.

SENATE BILL 1392:
Sales Tax Relief For Certain Textbooks

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Sen. Brown	**Summary by:**	Dan Ettefagh
Version:	PCS to First Edition S1392-CSMC		Committee Counsel

SUMMARY: The PCS to Senate Bill 1392 creates a sales tax exemption for purchases of school instructional material if (a) the material is assigned by a course instructor and (b) the material is purchased by a student enrolled at an accredited postsecondary educational institution.

CURRENT LAW: Under current law, the sale of textbooks and other written instructional material are taxed at the rate of six and one-half percent (6.5%).

BILL ANALYSIS: The PCS to Senate Bill 1392 exempts from sales and use taxes the sale of school instructional material if sold to students enrolled at accredited postsecondary educational institutions and if assigned by a course instructor. School instructional material adopts the definition in Part III of the Library of Definitions contained in the Streamlined Sales and Use Tax Agreement, to wit: "written material commonly used by the student in a course of study as a reference and to learn the subject being taught" with an all-inclusive list composed of reference books, reference maps and globes, textbooks, and workbooks.

EFFECTIVE DATE: This act becomes effective October 1, 2007, and applies to sales made on or after that date.

BACKGROUND: The House Budget Bill contained a provision allowing school instructional materials with a sales price of $300 or less to be tax-free during the sales tax holiday without any restrictions regarding whether it was purchased by a student or assigned by a course instructor.

TECHNICAL CONCERNS: The Department of Revenue is concerned that the exemption will require increased record-keeping burdens on sellers and increased administration burdens on the Department. The former would be due to the required documentation that the instructional material was sold to an enrolled student. The latter would be the necessity of verifying exemptions and protests where proper records are not maintained.

S1392e1-SMMC-CSMC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1392

Short Title:	Sales Tax Relief For Certain Textbooks.	(Public)
Sponsors:	Senators Brown; Apodaca, Berger of Rockingham, Forrester, Goodall, Malone, Preston, and Smith.	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A SALES TAX EXEMPTION FOR PURCHASES OF SCHOOL INSTRUCTIONAL MATERIAL BY STUDENTS AT POSTSECONDARY EDUCATIONAL INSTITUTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(14b) Sales of school instructional material to students enrolled at postsecondary educational institutions. As used in this subdivision, "school instructional material" means written material commonly used by the student in a course of study as a reference and to learn the subject being taught."

SECTION 2. This act becomes effective July 1, 2007, and applies to sales made on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1073
PROPOSED COMMITTEE SUBSTITUTE S1073-CSRB-59 [v.1]

7/24/2007 8:35:47 PM

Short Title: Tax Credit - Wheelchair Patient Exam Tables. (Public)

Sponsors:

Referred to:

March 21, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX CREDIT TO HEALTH CARE PROVIDERS TO PURCHASE WHEELCHAIR ACCESSIBLE PATIENT EXAMINATION TABLES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.49. Tax credit for wheelchair accessible patient examination tables.**

(a) Credit. – A taxpayer that places an eligible patient examination table into service in this State during the taxable year is allowed a credit against the tax imposed by this Part equal to the cost of the table, not to exceed five thousand dollars ($5,000) per table. The total amount of credit allowed under this section to a taxpayer during a taxable year may not exceed ten thousand dollars ($10,000).

(b) Definition. – As used in this section, the term 'eligible patient examination table' means an examination table that satisfies all of the following conditions:

(1) The table is designed to serve patients who have disabilities that have resulted in the use of a wheelchair.

(2) The table complies with all applicable ADA standards for patient accessibility.

(3) The table provides integrated docking and no-lift transfer of the patient from the wheelchair to the examination table.

(4) The table allows health care providers to transfer a patient without lifting the patient.

(c) Cap and Carryforward. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years.

(d) Sunset. – This section is repealed for taxable years beginning on or after January 1, 2012."

SECTION 2. Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.31. Tax credit for wheelchair accessible patient examination tables.**

(a) Credit. – A taxpayer that places an eligible patient examination table into service in this State during the taxable year is allowed a credit against the tax imposed by this Part equal to the cost of the table, not to exceed five thousand dollars ($5,000) per table. The total amount of credit allowed under this section to a taxpayer during a taxable year may not exceed ten thousand dollars ($10,000).

(b) Definition. – As used in this section, the term 'eligible patient examination table' means an examination table that satisfies all of the following conditions:

(1) The table is designed to serve patients who have disabilities that have resulted in the use of a wheelchair.

(2) The table complies with all applicable ADA standards for patient accessibility.

(3) The table provides integrated docking and no-lift transfer of the patient from the wheelchair to the examination table.

(4) The table allows health care providers to transfer a patient without lifting the patient.

(c) Cap and Carryforward. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years.

(d) Sunset. – This section is repealed for taxable years beginning on or after January 1, 2012."

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2007.

SENATE BILL 1073:
Tax Credit - Wheelchair Patient Exam Tables

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 24, 2007
Introduced by:	Sen. Swindell	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S1073-CSRB-59		Committee Counsel

SUMMARY: The proposed committee substitute for Senate Bill 1073 would provide a tax credit to health care providers who purchase a wheelchair accessible patient examination table that allows a health care provider to transfer a patient without lifting the patient. The credit would be equal to the cost of the table, not to exceed $5,000. The total amount of credit claimed in a taxable year could not exceed $10,000.

The taxpayer would remain entitled to deduct the cost of the table from taxable income as a business expense under section 179 of the Code. The bill would become effective for taxable years beginning on or after January 1, 2007, and expire for taxable years beginning on or after January 1, 2012.

BACKGROUND: Under Titles II and III of the Americans with Disabilities Act, health care facilities have a legal obligation to provide accessible healthcare to people with disabilities. To help cover the costs of compliance with the ADA, the federal government offers two tax incentives for ADA-related eligible access expenditures:

- An income tax credit available to small businesses. A small business is one that had either revenues of $1,000,000 or less or 30 or fewer full-time employees in the previous tax year.
- An income tax deduction available to businesses of any size.

The federal tax credit is equal to 50% of the eligible access expenditures in a year that exceed $250, up to a maximum expenditure of $10,250. Therefore, the maximum federal credit amount available to a qualifying small business is $5,000.

The federal deduction under section 190 of the Code is limited to architectural and transportation barrier removal expenses. It is applicable to any taxpayer. The federal tax deduction is a maximum of $15,000 per year. A taxpayer may also deduct the expense of other expenditures, such as an eligible patient exam table, under section 179 of the Code as a business expense.[1] Any deduction claimed at the federal level is also a deduction for State tax purposes since federal taxable income is the starting point for determining State taxable income.

BILL ANALYSIS: In addition to the credit allowed under federal law, Senate Bill 1073 would allow a State income tax credit to a taxpayer who places an 'eligible patient examination table' into service during the taxable year. Unlike the federal credit, the State credit would be allowed to any taxpayer that places into service an eligible patient examination table, not just to a small business. An 'eligible patient examination table' is a table that meets all of the following conditions:

- Is designed to serve patients who have disabilities that have resulted in the use of a wheelchair.

[1] A taxpayer may decide to treat an expenditure as a capital expense and depreciate it over several years.

- Complies with all applicable ADA standards for patient accessibility.
- Provides integrated docking and no-lift transfer of the patient from the wheelchair to the examination table.
- Allows health care provides to transfer a patient without lifting the patient.

Although there are many different height-adjustable examination and treatment tables and chairs that meets the first two requirements, it appears there is only one table that meets all four requirements: the Martin Chair-A-Table, developed by Martin Innovations in Rocky Mount, NC.

The amount of the State tax credit would be equal to the cost of the table, not to exceed $5,000. The total amount of credit allowed during a taxable year could not exceed $10,000. The credit may not exceed the amount of tax imposed for the taxable year. Any unused portion of the credit may be carried forward for five years. The anticipated cost of a Martin Chair-A-Table is $12,500.

The proposed committee substitute more narrowly restricts the applicability of the original bill so that it is limited to tables that provide integrated docking and no-lift transfers of the patient from the wheelchair to the examination table. It removes sections 3 and 4 of the bill. These sections are unnecessary because State taxable income already reflects the deduction of these expenses at the federal level since State taxable income begins with federal taxable income. It also removes an appropriation from the bill and sunsets the credit in five years.

EFFECTIVE DATE: The bill becomes effective for taxable years beginning on or after January 1, 2007, and expires for taxable years beginning on or after January 1, 2012.

S1073e1-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 24, 2007

TO: Senate Finance Chairs

FROM: Barry Boardman
Fiscal Research Division

RE: Senate Bill 1073 (PCS – S1073-CSRB-53)

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES: ($ millions)	($0.1)	($0.6)	($1.7)	($1.7)	($1.7)
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: January 1, 2007

BILL SUMMARY:

The PCS to senate bill 1073 provides a tax credit for health care providers who purchase a wheelchair accessible exam table, which is compliant with ADA standards for patient accessibility. The PCS is more restrictive than the original bill, and is limited to only one table currently in production. Beginning with the 2007 taxable year, the PCS enacts new GS 105-130.49 and GS 105-151.31 providing taxpayers that purchase a wheelchair accessible examination table and wheelchair "docking" capabilities, with a corporate or individual income tax credit equal to the cost of the table, not to exceed $5,000 per table and $10,000 per taxable year. It allows unused portions of the credit to be carried forward for the succeeding five years and provides that the credit may not exceed a taxpayer's tax liability. The PCS also amends GS 105-130.5(c) and GS 105-134.6(d) to provide for a deduction from taxable income purchases of wheelchair accessible exam tables to the extent the credit had not been taken. The tax credit sunsets in January 1, 2012. The PCS removes from the original bill (S1073) appropriations for grants to hospitals that purchase the tables.

ASSUMPTIONS AND METHODOLOGY:

The PCS provides more restrictive language than the original bill, and there is currently only one table in production that would qualify for the tax credit. The fiscal impact is based on information provided by the manufacturer of that table. Because the table is not in full production and may only be available on a limited basis in the first two fiscal years, the impact is expected to be minimal. The estimated reduction in FY2007-08 General Fund revenues will be $0.1 million.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

Official Fiscal Research Division Publication

PREPARED BY: Barry Boardman

APPROVED BY:

DATE: July 24, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1485

Commerce, Small Business and Entrepreneurship Committee Substitute Adopted 6/14/07

PROPOSED COMMITTEE SUBSTITUTE S1485-CSMCf-46 [v.1]

7/24/2007 3:33:27 PM

Short Title: Amend NC Appraisers Act/Fees. (Public)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING EDUCATION REQUIREMENTS FOR REAL ESTATE APPRAISERS UNDER THE NORTH CAROLINA APPRAISERS ACT, ELIMINATING THE CATEGORY OF LICENSED RESIDENTIAL REAL ESTATE APPRAISER, AND AUTHORIZING THE NORTH CAROLINA APPRAISAL BOARD TO ESTABLISH AND INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93E-1-2.1 reads as rewritten:

"**§ 93E-1-2.1. Registration, license, or certificate required of real estate appraisers.**

~~Beginning October 1, 1995, it shall be~~It is unlawful for any person in this State to act as a real estate appraiser, to directly or indirectly engage or assume to engage in the business of real estate appraisal, or to advertise or hold himself or herself out as engaging in or conducting the business of real estate appraisal without first obtaining a registration, license, or certificate issued by the Appraisal Board under the provisions of this Chapter. It ~~shall also be~~is also unlawful, with regard to any real property where any portion of that property is located within this State, for any person to perform any of the acts listed above without first being registered, licensed, or certified by the Appraisal Board under the provisions of this Chapter."

SECTION 2. G.S. 93E-1-3 reads as rewritten:

"**§ 93E-1-3. When registration, license, or certificate not required.**

(a) No trainee registration, license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered ~~trainee, State-licensed or State-certified~~trainee or licensed or certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a ~~State-licensed or State-certified~~licensed or

certified real estate appraiser or by a registered trainee under the immediate personal direction of, the ~~State-licensed or State-certified~~licensed or certified real estate appraiser and is reviewed and signed by that ~~State-licensed or State-certified~~licensed or certified appraiser.

(b) Repealed by Session Laws 2001-399, s. 1.

(c) Nothing in this Chapter shall preclude a real estate broker ~~or salesman~~licensed under Chapter 93A of the General Statutes from performing a comparative market analysis as defined in G.S. 93E-1-4, provided the person does not represent himself or herself as being a registered trainee or a ~~State-licensed or State-certified~~licensed or certified real estate appraiser. A real estate broker ~~or salesperson~~ may perform a comparative market analysis for compensation or other valuable consideration only for prospective or actual brokerage clients or for real property involved in an employee relocation program.

(d) Nothing in this Chapter shall abridge, infringe upon, or otherwise restrict the right to use the term "certified ad valorem tax appraiser" or any similar term by persons certified by the Department of Revenue to perform ad valorem tax appraisals, provided that the term is not used in a manner that creates the impression of certification by the State to perform real estate appraisals other than ad valorem tax appraisals.

(e) Nothing in this Chapter shall entitle a registered trainee or a ~~State-licensed or State-certified~~licensed or certified real estate appraiser to appraise real estate for ad valorem tax purposes unless the person has first been certified by the Department of Revenue pursuant to G.S. 105-294.

(f) A trainee registration, license, or certificate is not required under this Chapter for:

(1) Any person, partnership, association, or corporation that performs appraisals of property owned by that person, partnership, association, or corporation for the sole use of that person, partnership, association, or corporation;

(2) Any court-appointed commissioner who conducts an appraisal pursuant to a judicially ordered evaluation of property;

(3) Any person to qualify as an expert witness for court or administrative agency testimony, if otherwise qualified;

(4) A person who appraises standing timber so long as the appraisal does not include a determination of value of any land;

(5) Any person employed by a lender in the performance of appraisals with respect to which federal regulations do not require a licensed or certified appraiser; and

(6) A person who performs ad valorem tax appraisals and is certified by the Department of Revenue under G.S. 105-294 or G.S. 105-296;

however, any person who is registered, licensed, or certified under this Chapter and who performs any of the activities set forth in subdivisions (1) through (5) of this subsection must comply with all of the provisions of this Chapter."

SECTION 3. G.S. 93E-1-3.1 reads as rewritten:

"**§ 93E-1-3.1. Prohibited use of title; permissible use of title.**

(a) It shall be unlawful for any person to assume or use the title "registered trainee", ~~"State-licensed"~~licensed real estate appraiser", ~~"State-certified"~~certified real estate appraiser", or any title, designation, or abbreviation likely to create the impression of registration, licensure, or certification as a real estate appraiser, unless the person is registered, licensed, or certified by the Appraisal Board in accordance with the provisions of this Chapter. The Board may adopt for the exclusive use of persons licensed or certified under the provisions of this Chapter, a seal, symbol, or other mark identifying the user as a ~~State-licensed or State-certified~~licensed or certified real estate appraiser.

(b) Any person certified as a real estate appraiser by an appraisal trade organization shall retain the right to use the term "certified" or any similar term in identifying the person to the public, provided that:

(1) In each instance wherein the term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to the term; and

(2) The use of the term does not create the impression of certification by the State.

This subsection does not entitle any person certified only by a trade organization to conduct an appraisal that requires a State registration, license, or certification.

(c) The term "registered trainee", ~~"State-licensed"~~licensed real estate appraiser", ~~"State-certified"~~certified real estate appraiser", or any similar term shall not be used following or immediately in connection with the name of a partnership, association, corporation, or other firm or group, or in a manner that might create the impression of registration, licensure, or certification as a real estate appraiser under this Chapter."

SECTION 4. G.S. 93E-1-4 reads as rewritten:

"**§ 93E-1-4. Definitions.**

When used in this Chapter, unless the context otherwise requires, the term:

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion as to the value of identified real estate or specified interests therein performed for compensation or other valuable consideration.

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.

(3) "Appraisal Board" or "Board" means the North Carolina Appraisal Board established under G.S. 93E-1-5.

(4) "Appraisal Foundation" or "Foundation" means The Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(5) "Appraisal report" means any communication, written or oral, of an appraisal.

(6) "Certificate" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied

the requirements for certification as a ~~State-certified~~certified real estate appraiser and bearing a certificate number assigned by the Board.

(7) "Certificate holder" means a person certified by the Board under the provisions of this Chapter.

(7a) "Certified general real estate appraiser" means a person who holds a current, valid certificate as a certified general real estate appraiser issued under the provisions of this Chapter.

(7b) "Certified residential real estate appraiser" means a person who holds a current, valid certificate as a certified residential real estate appraiser issued under the provisions of this Chapter.

~~(7a)~~(7c) "Comparative market analysis" means the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate ~~broker or salesperson.~~broker.

(8) "License" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for licensure as a ~~State-licensed~~licensed real estate appraiser and bearing a license number assigned by the Board.

(8a) "Licensed residential real estate appraiser" means a person who holds a current, valid license as a licensed residential real estate appraiser issued under the provisions of this Chapter.

(9) "Licensee" means a person licensed by the Board under the provisions of this Chapter.

(10) "Real estate" or "real property" means land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.

(11) "Real estate appraiser" or "appraiser" means a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.

(12) "Real estate appraising" means the practice of developing and communicating real estate appraisals.

(13) "Residential real estate" means any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, town house, or cooperative complex, or planned unit development is considered to be residential real estate.

~~(14) "State-certified general real estate appraiser" means a person who holds a current, valid certificate as a State-certified general real estate appraiser issued under the provisions of this Chapter.~~

~~(15) "State-certified residential real estate appraiser" means a person who holds a current, valid certificate as a State-certified residential real estate appraiser issued under the provisions of this Chapter.~~

~~(16) "State-licensed residential real estate appraiser" means a person who holds a current, valid license as a State-licensed residential real estate appraiser issued under the provisions of this Chapter.~~

(17) "Temporary appraiser licensure or certification" means the issuance of a temporary license or certificate by the Board to a person licensed or certified in another state who enters this State for the purpose of completing a particular appraisal assignment.

(18) "Trainee", "registered trainee", or "trainee real estate appraiser" means a person who holds a current, valid registration as a trainee real estate appraiser issued under the provisions of this Chapter.

(19) "Trainee registration" or "registration as a trainee" means the document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements of registration as a trainee real estate appraiser and bearing a registration number assigned by the Board."

SECTION 5. G.S. 93E-1-6 reads as rewritten:

"**§ 93E-1-6. Qualifications for ~~State~~ registration, licensure, and certification; applications; application fees; examinations.**

(a) Any person desiring to be registered as a trainee or to obtain licensure as a ~~State-licensed~~licensed real estate appraiser or certification as a ~~State-certified~~certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration, licensure, or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for registration as a trainee must demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property, by having satisfactorily completed within the five-year period immediately preceding the date application is made, a course ~~approved by the Board of instruction~~of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 90 hours ~~or the minimum requirement as imposed by the federal government, whichever is greater,~~ of classroom instruction in subjects determined by the Board; and by satisfying any additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the ~~federal government.~~Appraisal Foundation.

(1a) Each applicant for licensure as a ~~State-licensed~~licensed residential real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed within the five-year period immediately preceding the date application is made a course ~~approved~~

"§ 93E-1-6. Qualifications for registration and certification; applications; application fees; examinations.

(a) Any person desiring to be registered as a trainee or to obtain certification as a certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for registration as a trainee ~~must~~shall:

a. Have obtained a high school diploma or its equivalent; and

b. ~~demonstrate~~ Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property, ~~by~~ by: (i) having satisfactorily completed within the five-year period immediately preceding the date application is made, a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Board; and ~~by~~ (ii) satisfying any additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the Appraisal Foundation.

~~(1a) Each applicant for licensure as a licensed residential real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed within the five-year period immediately preceding the date application is made a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 150 hours of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least 2,000 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising; and shall satisfy the additional qualifications as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or shall possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.~~

(2) Each applicant for certification as a certified residential real estate appraiser ~~shall have demonstrated~~ shall:

a. Hold an associate's degree or higher from an accredited college, junior college, community college, or university; or have a high school diploma or its equivalent and have successfully completed at least 21 semester credit hours of college courses from an accredited college, junior college, community college, or university in English composition, principles of economics, finance, higher mathematics, such as geometry or algebra,

statistics, introduction to computers, and business or real estate law;

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of real property as the Board may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date the application is made, a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 200 ~~hours, or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of classroom instruction in subjects determined by the Board;shall present~~hours;

c. Present evidence satisfactory to the Board of at least 2,500 hours, or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two calendar years; and ~~shall satisfy~~

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. ~~shall possess~~Possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

(3) Each applicant for certification as a certified general real estate appraiser ~~shall have demonstrated~~shall:

a. Hold a bachelor's degree or higher from an accredited college or university; or have a high school diploma or its equivalent and have successfully completed at least 30 semester credit hours of college courses from an accredited college or university in English composition, macroeconomics and microeconomics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law and two elective courses in accounting, geography, business management, or real estate;

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of all types of real property by having satisfactorily completed, within the five-year period immediately preceding the date application is made, a course of instruction, approved by the Board, in general real estate appraisal practices consisting of at least 300 ~~hours, or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of classroom instruction in subjects determined by the Board; shall present~~hours;

c. Present evidence satisfactory to the Board of at least 3,000 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two and one-half calendar years, fifty percent (50%) of which must be in appraising nonresidential real estate; and ~~shall satisfy~~

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. ~~the applicant shall possess~~Possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.

(4) Repealed by Session Laws 2001-399, s. 1.

(b) Each application for registration as a trainee or for ~~licensure or~~ certification as a real estate appraiser shall be accompanied by a fee of two hundred dollars ($200.00), plus any additional fee as may be necessary to defray the cost of any competency examination administered by a private testing service.

(c) Any person who files with the Board an application for State ~~registration, licensure,~~registration or certification as a real estate appraiser shall be required to pass an examination to demonstrate the person's competence. The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of the reports. In addition, the Board may investigate and consider whether the applicant has had any disciplinary action taken against any other professional license in North Carolina or any other state, or if the applicant has committed or done any act which, if committed or done by any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth for disciplinary action including the suspension or revocation of registration, licensure, or certification, or whether the applicant has been convicted of or pleaded guilty to any criminal act. If the results of the investigation shall be satisfactory to the Board, and the applicant is otherwise qualified, then the Board shall issue to the applicant a trainee ~~registration, license~~registration or certificate authorizing the applicant to act as a registered trainee real estate ~~appraiser, State-licensed real estate appraiser, or a State-certified~~appraiser or certified real estate appraiser in this State.

(d) If the applicant has not affirmatively demonstrated that the applicant meets the requirements for ~~registration, licensure,~~registration or certification, action on the application will be deferred pending a hearing before the Board."

SECTION 7. G.S. 93E-1-6.1 reads as rewritten:

"**§ 93E-1-6.1. Trainee supervision.**

All trainees shall perform all real estate appraisal-related activities under the immediate, active, and personal supervision of a ~~State-licensed or State-certified~~licensed or certified real estate appraiser. All appraisal reports must be signed by the ~~State-licensed or State-certified~~ appraiser who supervised the trainee. By signing the appraisal report, the ~~State-licensed or State-certified~~ appraiser accepts shared responsibility, with the trainee, for the content of and conclusions in the report."

SECTION 8. G.S. 93E-1-7 reads as rewritten:

"**§ 93E-1-7. Registration, license and certificate renewal; renewal fees; continuing education; reinstatement; replacement registrations, licenses and certificates; registration, licensure, and certification history; address changes.**

(a) Trainee registrations, licenses, and certificates issued under this Chapter shall expire on the 30th day of June of every year and shall become invalid after that date unless renewed prior to the expiration date by filing an application with and paying to the Executive Director of the Board the fee of ~~two hundred dollars ($200.00).~~two hundred twenty-five dollars ($225.00). As a prerequisite to the renewal of a trainee registration or a real estate appraiser license or certificate, the trainee registration holder, the licensee, or the certificate holder must satisfy any continuing education requirements that may be prescribed by the Board under subsection (b) of this section. The members of the General Assembly are exempt from this requirement and any education program regarding trainee supervision during their term of office. The Board may adopt rules establishing a system of trainee registration, license, and certificate renewal in which trainee registrations, licenses, and certificates expire annually with varying expiration dates.

(b) The Board may by rule require, as a prerequisite to trainee registration, license, or certificate renewal, the completion of Board-approved education courses in subject matters determined by the Board, or courses determined by the Board to be equivalent to the instruction, not inconsistent with any requirements of federal authorities.

(b1) Course sponsors shall pay to the Board a fee of five dollars ($5.00) for each licensee completing an approved continuing education course conducted by the sponsor.

(b2) The Board shall not charge a course application fee, a course renewal fee, or any other fee for a continuing education course offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools or an agency of the federal, State, or local government.

(c) All trainee registrations, licenses, and certificates reinstated after the expiration dates shall be subject to a late filing fee of ~~five dollars ($5.00)~~ten dollars ($10.00) per month for each month or part thereof that the trainee registration, license, or certificate is lapsed, not to exceed ~~sixty dollars ($60.00).~~one hundred twenty dollars ($120.00). The late filing fee shall be in addition to the required renewal fee. In the event a trainee, licensee, or certificate holder fails to reinstate the trainee registration, license, or certificate within 12 months after the expiration date thereof, the Board may, in its discretion, consider the person as not having been previously registered, licensed,

or certified, and thereby subject to the provisions of this Chapter relating to the issuance of an original trainee registration, license, or certificate, including the examination requirements set forth herein. Applications to reinstate trainee registrations, licenses, or certificates expired for 12 or more months shall be accompanied by the fee required for an original trainee registration, license, or certificate.

(d) Replacement trainee registrations, licenses, and certificates may be issued by the Board upon payment of ~~five dollars ($5.00)~~ten dollars ($10.00) by the trainee, licensee, or certificate holder. Certification by the Board of the trainee registration history or the licensure or certification history of a person registered, licensed, or certified under this Chapter shall be made only after the payment of a fee of ten dollars ($10.00) to the Board."

SECTION 9. G.S. 93E-1-8 reads as rewritten:

"**§ 93E-1-8. Education program approval and fees.**

(a) The Board may by rule prescribe minimum standards for the approval and renewal of approval of schools and other course sponsors and their instructors to conduct appraiser prelicensing and precertification courses required by G.S. 93E-1-6(a). Such standards may address subject matter, program structuring, instructional materials, requirements for satisfactory course completion, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest. The standards may require that schools and course sponsors obtain approval for the content of prelicensing and precertification courses from the Appraiser Qualifications Board of the Appraisal Foundation as part of the application process with the Appraisal Board and pay any fees directly to the Appraiser Qualifications Board as required by the Appraiser Qualifications Board for the approval.

(b) The Board may by rule set nonrefundable fees chargeable to private real estate appraisal schools or course sponsors, including appraisal trade organizations, for the approval and annual renewal of approval of their prelicensing and precertification courses required by G.S. 93E-1-6(a), or equivalent courses. ~~Such~~ The fees shall be ~~forty dollars ($40.00)~~one hundred dollars ($100.00) per course for approval and ~~twenty dollars ($20.00) per course for renewal of approval of private school courses, and three hundred dollars ($300.00) per course for approval and~~ fifty dollars ($50.00) per course for renewal of ~~approval for course sponsors, including appraisal trade organizations.~~approval. No fees shall be charged for the approval or renewal of approval to conduct appraiser prelicensing or precertification courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or an agency of the federal, State, or local government.

(c) The Board may by rule prescribe minimum standards for the approval and annual renewal of approval of schools and other course sponsors and their instructors to conduct appraiser continuing education courses. Such standards may address subject matter, instructional materials, requirements for satisfactory course completion, minimum course length, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest.

(d) Nonrefundable fees of one hundred dollars ($100.00) per course may be charged to schools and course sponsors for the approval to conduct appraiser continuing education courses and fifty dollars ($50.00) per course for renewal of approval. However, no fees shall be charged for the approval or renewal of approval to conduct appraiser continuing education courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or by an agency of the federal, State, or local government. A nonrefundable fee of fifty dollars ($50.00) per course may be charged to current or former licensees or certificate holders requesting approval by the Board of a course for continuing education credit when approval of such course has not been previously obtained by the offering school or course sponsor."

SECTION 10. G.S. 93E-1-12(a) reads as rewritten:

"(a) The Board may take disciplinary action against registered trainees and State-licensed or State-certified real estate appraisers. Upon its own motion or the complaint of any person, the Board may investigate the actions of any person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter, any person who performs appraisals without an appropriate registration, license, or certificate, or any person who holds himself or herself out to be registered as a trainee or licensed or certified as a real estate appraiser when the person holds no registration, license, or certificate. If the Board finds probable cause to believe that a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter has violated any of the provisions of this Chapter, the Board may hold a hearing on the allegations of misconduct.

The Board may suspend or revoke the registration, license, or certificate granted to any person under the provisions of this Chapter or reprimand any registered trainee, licensee, or certificate holder if, following a hearing or by consent, the Board finds the registered trainee, licensee, or certificate holder to have:

(1) Procured registration, licensure, or certification pursuant to this Chapter by making a false or fraudulent representation;

(2) Made any willful or negligent misrepresentation or any willful or negligent omission of material fact;

(3) Accepted an appraisal assignment when the employment is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or when the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon consequences resulting from the appraisal assignment;

(4) Acted or held himself or herself out as a registered trainee or a ~~State-licensed or State-certified~~licensed or certified real estate appraiser when not so registered, licensed, or certified;

(5) Failed as a ~~State-licensed or State-certified~~licensed or certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Chapter who assists the ~~State-licensed~~

~~or State-certified~~licensed or certified real estate appraiser in performing real estate appraisals;

(6) Failed to make available to the Board for its inspection without prior notice, originals or true copies of all written contracts engaging the person's services to appraise real property, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports;

(7) Paid a fee or valuable consideration to any person for acts or services performed in violation of this Chapter;

(8) Acted as a real estate appraiser in an unworthy or incompetent manner as to endanger the interest of the public;

(9) Violated any of the standards of practice for real estate appraisers or any other rule promulgated by the Board;

(10) Performed any other act which constitutes improper, fraudulent, or other dishonest conduct; or

(11) Violated any of the provisions of this Chapter.

The Executive Director of the Board shall transmit a certified copy of all final orders of the Board suspending or revoking registrations, licenses, or certificates issued under this Chapter to the clerk of superior court of the county in which the licensee or certificate holder maintains the person's principal place of business. The clerk shall enter these orders upon the judgment docket of the county."

SECTION 11. G.S. 93E-1-12(c) reads as rewritten:

"(c) When a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter is accused of any act, omission, or misconduct which would subject the person to disciplinary action, the registered trainee, licensee, or certificate holder, with the consent and approval of the Board, may surrender his or her registration, license, or certificate and all the rights and privileges pertaining to it for a period of time established by the ~~Board.~~Board of at least five years. A person who surrenders his or her registration, license, or certificate shall not thereafter be eligible for or submit any application for registration, licensure, or certification as a real estate appraiser during the period that the registration, license, or certificate is surrendered."

SECTION 12. After January 1, 2008, the North Carolina Appraisal Board will no longer issue a license for a licensed residential real estate appraiser. Any individual holding a license as a licensed residential real estate appraiser on that date shall be allowed to maintain the license so long as it is properly renewed in accordance with G.S. 93E-1-7.

SECTION 13. Section 6 of this act becomes effective January 1, 2008, and applies to any person applying under this section on or after that date. The remainder of this act becomes effective October 1, 2007, and applies to applicants for registration, licensure, or certification under this act and to persons whose registration, license, or certification are renewed under this act on or after October 1, 2007.

SENATE BILL 1485:
Amend NC Appraisers Act/Fees

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Sen. Rand	**Summary by:**	Dan Ettefagh
Version:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 1485 makes various changes to the North Carolina Appraisers Act by modifying the amount and type of education required for certified residential or certified general real estate appraisers, eliminating the category of a licensed residential real estate appraiser, and increasing the fees to the Appraisal Board for initial applications and license renewals. The PCS changes the effective date from July 1, 2007 to October 1, 2007.***

CURRENT LAW: Chapter 93E of the General Statutes makes it illegal for anyone to appraise real property without being registered, licensed or certified by the Appraisal Board. The minimum educational standards that the Board must approve are those established by the federal government. A registered trainee must have at least 90 hours of classroom instruction in real estate appraisal principles and practices; a licensed residential real estate appraiser must have at least 90 hours of classroom instruction plus at least 2,000 hours of experience in real estate appraising over five years; a certified residential real estate appraiser must have at least 120 hours of instruction plus at least 2,500 hours of experience; and a certified general real estate appraiser must have at least 180 hours of classroom instruction plus at least 3000 hours of experience.

BACKGROUND: The Appraiser Qualifications Board (AQB) establishes the minimum education, experience and examination requirements for real estate appraisers that are currently used by the federal government. The AQB standards have recently changes, and SB 1485 brings North Carolina law into conformity with the current AQB standards.

BILL ANALYSIS: Senate Bill 1485 amends the North Carolina Appraisers Act as follows:

- Section 1 makes a technical change.
- Sections 2, 3, 4, 7 and 10 convert "State-licensed" to "licensed" and "State-certified" to "certified".
- Section 5 does the following:
    - Establishes the Appraisal Foundation's minimum educational requirements as the State's minimum requirements.
    - Increases the hours of instruction for licensed residential real estate appraisers from 90 hours to 150 hours, increases the hours of instruction for certified residential real estate appraisers from 120 hours to 200 hours, and increases the hours of instruction for certified general real estate appraisers from 180 hours to 300 hours.
    - Requires applicants to obtain and submit criminal record checks from approved reporting services.
- Section 6 of the bill, effective January 1, 2008, requires applicants for registered trainees to have a high school diploma or its equivalent; eliminates the category of licensed residential real estate appraiser; requires applicants for certified residential real estate appraiser to have

(i) an associate's degree or higher or (ii) a high school diploma/equivalent and 21 semester credit hours in certain prescribed courses; requires applicants for a certified general real estate appraiser certification to hold (i) a bachelor's degree or higher or (ii) a high school diploma and 30 semester hours in certain prescribed courses.

- Sections 5, 8, and 9 increase fees for applications, renewals, course approvals and court attendance certifications as follows:
    - Fee for an application for registration as a trainee or for licensure or certification is increased to $200 (from $150).
    - Fee for renewing (prior to expiration) a trainee registration, a license or a certificate each year is increased to $225 (from $200).
    - Fee paid by course sponsors conducting an approved continuing education course is implemented at five dollars for each licensee completing (new fee – not applicable to certain universities, colleges, and governmental agencies).
    - Late filing fee for renewing (after expiration) a trainee registration, a license or a certificate is increased to $10 (from five dollars) per month the registration, license, or certificate is expired. The cap on this fee has also been increased to $120 (from $60).
    - Cost for replacement trainee registrations, licenses, and certificates is increased to $10 (from five dollars).
    - Fee chargeable to private real estate appraisal schools or course sponsor for approval of prelicensing and precertification courses is increased to $100 per course (from $40).
    - Fee chargeable to private real estate appraisal schools or course sponsor for renewal of approval of prelicensing and precertification courses is increased to $50 per course (from $20).
- Section 11 establishes a five-year minimum period for surrender of a registration, license or certificate for conduct that would subject the person to disciplinary action.
- Section 12 clarifies that after January 1, 2008, no licenses for licensed residential real estate appraiser will be issued, but current licensees are grandfathered so long as they properly renew the license.

EFFECTIVE DATE: Section 6 becomes effective January 1, 2008, and applies to applicants applying under that section on or after that date. The remainder of the act becomes effective October 1, 2007, and applies to applications and renewals on or after October 1, 2007.

S1485e2-SMMC

O. Walker Reagan and Denise Huntley, in the General Assembly Legislative Research Division, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 1485 (Second Edition)

SHORT TITLE: Amend NC Appraisers Act/Fees.

SPONSOR(S): Senator Rand

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES		**No General Fund Impact**			
NC Appraisal Board		**$100,000**	**$100,000**	**$100,000**	**$100,000**

See Assumptions and Methodology

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Appraisal Board

EFFECTIVE DATE: Effective October 1, 2007

BILL SUMMARY:

March 26, 2007

S 1485. AMEND NC APPRAISERS ACT/FEES. Filed 3/26/07. AMENDING EDUCATION REQUIREMENTS FOR REAL ESTATE APPRAISERS UNDER THE NORTH CAROLINA APPRAISERS ACT, ELIMINATING THE CATEGORY OF LICENSED RESIDENTIAL REAL ESTATE APPRAISER, AND AUTHORIZING THE NORTH CAROLINA APPRAISAL BOARD TO ESTABLISH AND INCREASE CERTAIN FEES. Under current law, real estate appraisers are designated as "certified general, "certified residential," and "licensed residential." Amends GS 93E-1-12(c) to provide that after January 1, 2008, the NC Appraisal Board (Board) will no longer issue a license for a licensed residential real estate appraiser but will allow any individual holding that license on that date to maintain the license as long as it is properly renewed. Amends GS 93E-1-3 to limit performance of a comparative market analysis to a real estate broker (was, real estate broker or salesman). Makes technical and conforming changes to GS Chapter 93E to remove the qualifying term "State" from preceding references to "certified and licensed real estate appraisers. Amends GS 93E-1-6 to make adjustments to qualifications for registration as a trainee and sets minimum requirements imposed by the Appraisal Foundation (was, the federal government). Increases the number of instructional hours required for certification or licensing as a real estate appraiser. Requires applicants for registration, licensure, or certification to provide criminal record reports and to obtain the reports from reporting services

Fee Type	Current Law	Proposed Fee
Application for registration as a trainee or for licensure or certification	150	200
Renewing (prior to expiration) a trainee registration, a license or a certificate each year	200	225
Course sponsors conducting an approved continuing education course	N/A	$5/ licensee completing course
Late filing fee for renewing (after expiration) a trainee registration, a license or a certificate	$5/month the document is expired; $60 cap	$10/month the document is expired; $120 cap
Replacement trainee registrations, licenses, and certificates	$5	$10
Fee chargeable to private real estate appraisal schools or course sponsor for approval of prelicensing and precertification courses	$40/course	$100/course
Fee chargeable to private real estate appraisal schools or course sponsor for renewal of approval of prelicensing and precertification courses	$20/course	$50/course

	Registered Trainee	Licensed Residential RE Appraiser	Certified Residential RE Appraiser	Certified General RE Appraiser
Current Law: Within 5 years before the application is made:	1. Greater of 90 hours/ minimum federal requirements of classroom instruction in RE appraisal practices and principles 2. Any additional qualification the Board imposes by rule, not inconsistent with federal regulation	1. Greater of 90 hours/ minimum federal requirements of classroom instruction in RE appraisal practices and principles 2. Greater of 2,000 hours or minimum requirement imposed by federal government of experience in RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with federal regulation.	1. Greater of 120 hours/ minimum federal requirements of classroom instruction in RE appraisal practices and principles 2. Greater of 2,500 hours or minimum requirement imposed by federal government of experience in RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with federal regulation.	1. Greater of 180 hours/ minimum federal requirements of classroom instruction in RE appraisal practices and principles 2. Greater of 3,000 hours or minimum requirement imposed by federal government of experience in RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with federal regulation.
SB 1485 (until 1/1/08): Within 5 years before the application is made:	1. 90 hours of classroom instruction in RE appraisal practices and principles 2. Any additional qualification the Board imposes by rule, not inconsistent with Appraisal	1. 150 hours of classroom instruction in RE appraisal practices and principles 2. Greater of 2,000 hours or minimum requirement imposed by Appraisal Foundation of experience in	1. 200 hours of classroom instruction in RE appraisal practices and principles 2. Greater of 2,500 hours or minimum requirement imposed by Appraisal Foundation of experience in	1. 300 hours of classroom instruction in RE appraisal practices and principles 2. Greater of 3,000 hours or minimum requirement imposed by Appraisal Foundation of experience in

	Foundation.	RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with Appraisal Foundation	RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with Appraisal Foundation	RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with Appraisal Foundation
SB 1485 (after 1/1/08): Within 5 years before the application is made:	1. 90 hours of classroom instruction in RE appraisal practices and principles 2. Any additional qualification the Board imposes by rule, not inconsistent with Appraisal Foundation. 3. H.S. diploma or equivalent.	ELIMINATED	1. 200 hours of classroom instruction in RE appraisal practices and principles 2. Greater of 2,500 hours or minimum requirement imposed by Appraisal Foundation of experience in RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with Appraisal Foundation 4. Associate's degree (or higher) from accredited school OR HS diploma/equiv and 21 semester credit hours in certain courses.	1. 300 hours of classroom instruction in RE appraisal practices and principles 2. Greater of 3,000 hours or minimum requirement imposed by Appraisal Foundation of experience in RE appraising. 3. Any additional qualification the Board imposes by rule, not inconsistent with Appraisal Foundation 4. Bachelor's degree (or higher) from accredited school OR HS diploma/equiv and 30 semester credit hours in certain courses.

SENATE FINANCE COMMITTEE
Thursday, July 26, 2007 at 1:00 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met in room 544 of the Legislative Office Building, on Wednesday, July 25, 2007, at 1:00 p.m. Thirty-four members of the committee were present. Senator David Hoyle and Senator Daniel Clodfelter presided. Kristina Garmon of Gastonia, Elise Seay of Greensboro, David Kaminski of Stanley and Holly Norris of Wilmington served as pages.

H.B. 1213 - Cary Multifamily Development/Recreation Land.

Representative Weiss was recognized to explain the bill. Senator Albertson moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 487 – Exemption for Baler Twine from Sales Tax.

Representative Hill was recognized to explain the bill. Senator Albertson moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1322 – Fire Chiefs Can Request Criminal Histories.

Representative Clary was recognized to explain the bill. Senator Hoyle moved to adopt the proposed committee substitute for adoption and the motion carried. Senator Tillman and Senator Rand made a joint motion for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary and the fiscal note is attached.

S.B. 609 – Chatham Recreation Fee.

Senator Atwater was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator McKissick moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 825 – Child Support Collection Fee/Non-TANF Family- AB.

Senator Rand was recognized to explain the bill. Senator Rand moved for a favorable report and the motion carried. A copy of the bill, the summary, the federal requirement certification, and the fiscal note is attached.

S.B. 1314 – Amend Massage & Bodywork Therapy Act.

Senator Cowell was recognized to explain the bill. Senator Purcell moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Apodaca made a motion for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 1659 – Criminal History Checks for DPI Employees.

Representative Fisher was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

H.B. 291 – Sudan (Darfur) Divestment Act.

Representative Coates was recognized to explain the bill. The proposed committee substitute had been adopted for discussion at the previous meeting. Senator Shaw was recognized to offer an amendment and moved for its adoption. The motion carried. Senator Shaw then moved to adopt the proposed committee substitute as amended. The motion carried. A copy of the proposed committee substitute, the summary, and the amendment is attached.

H.B. 265 – Establish Health Insurance Risk Pool.

Representative Insko was recognized to explain the bill and answer questions. Senator Rand was recognized to offer an amendment and moved for its adoption. The motion carried. Senator Rand moved for a favorable report as amended with a referral to the Appropriations Committee and the motion carried. A copy of the bill and the amendment is attached.

H.B. 1231 – Certain Law Officers/Waive Handgun Permit.

Martha Walston, Fiscal Research Division staff attorney, was recognized to explain the bill. Senators Tillman, Soles, Apodaca and Jenkins made a joint motion for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

H.B. 1217 – Navassa Annexation Agreement.

Senator Soles was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 864 – Amend Chiropractic Practice Act.

Senator Purcell was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Jenkins moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary and the fiscal note is attached.

S.B. 646 – Enact WASC Recommendations/Funds.

Senator Albertson was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Weinstein moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary and the fiscal note is attached.

S.B. 684 – Spay/Neuter Funding.

Senator Kinnaird was recognized to explain the bill. The proposed committee substitute had been adopted for discussion at the previous meeting. Carl Williams, State Public Health Veterinarian, was recognized to speak about the bill and answer questions. Henri McClees, NC Sporting Dog Association lobbyist, was recognized to speak in opposition to the bill. Senator Hartsell moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary, the fiscal notes, and two informational handouts is attached.

S.B. 1513 – County Financing/Hwy & Bridge Projects.

Senator Jenkins was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Stevens moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 820 – Interbasin Transfer.

Senator Queen was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. George Givens, Research Division staff attorney, and Robin Smith, Assistant Secretary of the Environment, Department of Environment and Natural Resources, were recognized to answer questions. Senator Hartsell offered an amendment and moved for its adoption. The motion carried. Senator Albertson moved for a favorable report as amended and the motion carried. A copy of the proposed committee substitute, the summary, the fiscal note and the amendment is attached.

The meeting adjourned at 2:18 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Second Report

Thursday, July 26, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

H.B. **291** Sudan (Darfur) Divestment Act.

Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **609** Chatham Recreation Exaction Fee.

Draft Number:	55554
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

S.B. **684** Spay/Neuter Funding.

Draft Number:	55557
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **646** Enact WASC Recommendations/Funds

Draft Number:	55556
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **1314** Amend Massage & Bodywork Therapy Act.

Draft Number:	15131
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **1513** County Financing/Highway and Bridge Projects.

Draft Number:	35422
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1322** Fire Chiefs Can Request Criminal Histories.

Draft Number:	80489
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 7

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, July 26, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **487** Exemption For Baler Twine From Sales Tax.
Sequential Referral: None
Recommended Referral: None

H.B. **825** Child Support Collection Fee/Non-TANF Family.-AB
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1213** Cary Multifamily Developmt/Recreational Land.
Sequential Referral: None
Recommended Referral: None

H.B. **1217** Navassa Annexation Agreement.
Sequential Referral: None
Recommended Referral: None

H.B.(SCS #1) **1231** Certain Law Officers/Waive Handgun Permit.
Sequential Referral: None
Recommended Referral: None

H.B.(SCS #1) **1659** Criminal History Checks/DPI Employees.
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

H.B.(CS #1) **265** Establish Health Insurance Risk Pool.
Sequential Referral: None
Recommended Referral: Appropriations/Base Budget
Long Title Amended: No

TOTAL REPORTED: 7

Committee Clerk Comments

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, July 26, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **820** Amend Natural Resources Laws 2007.

Draft Number:	30525
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **864** Amend Chiropractic Practice Act.

Draft Number:	65278
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

Third Report

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	July 26, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 291	Sudan (Darfur) Divestment Act.	Representative Jones Representative Coates Representative Luebke Representative Harrison
HB 487	Exemption For Baler Twine From Sales Tax.	Representative Hill
HB 825	Child Support Collection Fee/Non-TANF Family.-AB	Representative Goodwin
HB 1213	Cary Multifamily Developmt/Recreational Land.	Representative Weiss
HB 1217	Navassa Annexation Agreement.	Representative Stiller Representative Hill
HB 1231	Certain Law Officers/Waive Handgun Permit.	Representative Gibson, III Representative Daughtridge, Jr.
HB 1322	Fire Chiefs Can Request Criminal Histories.	Representative Clary Representative Moore
HB 1659	Criminal History Checks/DPI Employees.	Representative Fisher
SB 609	Chatham Recreation Exaction Fee.	Senator Atwater
SB 646	Enact WASC Recommendations/Funds	Senator Albertson
SB 684	Spay/Neuter Funding.	Senator Kinnaird

SB 864	Amend Chiropractic Practice Act.	Senator Purcell
SB 1314	Amend Massage & Bodywork Therapy Act.	Senator Cowell
SB 1513	County Financing/Highway and Bridge Projects.	Senator Jenkins

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Angum Ledbetter	NCCCS
Shannon Phillips	Preservation North Carolina
Reid Simons	NCTA
Sol Mateo	GOV OFFICE
[illegible]	JD, AL, PA
Betty Owen	BAC
Paul H. Stock	NCBA
Skip Prosser	IN MEMORIUM
Johanna Reese	DOT
Jim Eder	NCTA
DAVID JOYNER	NCTA
Roz Swift	NCCCS

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Williams	NCMBA
Susanne Stelz	NCRLA
Amy Schilder	McGuireWoods
David Baker	NCDOR
Gray McCall	N.C. Convention Network
Sherri McClees	McClees Consulting
Berry Jenkins	Carolinas AGC
Christie Barkley	CAPA
Tia Moore	NCDOC-DCC
Ed Hinely	BPMHL
Penny Hoff	Daily Bulletin

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
P. Sue Hall	Mineral Studies Commission
Charles Weikel	DENR / Water Quality
Suzanne Klimek	DENR / CEP
Steve Wall	DENR
Ken Melton	N.C. D.O.R.
[illegible]	DHHS
[illegible]	DMH/DD/SAS
Roger Badrock	NC Assoc of Mortgage Profess.
Charles Penne	OSBM
Rob Schofield	NC Policy Watch

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mitch Wilds	DCR SHPO
Peter Sandbeck	DCR SHPO
Andrew Stewart	Empire Properties/Preservation NC
Alice Garland	NCEL
Jere Royall	NC Family Policy Council
Patricia Reeder	NAACP
Jim Blackburn	NC Association of County Commissioners
Gene Ainsworth	A & A
Daniel Baum	Kennedy Covington
Kelly Jones	Hunton & Williams

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Shaw	Self

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Lee Hunter	NIDA
Mollie Rasor	NCVMA
S Henri McClees	McClees Consulting
Jack Stone	NCDPI
Leighton Alford	NCDPI
FRANK W. FOLGER	HELMS MULLISS WICKER
GORDON MYERS	NC WILDLIFE COMMISSION
Erin Currier	NC conservation Network
Johanna Reese	DOT
Dana Simpson	Smith Anders
Thom Mansfield	NC Medical Board

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Sabol	NCOOR
James Goodman	WASTE
Jennifer Frazelle	NC Community College System
Suzanne Ownbey	NCCCS
Terry Hawkesby	NCPE/FD
Christa Wagner	Sierra Club
Jim Stephenson	NC Coastal Federation
Richard Childress	R. Childress assoc.

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Conley	BCBS
John McMillan	NFIS
Fred Boone	Boone & Assoc.
John Bourdeau	
John Rust	NCFPC
Bill Rustin	ACP
[illegible]	NCAA
Evelyn Lawrence	[illegible]
Tom Mundle	NCICU
Butch Bunnells	NCBA
Ken Wright	BCBSNC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Gene Ainsworth	A & A
[signature]	JD, AL, PA
[signature]	BPMHL
Alice Garland	NCEL
[signature]	Daily Bulletin
Abby C. Emanuelson	NMSS
[signature]	MHANC
Julia Leggett	The Arc of N.C.
Jon Nance	NCDOT
[signature]	USTA
[signature]	NCACC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Rebecca Trentman	NCACC
Jennifer Willis	Wake County Govt.
Daniel Baum	Kennedy Covington
Dan McLawhorn	City of Raleigh
E. Ann Christian	Atty
Roger Bone	Bone and Assoc.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1213
Committee Substitute Favorable 4/19/07

Short Title: Cary Multifamily Developmt/Recreational Land. (Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT GRANTING AUTHORITY TO THE TOWN OF CARY TO REQUIRE DEVELOPERS OF MULTIFAMILY UNITS TO PROVIDE FUNDS FOR RECREATIONAL LAND TO SERVE MULTIFAMILY DEVELOPMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. The town of Cary may, by ordinance, provide that a developer of multifamily units that are not subject to the subdivision ordinance shall provide funds to the town whereby the town may acquire recreational land or areas to serve the multifamily development, including the purchase of land that may be used to serve more than one multifamily development or residential subdivision within the immediate area. All funds received by the town pursuant to this section may be combined with funds received from residential subdivisions under G.S. 160A-372, and shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this section shall be based on a flat fee per unit. The ordinance may allow a combination or partial payment of funds and partial dedication of land when the town council determines that this combination is in the best interests of the citizens of the area to be served.

SECTION 2. This act applies to the town of Cary only.

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

HOUSE BILL 1213:
Cary Multifamily Developmt/Recreational Land

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Rep. Weiss	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 1213 (Second Edition) is a local bill that authorizes the Town of Cary to adopt an ordinance requiring a developer of multifamily units to provide funds to the town for the acquisition of recreational land to serve the multifamily development.

CURRENT LAW: Under G.S. 160A-372, a city may enact a subdivision control ordinance requiring a developer to provide funds to the city, so that the city may acquire recreational land or areas to serve the development or subdivision, or more than one subdivision or development, within the immediate area. Funds received by a municipality may be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds to be provided by a developer shall be based upon the value of the development for property tax purposes. A combination of funds and partial dedication of land may be allowed when the municipality determines that this combination is in the best interests of the area residents.

BILL ANALYSIS: House Bill 1213 authorizes the Town of Cary to enact a similar ordinance requiring developers of multifamily units, not subject to the subdivision ordinance, to provide funds to the Town to acquire recreational land for the multifamily development. Funds received from the developers may be combined with funds received from residential subdivision developers under G.S. 160A-372. Any formula to determine the amount of funds must be based on a flat fee per unit.[1] The ordinance may allow for a combination of partial payment of funds and partial dedication of land.

The Town of Apex was given similar authorization to charge a dwelling unit in S.L. 1995-722.

EFFECTIVE DATE: When the bill becomes law

H1213e2-SMRE
Martha Walston, counsel to House Finance Committee, substantially contributed to this summary.

[1] The bill's 1st edition based the formula on the value of the multifamily development for property tax purposes. This language would constitute an unconstitutional local property tax.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

HOUSE BILL 487

Short Title:	Exemption For Baler Twine From Sales Tax.	(Public)
Sponsors:	Representatives Hill; Faison, Lewis, Moore, Saunders, Williams, and Wray.	
Referred to:	Agriculture, if favorable, Finance.	

March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO EXEMPT BALER TWINE FROM THE SALES AND USE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(1) reads as rewritten:

"(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

b. Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.

c. A horse or mule.

d. Fuel other than electricity."

SECTION 2. This act becomes effective October 1, 2007, and applies to sales made on or after that date.

HOUSE BILL 487:
Exemption For Baler Twine From Sales Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Rep. Hill	**Summary by:**	Martha Walston
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 487 would exempt baler twine used by a farmer from State and local sales and use tax.

CURRENT LAW: Under G.S. 105-164.13(1), the following items are exempt from sales and use tax if sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals:

- Commercial fertilizer, lime, land covers, potting soil, and seeds.
- Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery.
- Horses or mules
- Fuel other than electricity.

The term "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species.[1]

BILL ANALYSIS: House Bill 487 would add baling twine to the list of items that are exempt when purchased by a farmer for use in agricultural production.

EFFECTIVE DATE: The act becomes effective October 1, 2007, and applies to sales of baling twine made on or after that date.

BACKGROUND: To receive a sales and use tax exemption, a farmer must apply for and obtain an exemption certificate from the Department of Revenue. An exemption certificate authorizes a retailer to sell tangible personal property to the holder of the certificate and not collect tax on the sale. A person who purchases property under an exemption certificate is liable for any tax due on the sale if the Department determines that the person is not eligible for the certificate or the property was not used as intended. In addition any person who willfully attempts, or who aids or abets any person to attempt to evade or defeat the tax is guilty of a Class H felony.

H0487e1-SMLA

[1] G.S. 106-758 defines "aquatic species" as any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but not limited to, fish and fishes. "Fish" and "fishes" are defined as all marine mammals; all shellfish; all crustaceans; and all other fishes.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1322

Committee Substitute Favorable 5/1/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1322-CSMCf-48 [v.3]

7/25/2007 5:50:18 PM

Short Title: Fire Chief/EMS Director: Crim. Hist. Requests. (Public)

Sponsors:

Referred to:

April 5, 2007

A BILL TO BE ENTITLED

AN ACT PROVIDING LOCAL FIRE CHIEFS, COUNTY FIRE MARSHALS, AND LOCAL EMERGENCY SERVICES DIRECTORS WITH THE AUTHORITY TO REQUEST CRIMINAL HISTORIES FROM THE DEPARTMENT OF JUSTICE FOR APPLICANTS TO FIRE DEPARTMENTS AND EMERGENCY MEDICAL SERVICES IN UNITS OF LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 114-19.12 reads as rewritten:

"**§ 114-19.12. Criminal history record checks of applicants to fire ~~departments.~~departments and emergency medical services.**

(a) Definitions. – ~~As used in this section, the term:~~The following definitions apply in this section:

(1) ~~"Applicant" means an applicant~~Applicant. – A person who applies for a paid or volunteer position with a fire department ~~in a unit of local government.~~or an emergency medical service.

(2) ~~"Criminal history" means a~~Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for holding a paid or volunteer position with a fire department. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other

Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by a designated local Homeland Security director ~~or,~~a local fire chief, a county fire marshal, or an emergency services director or, when there is no designated local Homeland Security ~~director,~~director, local fire chief, county fire marshal, or emergency services director, by a local law enforcement agency, the North Carolina Department of Justice may provide to the requesting ~~director~~ director, chief, marshal, director, or agency an applicant's criminal history from the State and National Repositories of Criminal Histories. The local Homeland Security ~~director~~ director, local fire chief, marshal, director, or local law enforcement agency shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, any additional information required by the Department of Justice, and a form signed by the applicant to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of Criminal Information. All of the information the local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency receives through the checking of the criminal

history is privileged information and for the exclusive use of that ~~director~~ director, chief, marshal, or agency.

(d) If the applicant's verified criminal history record check reveals one or more convictions covered under subdivision (a)(2) of this section, then the conviction shall constitute just cause for not selecting the applicant for the position or for dismissing the person from a current position with the local fire ~~department.~~department or emergency medical services. The conviction shall not automatically prohibit volunteering or employment; however, the following factors shall be considered by the local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency in determining whether the position shall be denied:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and the duties of the person;
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The local fire ~~department~~ department or emergency medical services may deny the applicant the position or dismiss an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. This refusal constitutes just cause for the denial of the position or the dismissal from the position.

(f) The local fire ~~department~~ department or emergency medical services may extend a conditional offer of the position pending the results of a criminal history record check authorized by this section.

(g) For purposes of this section, 'local fire chief' shall include only fire chiefs who are paid employees of a city; 'county fire marshal' shall include only fire marshals who are paid employees of a county; and 'emergency services director' shall include only emergency services directors who are paid employees of a city or county."

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

HOUSE BILL 1322:
Fire Chief/EMS Directors Can Request Criminal Histories

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Reps. Clary, Moore	**Summary by:**	Dan Ettefagh Committee Counsel
Version:	PCS to Second Edition H1322-CSMC		

SUMMARY: House Bill 1322 expands those who can request criminal history records checks from the Department of Justice for applicants with a fire department or emergency medical service. The PCS makes technical changes. House Bill 1322 is in Senate Finance because it requires the Department of Justice to charge a reasonable fee for conducting the record checks.

CURRENT LAW: G.S. 114-19.12 currently authorizes a designated local Homeland Security director or a local law enforcement agency (only when there is not a designated local Homeland Security director) to obtain a criminal history from the Department of Justice for an applicant for a paid or volunteer position with a fire department in a unit of local government.

BILL ANALYSIS: House Bill 1322 would add local fire chiefs, county fire marshals, and emergency services directors to the persons currently authorized, under the provisions of G.S. 114-19.12, to request, obtain, and use a criminal history records check from the Department of Justice for applicants for a paid or volunteer position with a local fire department or emergency medical service. **The Department of Justice is required to charge a reasonable fee for conducting the criminal history record check.**

For purposes of this section, the term "local fire chief" only includes fire chiefs who are paid employees of a city and "county fire marshal" only includes fire marshals who are paid employees of a county. The term "emergency services director" only includes emergency medical services directors who are paid employees of a city or county.

EFFECTIVE DATE: This act is effective when it becomes law.

Susan Sitze, counsel to House Judiciary I, and Ben Popkin, counsel to Senate Judiciary II, substantially contributed to this summary.

H1322e2-SMMC-CSMC

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 26, 2007

TO: Representatives Clary and Moore

FROM: Bryce Ball
Fiscal Research Division

RE: House Bill 1322 (First Edition)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Justice	**Amount cannot be determined; available data precludes an accurate projection of future record check frequencies. See Assumptions and Methodology.**				
EXPENDITURES:					
Justice					
Local Fire/EMS Departments	**Amount cannot be determined. See Assumptions and Methodology.**				
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice; Local Government.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: Amends G.S. 114-19.12 to provide local fire chiefs, county fire marshals, and local emergency services directors with the authority to request criminal record checks from the Department of Justice, for applicants to fire departments and emergency medical services units in local government.

ASSUMPTIONS AND METHODOLOGY: According to the Office of the State Fire Marshall, approximately 2035 certifications for Firefighter 1 and 2 designations are issued annually. This total captures new 'applicants' who have completed the requisite training classes/credits for certification, and does not include those who apply to departments and do not pursue certification.

Similarly, the Office of Emergency Medical Services indicates that of the 32,000 persons that are credentialed annually, approximately half (17,000) actually provide patient care (indicative of the number employed). However, because this total also encompasses annual re-certifications, the actual number of new applicants is unknown.

The State Bureau of Investigation (SBI) of the Department of Justice charges non-criminal justice agencies $38 per state and national record check, as follows:

NC Fingerprint Check:	$14
National Fingerprint Check:	$24 ($2 to DOJ, $22 remitted to the FBI)
Total:	$38

Based on discussions with local fire chiefs and state officials, FRD assumes the costs of conducting criminal record checks will be born by local units, including any costs incurred for fingerprinting (FRD assumes live-scan, electronic fingerprinting). But, while a significant number of new record checks are anticipated, it is not known how many state or federal checks may be conducted.

Department of Justice

The unit cost for conducting national and criminal record checks via live-scan is $14.54 (cost includes overhead and equipment). Each staff member in the SBI's fingerprint identification section can perform, on average, 8,000 - 10,000 checks per year. As indicated below, the costs incurred for criminal record checks are largely offset by fee collections; however, depending on the frequency of criminal record check requests, additional resources (office space, equipment, personnel) may be required. The total amount of fee proceeds is indeterminate.

Record Check	Agency Fee	DOJ Total Cost*
Live-Scan Fingerprint Check *(NC data only)*	$14.00	$14.54
Live-Scan Fingerprint Check *(NC and FBI data)*	$38.00	$36.54
**2005 unit costs are derived from OSBM "Study of the Cost of Providing Criminal Record Checks;" costs include an equipment allowance and 12.5% overhead rate* *Cost for state and federal record checks includes $22 remittance per check to the Federal Bureau of Investigation*		

SOURCES OF DATA: Office of State Fire Marshall; Office of Emergency Medical Services; Fayetteville Fire Department; N.C. Fire Chiefs Association.

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 609
PROPOSED COMMITTEE SUBSTITUTE S609-CSRBf-68 [v.2]

7/26/2007 12:38:47 PM

Short Title: Chatham Recreation Exaction Fee. (Local)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW CHATHAM COUNTY TO USE RECREATION FUNDS RECEIVED FROM SUBDIVISION DEVELOPERS TO CONSTRUCT AND ACQUIRE RECREATIONAL FACILITIES IN CHATHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-349.6 is amended by adding a new subsection to read:

"(e) A development agreement may require a developer to provide funds to the county to be used for the development and construction of recreational facilities to serve one or more developments within an area chosen by the county."

SECTION 2. This act applies to Chatham County only.

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

SENATE BILL 609:
Chatham Recreation Exaction Fee

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Sen. Atwater	**Summary by:**	Cindy Avrette
Version:	PCS to First Edition S609-CSRB-68		Committee Counsel

SUMMARY: The Proposed Committee Substitute for Senate Bill 609 would allow Chatham County to enter into a development agreement with a developer whereby the developer would agree to provide funds to the county to be used for the development and construction of recreational facilities.

CURRENT LAW: Local governments often use their subdivision and zoning authority to require exactions to address impacts of a proposed development. G.S. 153A-331 specifically allows a county to adopt subdivision ordinances that may require a developer to do one or more of the following to address the impacts of a proposed development:

- Provide funds to enable the local government to acquire recreational land or areas to serve the development or developments within the immediate area.
- Provide funds to be used for the development of roads to serve the development.
- Construct community service facilities.
- Reserve school sites.

In 2005, the General Assembly made substantial revisions to city and county planning and land-use management statutes. Part of those revisions included authorization of development agreements between a local government and a developer. In the laws concerning development agreements, the General Assembly made several findings. It recognized that large scale development often creates potential community impacts and that large-scale development requires careful integration between public capital facilities planning, financing, and construction and the phasing of the private development. The statute authorizing development agreements specifically states that a local government may not exercise any authority not authorized by general or local act and may not impose any tax or fee not otherwise authorized by law.

A local government may enter into a development agreement with a developer provided the property contains 25 acres or more of developable property. A local government must hold a public hearing on a proposed agreement. An agreement must meet minimum requirements. The burdens of an agreement are binding, and therefore a developer must record an agreement with the register of deeds.

BILL ANALYSIS: The proposed committee substitute for Senate Bill 609 would allow Chatham County to enter into a development agreement whereby the developer may agree to provide funds to the county to be used to develop and construct recreational facilities and public libraries.

S0609e1-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 825

Short Title:	Child Support Collection Fee/Non-TANF Family.-AB	(Public)
Sponsors:	Representatives Goodwin; Alexander and Parmon.	
Referred to:	Children, Youth and Families, if favorable, Finance.	

March 15, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO IMPLEMENT A FEDERALLY REQUIRED MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILIES THAT HAVE NEVER RECEIVED TANF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in G.S. 105-134.1.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred dollars ($500.00) of support, the State shall impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred dollars ($500.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

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

HOUSE BILL 825:
Child Support Collection Fee/Non-TANF Family.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Rep. Goodwin	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 825 is an agency bill that would require the Department of Health and Human Services to assess an annual fee of $25 for certain persons for whom the state has collected child support and disbursed it to the family. The persons subject to the fee are those who have never received Temporary Assistance for Needy Families (TANF).

CURRENT LAW: Any child support collection and paternity determination services provided to individuals who receive public assistance must also be made available to any individual who is not receiving public assistance if that individual properly applies for that service and pays a one-time, nonrefundable application fee of $25. The fee is reduced to $10 if the individual applying for the services is indigent.

BILL ANALYSIS: House Bill 825 requires the Department of Health and Human Services to impose an additional fee for child support collection services. The State must impose an annual fee of $25 for each case in which services are furnished to an individual who has never received assistance under a State program funded under Title IV-A of the Social Security Act, and for whom the State has collected and disbursed to the family at least $500 of support in a federal fiscal year. The child support agency must retain the fee from support collected on behalf of the individual. However, the child support agency cannot retain the fee from the first $500 collected, and must use the fee to support the ongoing operation of the program.

EFFECTIVE DATE: This act becomes effective when it becomes law.

BACKGROUND: The mandatory fee is required by a change in federal law. The Federal Requirement Certification is attached.

Martha Walston, counsel to house Finance, substantially contributed to this summary.

H0825e1-SMSV

FEDERAL REQUIREMENT CERTIFICATION

Authorized by G.S. 120-36.8

Session 2007

House Bill 825

Child Support Collection Fee/Non-TANF Family.-AB

Bill Primary Sponsor(s):	Representative Goodwin	First Edition
Relevant Federal Law:	*Deficit Reduction Act of 2005*	
☒ Required by or Necessary for Compliance with Federal Law		☐ Exceeds Federal Law
☒ Federal Funds Conditioned upon Passage of Law		☒ Implements Federal Law

SUMMARY OF BILL PROVISIONS ALLEGEDLY REQUIRED BY FEDERAL LEGISLATION

Section 7310 of the Deficit Reduction Act of 2005 (P.L. 109-171) requires the State to impose a mandatory fee for successful child support collection for families that have never received Temporary Assistance for Needy Families (TANF). The State must impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished to an individual who has never received assistance under a State program funded under Title IV-A of the Social Security Act, and for whom the State has collected and disbursed to the family at least five hundred dollars ($500.00) of support in a federal fiscal year. The child support agency must retain the fee from support collected on behalf of the individual. However, the child support agency cannot retain the fee from the first five hundred dollars ($500.00) collected, and must use the fee to support the ongoing operation of the program.

House Bill 825 authorizes the Department of Health and Human Services to impose this federally required mandatory fee for successful child support collection for families that have never received TANF.

COMPLIANCE CONSIDERATIONS

The State's TANF Block Grant funding will be adversely affected should the State fail to comply with the federal law. 45 C.F.R. 305.61 provides that the federal government will penalize the State's TANF Block Grant allocation for failure to comply with requirements of the IV-D program. The allocation will continue to be reduced until the State complies with the requirement.

The Automated Collection Tracking System (ACTS) will need to be modified in order to identify the receipt of the first $500.00 collected, impose the $25.00 collection fee, and be able to track receipts and fees on an annual basis for each Never Assistance case.

Session 2007

FEDERAL REQUIREMENT CERTIFICATION

Authorized by G.S. 120-36.8

REVIEW AND APPROVAL

Prepared By: _____ **Date:** _____

Wendy Graf Ray
Staff Attorney

Approved By: _____ **Date:** _____

Terrence D. Sullivan
Director of Research

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 825 (First Edition)

SHORT TITLE: Child Support Collection Fee/Non-TANF Family.-AB

SPONSOR(S): Representative Goodwin

FISCAL IMPACT

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2007-08	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
REVENUES					
State	**$149,965**	**$149,965**	**$149,965**	**$149,965**	**$149,965**
County	**$470,535**	**$470,535**	**$470,535**	**$470,535**	**$470,535**
EXPENDITURES	**$80,625**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Division of Social Services, Child Support Enforcement Program

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:
This legislation authorizes the Department of Health and Human Services to implement a federally required mandatory fee of $25 for successful child support collection for families that have never received assistance from North Carolina's Temporary Assistance for Needy Families (TANF) program. The fee must be used to support the ongoing operation of the Child Support Enforcement Program.

ASSUMPTIONS AND METHODOLOGY:
The proposed legislation will generate annual revenue that must be used to support the ongoing operation of the Child Support Enforcement Program. The proposed legislation will also result in two one-time costs and one recurring cost for the Division of Social Services of the Department of Health and Human Services.

Revenues:
The $25 fee will be collected from child support cases that have never received cash assistance from North Carolina's TANF program. This annual fee will be collected after $500 of support is paid to a family in a federal fiscal year. The Division of Social Services estimates that 73,000 child

support cases would be affected by the fee requirement. Current data indicates that the number of cases affected by the mandatory fee will not increase over the next five years. Therefore, a constant 73,000 caseload was used in the revenue estimate.

The federal government will receive 66% of the fees collected and the county or State will retain 34% of the fees collected depending on if the local child support program is county or State operated. There are 72 county operated child support offices and the remainder are served by State operated offices.

Total Revenue Generated by $25 Fee

	Year 1	Year 2	Year 3	Year 4	Year 5
Federal Share	$1,204,500	$1,204,500	$1,204,500	$1,204,500	$1,204,500
State Share	$149,965	$149,965	$149,965	$149,965	$149,965
County Share	$470,535	$470,535	$470,535	$470,535	$470,535
Total	$1,825,000	$1,825,000	$1,825,000	$1,825,000	$1,825,000

Expenditures:

1. Anticipated costs of collections between $501 and $525 – There could be situations where the absent parent has paid an amount between $501 and $525. If this occurs, the State will be responsible for paying the remainder of the $25 fee. While this is likely to be a recurring cost, the Division of Social Services is unable to provide an estimate of the number of cases per year that may fall into this category.

2. Estimated cost to modify the Child Support Enforcement Program's automated collection and tracking system (ACTS) - The Division of Information Resource Management of the Department of Health and Human Services estimates that it will take 1330 man hours to make the modifications needed to ACTS to implement the $25 fee. The hourly rate is $80 for a total estimated cost of $106,400. The federal government will provide a 66% match for this cost. The state's remaining share of the total cost is $36,176.

3. Estimated implementation costs – To implement the $25 fee, the Division of Social Services estimates that there will be several one time costs associated with training, client notification, and advertising. These one-time costs are detailed in the table below. The federal government will also provide a 66% match for these costs. The state's remaining share of the total cost is $44,449.

Implementation Costs

	Year 1 Costs
Training	$25,047
Client Notification	$55,686
Advertising	$50,000
Total	**$130,733**

SOURCES OF DATA: Department of Health and Human Services, Division of Social Services

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Natalie Towns

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: April 18, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

HOUSE BILL 825

Short Title:	Child Support Collection Fee/Non-TANF Family.-AB	(Public)
Sponsors:	Representatives Goodwin; Alexander and Parmon.	
Referred to:	Children, Youth and Families, if favorable, Finance.	

March 15, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO IMPLEMENT A FEDERALLY REQUIRED MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILIES THAT HAVE NEVER RECEIVED TANF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in G.S. 105-134.1.

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

HOUSE BILL 825:
Child Support Collection Fee/Non-TANF Family.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Rep. Goodwin	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 825 is an agency bill that would require the Department of Health and Human Services to assess an annual fee of $25 for certain persons for whom the state has collected child support and disbursed it to the family. The persons subject to the fee are those who have never received Temporary Assistance for Needy Families (TANF).

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BILL ANALYSIS: House Bill 825 requires the Department of Health and Human Services to impose an additional fee for child support collection services. The State must impose an annual fee of $25 for each case in which services are furnished to an individual who has never received assistance under a State program funded under Title IV-A of the Social Security Act, and for whom the State has collected and disbursed to the family at least $500 of support in a federal fiscal year. The child support agency must retain the fee from support collected on behalf of the individual. However, the child support agency cannot retain the fee from the first $500 collected, and must use the fee to support the ongoing operation of the program.

EFFECTIVE DATE: This act becomes effective when it becomes law.

BACKGROUND: The mandatory fee is required by a change in federal law. The Federal Requirement Certification is attached.

Martha Walston, counsel to house Finance, substantially contributed to this summary.

H0825e1-SMSV

FEDERAL REQUIREMENT CERTIFICATION

Authorized by G.S. 120-36.8

Session 2007

House Bill 825

Child Support Collection Fee/Non-TANF Family.-AB

Bill Primary Sponsor(s):	Representative Goodwin	First Edition
Relevant Federal Law:	*Deficit Reduction Act of 2005*	
☒ Required by or Necessary for Compliance with Federal Law		☐ Exceeds Federal Law
☒ Federal Funds Conditioned upon Passage of Law		☒ Implements Federal Law

SUMMARY OF BILL PROVISIONS ALLEGEDLY REQUIRED BY FEDERAL LEGISLATION

Section 7310 of the Deficit Reduction Act of 2005 (P.L. 109-171) requires the State to impose a mandatory fee for successful child support collection for families that have never received Temporary Assistance for Needy Families (TANF). The State must impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished to an individual who has never received assistance under a State program funded under Title IV-A of the Social Security Act, and for whom the State has collected and disbursed to the family at least five hundred dollars ($500.00) of support in a federal fiscal year. The child support agency must retain the fee from support collected on behalf of the individual. However, the child support agency cannot retain the fee from the first five hundred dollars ($500.00) collected, and must use the fee to support the ongoing operation of the program.

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Session 2007

FEDERAL REQUIREMENT CERTIFICATION

Authorized by G.S. 120-36.8

REVIEW AND APPROVAL

Prepared By: _____ **Date:** _____

Wendy Graf Ray
Staff Attorney

Approved By: _____ **Date:** _____

Terrence D. Sullivan
Director of Research

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 825 (First Edition)

SHORT TITLE: Child Support Collection Fee/Non-TANF Family.-AB

SPONSOR(S): Representative Goodwin

FISCAL IMPACT

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2007-08	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
REVENUES					
State	**$149,965**	**$149,965**	**$149,965**	**$149,965**	**$149,965**
County	**$470,535**	**$470,535**	**$470,535**	**$470,535**	**$470,535**
EXPENDITURES	**$80,625**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Division of Social Services, Child Support Enforcement Program

EFFECTIVE DATE: This act is effective when it becomes law.

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support cases would be affected by the fee requirement. Current data indicates that the number of cases affected by the mandatory fee will not increase over the next five years. Therefore, a constant 73,000 caseload was used in the revenue estimate.

The federal government will receive 66% of the fees collected and the county or State will retain 34% of the fees collected depending on if the local child support program is county or State operated. There are 72 county operated child support offices and the remainder are served by State operated offices.

Total Revenue Generated by $25 Fee

	Year 1	Year 2	Year 3	Year 4	Year 5
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State Share	$149,965	$149,965	$149,965	$149,965	$149,965
County Share	$470,535	$470,535	$470,535	$470,535	$470,535
Total	$1,825,000	$1,825,000	$1,825,000	$1,825,000	$1,825,000

Expenditures:

1. Anticipated costs of collections between $501 and $525 – There could be situations where the absent parent has paid an amount between $501 and $525. If this occurs, the State will be responsible for paying the remainder of the $25 fee. While this is likely to be a recurring cost, the Division of Social Services is unable to provide an estimate of the number of cases per year that may fall into this category.

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3. Estimated implementation costs – To implement the $25 fee, the Division of Social Services estimates that there will be several one time costs associated with training, client notification, and advertising. These one-time costs are detailed in the table below. The federal government will also provide a 66% match for these costs. The state's remaining share of the total cost is $44,449.

Implementation Costs

	Year 1 Costs
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Advertising	$50,000
Total	**$130,733**

SOURCES OF DATA: Department of Health and Human Services, Division of Social Services

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Natalie Towns

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: April 18, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1314

Healthcare Committee Substitute Adopted 7/11/07

PROPOSED COMMITTEE SUBSTITUTE S1314-CSMCf-49 [v.2]

7/26/2007 9:46:06 AM

Short Title: Amend Massage & Bodywork Therapy Act. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS UNDER THE NORTH CAROLINA MASSAGE AND BODYWORK THERAPY PRACTICE ACT TO EXPAND THE EXISTING LAWS REGULATING MASSAGE AND BODYWORK THERAPY SCHOOLS; TO AUTHORIZE THE BOARD TO ESTABLISH FEES FOR LICENSING MASSAGE AND BODYWORK THERAPY SCHOOLS; AND TO ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR LICENSURE TO PRACTICE MASSAGE AND BODYWORK THERAPY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-621 reads as rewritten:

"**§ 90-621. Declaration of purpose.**

~~The General Assembly recognizes that the improper practice of massage and bodywork therapy is potentially harmful to the public. Mandatory licensure of those engaged in the practice of massage and bodywork therapy is necessary to ensure minimum standards of competency and to protect the public health, safety, and welfare.~~The purpose of this Article is to ensure the protection of the health, safety, and welfare of the citizens of this State receiving massage and bodywork therapy services. This purpose is achieved by establishing education and testing standards that ensure competency in the practice of massage and bodywork therapy. Mandatory licensure of those engaged in the practice of massage and bodywork therapy assures the public that each individual has satisfactorily met the standards of the profession and continues to meet both the ethical and competency goals of the profession."

SECTION 2. G.S. 90-622 reads as rewritten:

"**§ 90-622. Definitions.**

The following definitions apply in this Article:

(1) Accreditation. – Status granted to a postsecondary institution of higher learning that has met standards set by an accrediting agency recognized by the Secretary of the United States Department of Education. The accreditation for massage and bodywork schools may be institutional or programmatic in nature.

~~(1)~~(1a) Board. – The North Carolina Board of Massage and Bodywork Therapy.

(2) Board-approved school. – Any massage and bodywork therapy school or training program in this State or another state that is not otherwise exempt from Board approval, that has met the ~~criteria established by the Board.~~standards set forth in this Article, and been granted approval by the Board.

(2a) Criminal history record check. – A report resulting from a request made by the Board to the North Carolina Department of Justice for a history of conviction of a crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice massage and bodywork therapy. The crimes include, but are not limited to, the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(2b) Jurisdiction. – The authority, capacity, or right of another state, territory of the United States, District of Columbia, or a foreign country to act.

(3) Massage and bodywork therapy. – Systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:

a. Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.

b. Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.

c. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

(3a) Massage and bodywork therapy school. – Any educational institution that conducts a training program or curriculum for a tuition charge, which is intended to teach adults the knowledge, skills, and abilities necessary for the safe, effective, and ethical practice of massage and bodywork therapy.

(4) Massage and bodywork therapist. – A person licensed under this Article.

(5) Practice of massage and bodywork therapy. – The application of massage and bodywork therapy to any person for a fee or other consideration. ~~"Practice of massage and bodywork therapy" does not include the diagnosis of illness or disease, medical procedures, chiropractic adjustive procedures, electrical stimulation, ultrasound, prescription of medicines, or the use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.~~"

SECTION 2.1. G.S. 90-623 is amended by adding a new subsection to read:

"(d) The practice of massage and bodywork therapy shall not include any of the following:

(1) The diagnosis of illness or disease.

(2) Medical procedures, chiropractic adjustive procedures, electrical stimulation, ultrasound, or prescription of medicines.

(3) The use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

(4) Sexual activity, which shall mean any direct or indirect physical contact, by any person or between persons, which is intended to erotically stimulate either person, or which is likely to cause such stimulation and includes sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse. As used in this subdivision, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. Sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation has occurred."

SECTION 3. G.S. 90-625 reads as rewritten:

"**§ 90-625. North Carolina Board of Massage and Bodywork Therapy.**

(a) The North Carolina Board of Massage and Bodywork Therapy is created. The Board shall consist of seven members who are residents of this State and are as follows:

(1) Five members shall be massage and bodywork therapists who have been licensed under this Article and have been in the practice of massage and bodywork therapy for at least five of the last seven years prior to their serving on the Board. ~~The appointments may be made from lists provided by the North Carolina Therapeutic Massage and Bodywork Task Force.~~ Consideration shall be given to geographical distribution, practice setting, clinical specialty, involvement in massage and bodywork therapy education, and other factors that will promote diversity of the profession on the Board. Two of the five members shall be appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, two shall be appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the Governor.

(2) One member shall be a physician licensed pursuant to Article 1 of Chapter 90 of the General ~~Statutes.~~Statutes or a person once licensed as a physician whose license lapsed while the person was in good standing with the profession and eligible for licensure. The appointment shall be made by the Governor and may be made from a list provided by the North Carolina Medical Society.

(3) One member shall be a member of the general public who shall not be licensed under Chapter 90 of the General Statutes or the spouse of a person who is so licensed, or have any financial interest, directly or indirectly, in the profession regulated under this Article. The appointment shall be made by the Governor.

(b) Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

(c) Each member of the Board shall serve for a term of three years, ending on June 30 of the last year of the term. A member shall not be appointed to serve more than two consecutive terms.

(d) The Board shall elect annually a chair and other officers as it deems necessary. The Board shall meet as often as necessary for the conduct of business but no less than twice a year. The Board shall establish procedures governing the calling, holding, and conducting of regular and special meetings. A majority of the Board shall constitute a quorum.

(e) Each member of the Board may receive per diem and reimbursement for travel and subsistence as set forth in G.S. 93B-5.

(f) Members may be removed by the official who appointed the member for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee or other professional credential shall be disqualified from participating in the official business of the Board until the charges

have been ~~resolved.~~resolved by a determination that the misconduct does not rise to the level of disciplinary action resulting in the suspension or revocation of the member's professional credential."

SECTION 3.1. The current terms of the two members of the Board appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate are each extended to a total period of five years, ending on June 30 of the last year of each extended term. Upon the completion of these five year terms, all future members of the Board shall serve three year terms, as provided in G.S. 90-625(c).

SECTION 4. G.S. 90-626(8) reads as rewritten:

"**§ 90-626. Powers and duties.**

The Board shall have the following powers and duties:

...

(8) ~~Establish~~ Pursuant to the maximum amounts set by this Article and other specific authority authorizing fees, establish reasonable fees for applications for examination, certificates of licensure and renewal, approval of massage and bodywork therapy schools, and other services provided by the Board.

...."

SECTION 5. G.S. 90-628(b) reads as rewritten:

"(b) The Board may impose the following fees up to the amounts listed below:

(1)	Application for examination	~~$200.00~~$300.00
(1a)	Application packet	25.00
(2)	~~License fee~~Initial license	~~150.00~~300.00
(3)	License renewal	~~100.00~~200.00
(4)	Late renewal penalty	75.00
(5)	License by ~~reciprocity~~endorsement	~~50.00~~300.00
(6)	Duplicate license	~~25.00~~25.00.
~~(7)~~	~~Provisional license~~	~~150.00.~~"

SECTION 6. G.S. 90-629 reads as rewritten:

"**§ 90-629. Requirements for licensure.**

Upon application to the Board and the payment of the required fees, an applicant may be licensed as a massage and bodywork therapist if the applicant meets all of the following qualifications:

(1) Has obtained a high school diploma or equivalent.

(2) Is 18 years of age or older.

(3) Is of good moral character as determined by the Board.

(4) Has successfully completed a ~~course of study~~training program consisting of a minimum of 500 ~~classroom~~ in-class hours of supervised instruction at a Board-approved school.

(5) Has ~~successfully~~ passed ~~an~~ a competency assessment examination ~~administered by a certifying agency that has been approved by the National Commission of Certifying Agencies (NCCA) and is in good standing with such agency or has successfully passed an examination~~

~~administered or approved by the Board.~~that meets generally accepted psychometric principles and standards and is approved by the Board.

(6) Has submitted fingerprint cards in a form acceptable to the Board at the time the license application is filed and consented to a criminal history record check by the North Carolina Department of Justice."

SECTION 7. G.S. 90-630 is repealed.

SECTION 8. Article 36 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-630.1. Licensure by endorsement.**

(a) The Board may issue a license to a practitioner who is duly licensed, certified, or registered as a massage and bodywork therapist under the laws of another jurisdiction. The practitioner shall be eligible for licensure by endorsement if all of the following qualifications are met:

(1) The applicant meets the requirements of G.S. 90-629(1), (2), (3), and (6) and submits the required application and fees to the Board.

(2) The applicant currently holds a valid license, certificate, or registration as a massage and bodywork therapist in another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration as a massage and bodywork therapist are substantially equivalent to or exceed the requirements for licensure under this Article.

(3) The applicant is currently a practitioner in good standing, with no disciplinary proceeding or unresolved complaint pending in any jurisdiction at the time a license is to be issued in this State.

(4) The applicant passes a jurisprudence examination administered by the Board regarding laws and rules adopted by the Board for licensure under this Article.

(5) The applicant, including applicants credentialed in a foreign country, demonstrates satisfactory proof of proficiency in the English language.

(b) The Board may issue a license by endorsement to a practitioner from another state that does not license, certify, or register massage and bodywork therapists if all of the following qualifications are met:

(1) The applicant meets the requirements of G.S. 90-629(1), (2), (3), and (6) and submits the required application and fees to the Board.

(2) The applicant has passed a competency assessment examination that meets generally accepted psychometric principles and standards and is approved by the Board.

(3) The applicant has graduated from a massage and bodywork therapy school that: (i) offers a curriculum that meets or is substantially equivalent to the standards set forth in the Board's criteria for school approval; and (ii) is licensed or approved by the regulatory authority for schools of massage and bodywork therapy in the state, province, territory, or country in which it operates or is exempt by law.

(4) The applicant is currently a practitioner in good standing, with no disciplinary proceeding or unresolved complaint pending in any jurisdiction at the time a license is to be issued in this State.

(5) The applicant passes a jurisprudence examination administered by the Board regarding laws and rules adopted by the Board for licensure under this Article.

(6) The applicant, including an applicant credentialed in a foreign country, demonstrates satisfactory proof of proficiency in the English language.

(7) Notwithstanding the requirements of subdivisions (2) and (3) of this subsection, the applicant has other credentials, to be reviewed by the Board on a case-by-case basis, that are deemed by the Board to be substantially equivalent to the requirements in subdivisions (2) and (3) of this subsection.

(c) The Board shall maintain a list of jurisdictions whose regulatory standards for the practice of massage and bodywork therapy have been determined by the Board to be substantially equivalent to or to exceed the requirements for licensure under this Article."

SECTION 9. G.S. 90-631(a) reads as rewritten:

"(a) The Board shall establish rules for the approval of massage and bodywork therapy schools. These rules shall include:

(1) Basic curriculum standards that ensure graduates have the education and skills necessary to carry out the safe and effective practice of massage and bodywork therapy.

(2) Standards for faculty and learning resources.

(3) Requirements for reporting changes in instructional staff and curriculum.

(4) A description of the process used by the Board to approve a school.

Any school that offers a training program in massage and bodywork therapy ~~may~~ not otherwise exempt from the requirements of this Article shall make application for approval to the Board. The Board shall grant approval to ~~schools.~~a school, whether in this State or another state, that ~~meet~~ meets the criteria established by the Board. The Board shall maintain a list of approved schools and a list of community college programs operating pursuant to subsection (b) of this section."

SECTION 10. G.S. 90-632 reads as rewritten:

"**§ 90-632. License renewal and continuing education.**

(a) The license to practice under this Article shall be renewed every two years. ~~When renewing a license, each licensee shall submit to the Board evidence of the successful completion of at least 25 hours of study, as approved by the Board, during the immediately preceding two years, in the practice of massage and bodywork therapy.~~

(b) The continuing education requirement for the initial license renewal is as follows:

(1) If the licensure period is two years or more, each licensee shall submit to the Board evidence of the successful completion of at least 24 hours

of study, as approved by the Board, since the initial licensure application date in the practice of massage and bodywork therapy.

(2) If the licensure period is less than two years, but more than one year, each licensee shall submit to the Board evidence of the successful completion of at least 12 hours of study, as approved by the Board, since the initial licensure application date in the practice of massage and bodywork therapy.

(c) For subsequent license renewals, each licensee shall submit to the Board evidence of the successful completion of at least 24 hours of study, as approved by the Board, since the previous licensure renewal submission date in the practice of massage and bodywork therapy."

SECTION 11. G.S. 90-633 reads as rewritten:

"**§ 90-633. Disciplinary action.**

(a) The Board may deny, suspend, revoke, or refuse to license a massage and bodywork therapist or applicant for any of the following:

(1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.

(2) The use of drugs or intoxicating liquors to an extent that affects professional competency.

(3) Conviction of an offense under any municipal, State, or federal narcotic or controlled substance ~~law until proof of rehabilitation can be established.~~law.

(4) Conviction of a felony or other public offense involving moral ~~turpitude until proof of rehabilitation can be established.~~turpitude.

(5) An adjudication of insanity or ~~incompetency until proof of recovery from the condition can be established.~~incompetency.

(6) Engaging in any act or practice in violation of any of the provisions of this Article or of any of the rules adopted by the Board, or aiding, abetting, or assisting any other person in the violation of these provisions or rules. For purposes of this subdivision, the phrase 'aiding, abetting, or assisting any other person' does not include acts intended to inform the individual who is not in compliance with this Article of the steps necessary to comply with this Article or any rules adopted by the Board.

(7) The commission of an act of malpractice, gross negligence, or incompetency.

(8) Practice as a licensee under this Article without a valid certificate or renewal.

(9) Engaging in conduct that could result in harm or injury to the public.

(10) The employment of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals, or other business professionals.

(11) Falsely holding out himself or herself as licensed or certified in any discipline of massage and bodywork therapy without successfully completing training approved by the Board in that specialty.

(12) The application of systems of activity by a massage and bodywork therapist during the course of therapy with the intent of providing sexual stimulation or otherwise pursuing sexual contact.

(b) The Board may reinstate a revoked license, revoke censure or other judgment, or remove other licensure restrictions if the Board finds that the reasons for revocation, censure, or other judgment or other licensure restrictions no longer exist and the massage and bodywork therapist or applicant can reasonably be expected to safely and properly practice as a massage and bodywork therapist."

SECTION 12. G.S. 90-634 reads as rewritten:

"**§ 90-634. Enforcement; injunctive relief.**

(a) It is unlawful for a person not licensed or exempted under this Article to engage in any of the following:

(1) Practice of massage and bodywork therapy.

(2) Advertise, represent, or hold out himself or herself to others to be a massage and bodywork therapist.

(3) Use any title descriptive of any branch of massage and bodywork therapy, as provided in G.S. 90-623, to describe his or her practice.

(b) A person who violates subsection (a) of this section shall be guilty of a Class 1 misdemeanor.

(b1) It is unlawful for an individual, association, partnership, corporation, or other entity to open, operate, or advertise a massage and bodywork therapy school without first having obtained the approval required by G.S. 90-637.1.

(b2) An individual, association, partnership, corporation, or other entity that violates subsection (b1) of this section shall be guilty of a Class 3 misdemeanor.

(c) The Board may make application to superior court for an order enjoining a violation of this Article. Upon a showing by the Board that a ~~person~~ person, association, partnership, corporation, or other entity has violated or is about to violate this Article, the court may grant an injunction, restraining order, or take other appropriate action."

SECTION 13. G.S. 90-634.1 reads as rewritten:

"**§ 90-634.1. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of one thousand dollars ($1,000) for the violation of any section of this Article or the violation of any rules adopted by the Board. The continuation of the same act for which the penalty is imposed shall not be the basis for an additional penalty. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

~~(d) Costs. – The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board.~~"

SECTION 14. Article 36 of Chapter 90 of the General Statutes is amended by adding the following new sections to read:

"**§ 90-637. Authority to regulate massage and bodywork therapy schools.**

(a) The Board shall have authority to administer and enforce this Article and to grant and issue approval to massage and bodywork therapy schools whether in this State or another state.

(b) If a massage and bodywork therapy school offers training programs at more than one physical location, each location shall constitute a separate massage and bodywork therapy school.

(c) Notwithstanding G.S. 90-626, regarding the regulation of massage and bodywork therapy schools, the Board shall have the power and duty to:

(1) Formulate criteria and standards for approval of massage and bodywork therapy schools.
(2) Provide for adequate investigations of all massage and bodywork therapy schools applying for approval.
(3) Issue approvals to those applicant massage and bodywork therapy schools meeting the standards established by the Board.
(4) Maintain a list of massage and bodywork therapy schools approved under the provisions of this Article.
(5) Provide for periodic inspection of all massage and bodywork therapy schools approved in this State under the provisions of this Article.
(6) Require periodic reports of approved massage and bodywork therapy schools.

(d) The Board shall have general supervision over massage and bodywork therapy schools in this State for the purpose of protecting the health, safety, and welfare of the public by requiring that approved massage and bodywork therapy schools maintain: (i) adequate, safe, and sanitary facilities; (ii) sufficient and qualified instructional and administrative staff; and (iii) satisfactory programs of operation and instructions; and by requiring that massage and bodywork therapy schools carry out their advertised promises and contracts made with their students and patrons. The Board may adopt rules to approve massage and bodywork therapy schools as authorized under G.S. 90-626(9).

"**§ 90-637.1. Massage and bodywork therapy school approval required.**

No individual, association, partnership, corporation, or other entity shall open, operate, or advertise a massage and bodywork therapy school in this State unless it has first complied with all the requirements of this Article and rules adopted by the Board and has been approved by the Board.

"§ 90-637.2. Authority to establish fees for massage and bodywork therapy school approval.

(a) The Board shall establish a schedule of reasonable fees for approvals and renewals granted and for inspections performed pursuant to this Article. The fees collected under this section are intended to cover the administrative costs of the approval programs. No fee for application approval or renewal of approval shall be refunded in the event the application is rejected or the approval suspended or revoked.

(b) Fees for Board approval of schools are as follows:

(1)	Request for Application Approval Package	$20.00
(2)	Initial application for approval (one program)	2,000.00
(3)	Initial application for approval of additional programs (same location)	750.00
(4)	Inspection for initial approval or renewal (one program)	1,500.00
(5)	Inspection for initial approval or renewal of additional programs (same location)	500.00
(6)	Renewal of approval (one program)	1,000.00
(7)	Renewal of approval (each additional program)	750.00

(c) A school that is required to have more than one inspection in a fiscal year in order to investigate or verify areas of noncompliance with the standards for school approval shall pay a fee of one thousand five hundred dollars ($1,500) for each additional inspection.

"§ 90-637.3. Grounds for suspension, revocation, or refusal of massage and bodywork therapy school approval; notice and hearing; judicial review.

(a) The Board may deny, suspend, revoke, or refuse to approve a massage and bodywork therapy school for any of the following reasons:

(1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain approval of a massage and bodywork therapy school.

(2) Engaging in any act or practice in violation of any of the provisions of this Article or of any of the rules adopted by the Board, or aiding, abetting, or assisting any other person in the violation of the provisions of this Article or rules adopted by the Board.

(3) Failure to require that its students must complete the minimum standards in order to graduate.

(4) Operating a massage and bodywork therapy school without approval from this Board.

(5) Engaging in conduct that could result in harm or injury to the public.

(6) The employment of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals, or other business professionals.

(7) Falsely holding out a massage and bodywork therapy school as approved by this Board.

(8) Failure to allow authorized representatives of the Board to conduct inspections of the massage and bodywork therapy school or refusing to

make available to the Board, following written notice to the massage and bodywork therapy school, the requested information pertaining to the requirements for approval set forth in this Article.

(9) Failure to notify the Board in writing within 30 days of any notification it receives from its accrediting agency or the United States Department of Education Office of Postsecondary Education of a show cause action, probation action, or denial of accreditation.

(10) The applicant for or holder of massage and bodywork therapy school approval has pleaded guilty, entered a plea of nolo contendere, or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

(b) A refusal to issue, refusal to renew, or suspension or revocation of massage and bodywork therapy school approval under this section shall be made in accordance with Chapter 150B of the General Statutes.

"§ 90-638. Criminal history record checks of applicants for licensure.

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be borne by the applicant.

(c) If an applicant's criminal history record check reveals one or more convictions of crimes set forth in G.S. 90-622(2a) of this Article, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of the conviction.

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.

(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

(7) The subsequent commission by the person of a crime set forth in G.S. 90-622(2a) of this Article.

If, after reviewing the factors, the Board determines that any of the grounds set forth in the subdivisions of G.S. 90-633(a) exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the

criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record check."

SECTION 15. Part 2 of Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"**§ 114-19.11B. Criminal record checks of applicants for licensure as massage and bodywork therapists.**

The Department of Justice may provide to the North Carolina Board of Massage and Bodywork Therapy from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 36 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 16. This act becomes effective October 1, 2007, and applies to the actions of therapists and schools on or after that date and to massage and bodywork therapist applications for licensure, and massage and bodywork therapy school applications for Board approval submitted to the Board on or after that date.

SENATE BILL 1314:
Amend Massage & Bodywork Therapy Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Sen. Cowell	**Summary by:**	Dan Ettefagh
Version:	PCS to Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 1314 amends the laws under the North Carolina Massage and Bodywork Therapy Practice Act to expand the authority of the Massage and Bodywork Therapy Board to regulate massage and bodywork therapy schools; to authorize the Board to establish fees for licensing massage and bodywork therapy schools; to allow the North Carolina Department of Justice to conduct criminal history record checks from state and national repositories of criminal history of applicants for licensure to practice massage and bodywork therapy; and to reduce the punishment for operating a massage and bodywork therapy school without approval by the Board to a Class 3 misdemeanor. The PCS makes a technical correction to the bill.***

CURRENT LAW: Article 36 of Chapter 90 of the General Statutes contains the Massage and Bodywork Therapy Practice Act. It establishes the legal requirement for the licensure and regulation of practitioners. The Article also creates a seven-member licensing Board charged with rule-making authority. Effective July 1, 2006, the Board has authority to adopt rules for approving massage and bodywork therapy schools. Massage and bodywork therapy programs operated by accredited degree or diploma granting colleges or universities are exempt from the Board's approval and licensure process. This exemption expressly applies to programs offered by the Community College System and the constituent institutions of The University of North Carolina.

BILL ANALYSIS:

Section 1 revises G.S. 90-621 regarding the purpose of the Article.

Section 2 amends G.S. 90-622, the definitions to add the term "accreditation", "criminal history record check", and "massage and bodywork therapy school".

Section 2.1 amends G.S. 90-623 by adding a subsection that outlines certain practices that do not constitute the practice of massage and bodywork therapy. Most of this language is just moved from the definitions section, but the new language also goes into some detail to explain that sexual activity intended to erotically stimulate either the therapist or the client does not constitute the practice of massage and bodywork therapy.

Section 3 amends G.S. 90-625 regarding appointments to the Board. The change allows a physician with a lapsed license to serve on the Board if the license lapsed while the person was in good standing with the profession and eligible for licensure.

Section 3.1 enacts uncodified language to extend the terms of two members of the Board appointed by the General Assembly to five-year terms. Apparently, the existing staggering of Board members has become confused and this language is intended to bring the appointment process back to the original staggering of terms.

Sections 4 and 5 amend G.S. 90-626 regarding the powers and duties of the Board. The changes allow the Board to adopt fees for the approval of massage and bodywork therapy schools, subject to the maximum amounts set out by statutes.

Section 6 amends G.S. 90-629 regarding the requirements that an applicant must meet in order to be licensed by the Board. The changes allow the Board to use competency assessment examination that meet generally accepted psychometric principles and standards, and requires the applicant to submit fingerprints and submit to a criminal background check.

Section 7 repeals G.S. 90-630 which allows the Board to license out of state therapists who meet certain criteria.

Section 8 creates a new statute that allows the Board to issue licensure by endorsement. This process applies both to states that have similar licensure standards and to states that do not have a licensure process, provided other qualifications are met.

Section 9 amends G.S. 90-631 to make it clear that a massage and bodywork therapy school that is not otherwise exempt from the Board's approval authority must apply to the Board for approval.

Section 10 amends G.S. 90-632 to specify the continuing education requirements for initial licensure renewal and different ones for subsequent licensure renewals.

Section 11 amends G.S. 90-633 regarding the Board's authority to refuse to issue, suspend, or revoke a license. These include conviction of a controlled substance offense, conviction of a crime of moral turpitude, and an adjudication of incompetency. It also adds language authorizing the Board to refuse to issue, suspend or revoke a license if the therapist uses the application of systems of activity with the intent of providing sexual stimulation or otherwise pursing sexual contact.

Section 12 amends G.S. 90-634 to make it a Class 3 misdemeanor to operate a massage and bodywork therapy school without first being approved by the Board.

Section 13 amends G.S. 90-634.1 to provide that continued violation of the Article or rules adopted by the Board shall not be the basis for an additional penalty.

Section 14 enacts G.S. 90-637 and G.S. 90-637.1 which specifies the Board's authority to administer and enforce the Article with regard to the approval of massage and bodywork therapy schools. The Board may formulate criteria and standards for approval, investigate all schools applying for approval, issue approvals and provide periodic inspections of the schools. It also enacts G.S. 90-637.2 which sets the maximum fees the Board may charge in the regulation and approval of schools, G.S. 90-637.3 sets out grounds for the Board suspending, revoking, or refusing to issue an approval of a school. Finally, the Section enacts G.S. 90-638 requiring all applicants for licensure to consent to a criminal background check.

Section 15 amends Chapter 114 of the General Statutes to authorize the Department of Justice to provide the Board with the criminal history of any applicant for licensure.

EFFECTIVE DATE: This act becomes effective October 1, 2007, and applies to the actions of therapists and schools on or after that date, and to massage and bodywork therapist applications for licensure, and massage and bodywork therapy school applications for Board approval submitted to the Board on or after that date.

S1314e2-SMMC

Kory Goldsmith, counsel to Senate Health Care, contributed substantially to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 1659

Committee Substitute Favorable 5/17/07

Senate Judiciary II (Criminal) Committee Substitute Adopted 7/23/07

Short Title: Criminal History Checks/DPI Employees. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CRIMINAL HISTORY RECORD CHECKS OF EMPLOYEES OF AND APPLICANTS FOR EMPLOYMENT WITH THE DEPARTMENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.21. Criminal history record checks of employees of and applicants for employment with the Department of Public Instruction.**

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

a. An applicant for employment or a current employee in a position in the Department of Public Instruction.

b. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Public Instruction.

(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Public Instruction. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16,

Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Public Instruction, the North Carolina Department of Justice may provide to the requesting department a covered person's criminal history from the State Repository of Criminal Histories. Such request shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department shall provide to the Department of Justice a form consenting to the check, signed by the covered person to be checked and any additional information required by the Department of Justice. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Public Instruction shall provide to the North Carolina Department of Justice the fingerprints of the covered person to be checked, any additional information required by the Department of Justice, and a form signed by the covered person to be checked, consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Instruction shall keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Public Instruction shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of Criminal Information. All of the information the department receives through the checking of the criminal history is privileged information and for the exclusive use of the department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Public Instruction. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Public Instruction in determining whether employment shall be denied:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and job duties of the person;
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Public Instruction may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Public Instruction may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section."

SECTION 2. This act becomes effective October 1, 2007.

HOUSE BILL 1659:
Criminal History Checks/DPI Employees

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Rep. Fisher	**Summary by:**	Dan Ettefagh
Version:	Third Edition		Committee Counsel

SUMMARY: House Bill 1659 authorizes the Department of Justice to provide criminal history record checks, upon request by the Department of Public Instruction (DPI), of its employees, applicants for employment, and independent contractors (and their employees) who have contracted with DPI . House Bill 1659 is in Senate Finance because it authorizes the Department of Justice to charge a reasonable fee for conducting the record checks.

CURRENT LAW: The Department of Justice is authorized by statute to provide criminal record checks of applicants for employment with and employees of a number of entities.[1] These entities include local boards of education in situations where a person is employed or seeking employment with a public school in the local school district. The Department may also provide record checks of employees of a local board of education, and independent contractors or employees of an independent contractor of a local board of education.

BILL ANALYSIS: House Bill 1659 authorizes the Department of Justice to provide criminal history record checks to DPI employees, applicants for employment, and contractors upon a request by DPI. "Criminal history" is defined as a State or federal history of conviction of a crime, whether a misdemeanor or a felony, that bears upon a covered person's fitness for employment. The bill includes a list of crimes that bear upon a person's suitability for employment.

DPI may not request a criminal history check based on a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition. If DPI requests only a State criminal history check, it must provide a consent form signed by the person to be checked. National criminal history checks are authorized for applicants who have not lived in the State during the past five years. If DPI requests a national criminal history check, it must provide fingerprints of the person to be checked and a signed consent form. DPI must keep all information obtained confidential. **The Department of Justice is authorized to charge a reasonable fee for conducting the criminal history record check.**

If the record check reveals one or more convictions of a listed crime, the conviction constitutes just cause for not employing a person or for dismissing a person from current employment. However, a conviction does not automatically prohibit employment. The bill lists a number of factors that must be considered in determining whether to deny employment.

Under the bill, refusal to consent to a criminal history records check constitutes just cause for denial of employment of an applicant or dismissal of a current employee by DPI. DPI may also extend a conditional offer of employment pending results of the criminal history record check.

EFFECTIVE DATE: October 1, 2007

Karen Cochrane-Brown, committee counsel to House State Personnel, and Martha Walston, committee counsel in the Fiscal Research Division, substantially contributed to this summary.

H1659e3-SMMC

[1] These entities include providers of treatment for services to children, the elderly, mental health patients, the sick, and the disabled; providers of foster care; providers of child care; the Department of Health and Human Services, and the Department of Juvenile Justice and Delinquency Prevention.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 1659 (Third Edition)

SHORT TITLE: Criminal History Checks/DPI Employees.

SPONSOR(S): Representative Fisher

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Department of Justice	**Up to $3,800 annually (fees collected from DPI; see pages 2-3).**				
EXPENDITURES:					
Department of Public Instruction	**Up to $5,300 annually (fees charged by CCBI and DOJ; see pages 2-3).**				
Department of Justice	**Up to $3,654 annually (approx. costs incurred; see pages 2-3).**				
POSITIONS (cumulative):	**None.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N.C. Department of Public Instruction; Department of Justice.

EFFECTIVE DATE: October 1, 2007.

BILL SUMMARY: H.B. 1659 enacts G.S. 114-19.20 to authorize the Department of Public Instruction (DPI) to obtain criminal history record checks through the Department of Justice (DOJ) for the following covered persons:

a. Applicants for employment and current DPI employees who have direct or indirect ability to access DPI records, documents, or electronic data.
b. Persons in supervisory positions who have access to the above records and documents;
c. Applicants and current employees of DPI; and,
d. Independent contractors or their employees that have contracted to provide services to DPI.

Authorizes the North Carolina Department of Justice to provide, upon DPI's request, a covered person's criminal history from the State Repository of Criminal Histories and from the National Repository *if the covered person has not resided in North Carolina during the past five years*, after

certain procedural requirements are met. Requires DPI to keep all information confidential, and requires that all releases of criminal history information to DPI be subject to, and in compliance with, rules adopted by the Division of Criminal Information. Authorizes the Department of Justice to charge a reasonable fee for conducting the criminal record checks. Authorizes, but does not require, DPI to deny employment or dismiss a current employee if the covered person's verified criminal history record check reveals one or more specified convictions. Lists several criteria that DPI must consider before denying employment or dismissing a current employee. Authorizes DPI to deny employment or dismiss a covered person who refuses to consent to the criminal history record check. Authorizes DPI to extend a conditional offer of employment pending the results of a criminal history record check. Effective October 1, 2007.

Second edition (House committee substitute) makes a correction to proposed G.S. 114-19.20, directing that fingerprints of an individual undergoing a national criminal history check are to be forwarded to the Federal Bureau of Investigation (was, State Bureau of Investigation). Also condenses the definition of a covered person.

Third edition (Senate committee substitute) renumbers the proposed new statute, from G.S. 114-19.20 to G.S. 114-19.21.

Source: Bill Digest H.B. 1659 (04/18/0200).

ASSUMPTIONS AND METHODOLOGY:

Department of Public Instruction

Though H.B. 1659 authorizes the Department of Public Instruction to obtain criminal history record checks for all applicants, current employees, and independent contractors (including their employees), the Department indicates that checks will be conducted primarily on those individuals with access to personal, identifying information (e.g. student data, social security numbers, licensure payments, etc.). DPI estimates that approximately 100 checks will be conducted annually, the majority of which will be State history checks (national checks authorized for *covered applicants who have not resided in North Carolina during the five years prior to application)*; however, a more detailed estimate of national and federal checks is unavailable at this time.

To initiate a criminal record check, DPI must forward the covered person's fingerprints and consent form to the State Bureau of Investigation (SBI), and request that person's criminal record.[1] According to DPI, fingerprinting will be performed by the City/County Bureau of Identification (CCBI) via live-scan, and then forwarded electronically to the SBI – *CCBI charges a fee of $15 per scan to offset costs incurred* (database entries, video-photography, and documentation). *In addition*, the State Bureau of Investigation (SBI) charges the following fees to non-criminal justice agencies for state and national fingerprint checks:

N.C. Fingerprint Check:	$14 ($14 retained by DOJ)
National Fingerprint Check:	$38 ($16 retained by DOJ, $22 remitted to the FBI)

[1] The Criminal Information and Identification Section within the Special Operations Division of the State Bureau of Investigation (SBI) conduct the criminal record check.

Thus, assuming up to 100 state and/or national fingerprint checks each year, DPI's annual expenditures could range from $2,900 to $5,300. Although the Department of Public Instruction may experience some additional personnel workload (e.g. fingerprinting, record-keeping, etc.), it is assumed that any increase will be accommodated by current resources.

Department of Justice

DOJ's unit cost for conducting national and criminal record checks via live-scan is $14.54 (cost includes overhead and equipment). Each staff member in the fingerprint identification section can perform, on average, 8,000 - 10,000 checks per year. As indicated below, the costs incurred for criminal record checks are offset by fee collections; therefore, existing personnel will absorb the additional workload for the estimated 100 record checks.

Record Check	Agency Fee	DOJ Total Cost*
Live-Scan Fingerprint Check *(NC data only)*	$14.00	$14.54
Live-Scan Fingerprint Check *(NC and FBI data)*	$38.00	$36.54
**2005 unit costs are derived from OSBM "Study of the Cost of Providing Criminal Record Checks;" costs include an equipment allowance and 12.5% overhead rate* *Cost for state and federal record checks includes $22 remittance per check to the Federal Bureau of Investigation*		

Assuming up to 100 state and/or national criminal record checks annually, DOJ expenditures could range from $1,454 (state only) to $3,654 (state and federal); total receipts could range from $1,400 to $3,800, respectively.

SOURCES OF DATA: Department of Public Instruction; Department of Justice.

TECHNICAL CONSIDERATIONS: None

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Division of Fiscal Research

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Official
Fiscal Research Division
Publication

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 291
Second Edition Engrossed 4/3/07

Short Title:	Sudan (Darfur) Divestment Act.	(Public)
Sponsors:	Representatives Luebke, Coates, Harrison, Jones (Primary Sponsors); Adams, Alexander, Allen, Allred, Barnhart, Blue, Blust, Coleman, Cunningham, Farmer-Butterfield, Fisher, Glazier, Goodwin, Hall, T. Harrell, Holliman, Insko, Jeffus, Lucas, Martin, McAllister, Michaux, Mobley, Rapp, Samuelson, Tarleton, Underhill, Wainwright, Weiss, and Womble.	
Referred to:	Finance.	

February 21, 2007

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR HOW THE STATE TREASURER SHALL ADDRESS CERTAIN STATE INVESTMENTS RELATING TO SUDAN.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative findings.

(1) On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide."

(2) On September 9, 2004, Secretary of State Colin L. Powell told the U.S. Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility."

(3) On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, "At this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide."

(4) On December 7, 2004, the U.S. Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves."

(5) Also on December 7, 2004, Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers

to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter."

(6) On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan."

(7) On September 26, 2006, the U.S. House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the [Darfur] crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad."

(8) The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities genocide.

(9) The Federal Government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

(10) According to a former chair of the U.S. Securities and Exchange Commission, "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company."

(11) Since 1993, the U.S. Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

(12) A 2006 U.S. House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment."

(13) In response to the financial risk posed by investments in companies doing business with a terrorist-sponsoring state, the Securities and Exchange Commission established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies.

(14) The current Sudan divestment movement encompasses nearly 100 universities, cities, states, and private pension plans.

(15) Companies facing such widespread divestment present further material risk to remaining investors.

(16) It is a fundamental responsibility of the State of North Carolina to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors.

(17) It is the prerogative and desire of the State of North Carolina in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital-providing capacity with entities that provide significant practical support for genocide, including certain non-United States companies presently doing business in Sudan.

(18) It is the judgment of the General Assembly that this act should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the Federal Government.

(19) It is the judgment of this General Assembly that mandatory divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously. A Congressional and Presidential declaration of genocide satisfies this high threshold.

SECTION 2. Definitions.

As used in this act, the following definitions apply:

(1) "Active Business Operations" means all Business Operations that are not Inactive Business Operations.

(2) "Business Operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(3) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

(4) "Complicit" means taking actions during any preceding 20-month period which have directly supported or promoted the genocidal campaign in Darfur, including, but not limited to, preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur, actively working to deny, cover up,

or alter the record on human rights abuses in Darfur, or other similar actions.

(5) "Direct Holdings" in a Company means all securities of that Company held directly by the Public Fund or in an account or fund in which the Public Fund owns all shares or interests.

(6) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), and does not include the regional government of southern Sudan.

(7) "Inactive Business Operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.

(8) "Indirect Holdings" in a Company means all securities of that Company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the provisions of this act.

(9) "Marginalized Populations of Sudan" include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's North-South civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(10) "Military Equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including, but not limited to, radar systems or military-grade transport vehicles; or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(11) "Mineral Extraction Activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including by providing supplies or services in support of such activities.

(12) "Oil-Related Activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field

infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered Oil-Related Activities.

(13) "Power Production Activities" means any Business Operation that involves a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar Government of Sudan entity whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.

(14) "Public Fund" means any funds held by the State Treasurer to the credit of:

a. The Teachers' and State Employees' Retirement System.
b. The Consolidated Judicial Retirement System.
c. The Firemen's and Rescue Workers' Pension Fund.
d. The Local Governmental Employees' Retirement System.
e. The Legislative Retirement System.
f. The Legislative Retirement Fund.
g. The North Carolina National Guard Pension Fund.

(14a) "Scrutinized Business Operations" means Business Operations that have resulted in a Company becoming a Scrutinized Company.

(15) "Scrutinized Company" means any Company that meets the criteria in sub-subdivisions a., b., or c. below:

a. The Company has Business Operations that involve contracts with and/or provision of supplies or services to the Government of Sudan, to companies in which the Government of Sudan has any direct or indirect equity share, Government of Sudan-commissioned consortiums or projects, or to Companies involved in Government of Sudan-commissioned consortiums or projects and at least one of the following conditions is satisfied:

1. More than ten percent (10%) of the Company's revenues or assets linked to Sudan involve Oil-Related Activities or Mineral Extraction Activities; less than seventy-five percent (75%) of the Company's revenues or assets linked to Sudan involve contracts with and/or provision of Oil-Related or Mineral Extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the Company has failed to take Substantial Action.

2. More than ten percent (10%) of the Company's revenues or assets linked to Sudan involve Power Production Activities; less than seventy-five percent (75%) of the Company's Power Production Activities include projects whose intent is to provide power or electricity to the Marginalized Populations of Sudan; and the Company has failed to take Substantial Action.

b. The Company is Complicit in the Darfur genocide.

c. The Company supplies Military Equipment within Sudan, unless it clearly shows that the Military Equipment cannot be used to facilitate offensive military actions in Sudan or the Company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of such equipment by the Company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

Notwithstanding anything herein to the contrary, a Social Development Company which is not Complicit in the Darfur genocide shall not be considered a Scrutinized Company.

(16) "Social Development Company" means a Company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to Oil-Related Activities, Mineral Extraction Activities, or Power Production Activities.

(17) "Substantial Action" means adopting, publicizing, and implementing a formal plan to cease Scrutinized Business Operations within one year and to refrain from any such new Business Operations; undertaking significant humanitarian efforts on behalf of one or more Marginalized Populations of Sudan; or through engagement with the Government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

SECTION 3. Identification of companies.

(a) Within 90 days of this act becoming effective, the Public Fund shall make its best efforts to identify all Scrutinized Companies in which the Public Fund has Direct or Indirect Holdings or could possibly have such holdings in the future. Such efforts shall include, as appropriate:

(1) Reviewing and relying, as appropriate in the Public Fund's judgment, on publicly available information regarding Companies with Business Operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

(2) Contacting asset managers contracted by the Public Fund that invest in Companies with Business Operations in Sudan; or

(3) Contacting other institutional investors that have divested from and/or engaged with Companies that have Business Operations in Sudan.

(b) By the first meeting of the Public Fund following the 90-day period described in subsection (a), the Public Fund shall assemble all Scrutinized Companies identified into a "Scrutinized Companies List."

(c) The Public Fund shall update the Scrutinized Companies List on a quarterly basis based on evolving information from, among other sources, those listed in subsection (a) of this section.

SECTION 4. Required actions.

(a) General. The Public Fund shall adhere to the procedure for Companies on the Scrutinized Companies List as provided in this section:

(b) Engagement.

(1) The Public Fund shall immediately determine the Companies on the Scrutinized Companies List in which the Public Fund owns Direct or Indirect Holdings.

(2) For each Company identified in subdivision (1) of this section with only Inactive Business Operations, the Public Fund shall send a written notice informing the Company of this act and encouraging it to continue to refrain from initiating Active Business Operations in Sudan until it is able to avoid Scrutinized Business Operations. The Public Fund shall continue such correspondence on a semiannual basis.

(3) For each Company newly identified in subdivision (1) of this section with Active Business Operations, the Public Fund shall send a written notice informing the Company of its Scrutinized Company status and that it may become subject to divestment by the Public Fund. The notice shall offer the Company the opportunity to clarify its Sudan-related activities and shall encourage the Company, within 90 days, to either cease its Scrutinized Business Operations or convert such operations to Inactive Business Operations in order to avoid qualifying for divestment by the Public Fund.

(4) If, within 90 days following the Public Fund's first engagement with a Company pursuant to subdivision (3) of this section that Company ceases Scrutinized Business Operations, the Company shall be removed from the Scrutinized Companies List and the provisions of this Section shall cease to apply to it unless it resumes Scrutinized Business Operations. If, within 90 days following the Public Fund's

first engagement, the Company converts its Scrutinized Active Business Operations to Inactive Business Operations, the Company shall be subject to all provisions relating thereto.

(c) Divestment.

(1) If, after 90 days following the Public Fund's first engagement with a Company pursuant to subdivision (b)(3) of this section, the Company continues to have Scrutinized Active Business Operations, and only while such Company continues to have Scrutinized Active Business Operations, the Public Fund shall sell, redeem, divest, or withdraw all publicly traded securities of the Company within 15 months after the Company's most recent appearance on the Scrutinized Companies List.

(2) If a Company that ceased Scrutinized Active Business Operations following engagement pursuant to subdivision (b)(3) of this section resumes such operations, subdivision (1) of this subsection shall immediately apply, and the Public Fund shall send a written notice to the Company. The Company shall also be immediately reintroduced onto the Scrutinized Companies List.

(d) Prohibition. At no time shall the Public Fund acquire securities of Companies on the Scrutinized Companies List that have Active Business Operations, except as provided below.

(e) Exemption. No Company which the United States Government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan shall be subject to divestment or investment prohibition pursuant to subsections (c) and (d) of this section.

(f) Excluded Securities. Notwithstanding anything herein to the contrary, subsections (c) and (d) of this section shall not apply to Indirect Holdings in actively managed investment funds. The Public Fund shall, however, submit letters to the managers of such investment funds containing Companies with Scrutinized Active Business Operations requesting that they consider removing such Companies from the fund or create a similar actively managed fund with Indirect Holdings devoid of such Companies. If the manager creates a similar fund, the Public Fund shall replace all applicable investments with investments in the similar fund in an expedited time frame consistent with prudent investing standards. For the purposes of this section, "private equity" funds shall be deemed to be actively managed investment funds.

SECTION 5. Reporting.

(a) The Public Fund shall file a publicly available report to the General Assembly that includes the Scrutinized Companies List within 30 days after the list is created.

(b) Annually thereafter, the Public Fund shall file a publicly available report to the General Assembly and send a copy of that report to the United States Presidential Special Envoy to Sudan (or an appropriate designee or successor) that includes:

(1) A summary of correspondence with Companies engaged by the Public Fund under Sections 4(b)(2) and (b)(3) of this act.

(2) All investments sold, redeemed, divested, or withdrawn in compliance with Section 4(c) of this act.
(3) All prohibited investments under Section 4(d) of this act; and
(4) Any progress made under Section 4(f) of this act.

SECTION 6. Expiration of this act. This act expires upon the occurrence of any of the following:

(1) The Congress or President of the United States declaring that the Darfur genocide has been halted for at least 12 months.
(2) The United States revoking all sanctions imposed against the Government of Sudan.
(3) The Congress or President of the United States declaring that the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.
(4) The Congress or President of the United States, through legislation or executive order, declaring that mandatory divestment of the type provided for in this act interferes with the conduct of United States foreign policy.

SECTION 7. Other legal obligations. With respect to actions taken in compliance with this act, including all good faith determinations regarding Companies as required by this act, the Public Fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations in respect to choice of asset managers, investment funds, or investments for the Public Fund's securities portfolios.

SECTION 8. Reinvestment in certain companies with Scrutinized Active Business Operations. Notwithstanding anything in this act, the Public Fund is permitted to cease divesting from certain Scrutinized Companies pursuant to Section 4(c) of this act and/or reinvest in certain Scrutinized Companies from which it divested pursuant to Section 4(c) of this act if clear and convincing evidence shows that the value for all assets under management by the Public Fund becomes equal to or less than 99.50% (50 basis points) of the hypothetical value of all assets under management by the Public Fund assuming no divestment for any company had occurred under Section 4(c) of this act. Cessation of divestment, reinvestment, and/or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of divestment, reinvestment, and/or subsequent ongoing investment authorized by this section, the Public Fund shall provide a written report to the General Assembly in advance of initial reinvestment, updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, and/or remain invested in Companies with Scrutinized Active Business Operations. This section has no application to reinvestment in Companies on the ground that they have ceased to have Scrutinized Active Business Operations.

SECTION 9. Enforcement. The Attorney General is charged with enforcing the provisions of this act and, through any lawful designee, may bring such actions in court as are necessary to do so.

SECTION 10. Severability. If any one or more provision, section, subsection, sentence, clause, phrase, or word of this legislation or the application thereof to any person or circumstance is found to be invalid, illegal, unenforceable, or unconstitutional, the same is hereby declared to be severable and the balance of this legislation shall remain effective and functional notwithstanding such invalidity, illegality, unenforceability, or unconstitutionality. The General Assembly declares that it would have passed this legislation, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared invalid, illegal, unenforceable, or unconstitutional, including, but not limited to, each of the engagement, divestment, and prohibition provisions of this legislation.

SECTION 11. This act becomes effective July 1, 2007.

HOUSE BILL 291:
Sudan (Darfur) Divestment Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Reps. Luebke, Coates, Harrison, Jones	**Summary by:**	Martha Walston
Version:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 291 requires the public retirement and pension funds (hereinafter Public Fund) held by the State Treasurer to address certain investments relating to the situation in Darfur, Sudan as follows:***

- ***Identify within 90 days of the act all scrutinized companies in which the Public Fund has direct or indirect holdings or could have such holdings in the future. A scrutinized company is defined as one that has business operations or other activity relating to Sudan.***
- ***Assemble a list of scrutinized companies and determine whether the Public Fund owns direct or indirect holdings in the company.***
- ***Take actions based upon the status of the companies on the list. These actions may include the sale, redemption, divestment, or withdrawal of all publicly traded securities of the company.***

CURRENT LAW: On November 1, 2006, the North Carolina Department of State Treasurer adopted a policy on Sudan-related investments. According to the Department, the policy states that companies providing monetary or military support to the Sudanese government, but failing to provide humanitarian aid or helping to improve the welfare of the Sudanese people, should not be held by the North Carolina Retirement System (NCRS). Since adoption of the policy, the NCRS has divested interest in nine companies that were found to be conducting business contrary to the policy, and has directed its managers not to acquire securities in these companies in the future.[1]

BILL ANALYSIS: House Bill 291 would enact the following legislation governing the Public Fund's treatment of companies with ties to Sudan:

- Section 1 of the act lists legislative findings regarding the history of the U.S. Government's recognition and position on the atrocities in Darfur, Sudan. The findings also state that it is North Carolina's responsibility to decide the investment of financial resources in its control, that it is the State's desire not to participate with entities that provided support for genocide, that this act should remain in affect as long as it does not interfere with U.S. foreign policy, and that mandatory divestment of public funds from certain companies should be employed sparingly and judiciously.
- Section 2 of the act defines terms used in the act. A scrutinized company is a company that meets the criteria in a., b., or c, below:
  a. The company has business operations that involve contracts with or provision of supplies or services to the Government of Sudan, to companies in which Sudan has any equity share, Sudan-commissioned consortiums or projects , or to companies involved in such consortiums or projects, AND at least one of the following conditions is met: the

[1] The nine companies are: Bharat Heavy Electricals, China Petroleum and Chemical Corp., Nam Fatt, Oil & Natural Gas Company, PECD Berhad, PetroChina Company, Sudan Telecom Company, Tatneft OAO, and Videocon Industries Limited.

company has a certain percentage of its revenue or assets linked to Sudan involved oil-related or mineral extraction activities; or the company has a certain percentage of its assets linked to power production activities in Sudan.

b. The company is complicit in the Darfur genocide.

c. The company supplies military equipment within Sudan.

- Section 3 requires the Public Fund to identify within 90 days of the act all scrutinized companies in which the Public Fund has direct or indirect holdings or could have such holdings in the future. The Fund must assemble a list of scrutinized companies and determine whether the Fund owns direct or indirect holdings in the company.
- Section 4 sets out the following actions the Public fund must take based upon the status of the companies on the list:
  - If the company has only inactive business operations with Sudan, the Public Fund will send written notice to the company informing it of its status and encouraging the company to continue to refrain from active business operations. If the company ceases inactive operations with Sudan within 90 days, it will be removed from the scrutinized companies list.
  - If the company has active business operations with Sudan, the Public Fund will notify the company that it may be divested. The company will have 90 days to either cease its active business operations or convert to inactive business operations. If the company does not cease its active business operations with Sudan, the Public Fund will sell, redeem, divest, or withdraw all publicly traded securities of the company within 15 months after the company's most recent appearance on the scrutinized companies list..
- Section 4 also sets out the following restrictions on the actions of the Public Fund:
  - The Public Fund is prohibited from acquiring securities of companies on the scrutinized companies list that have active business operations, unless the U.S. Government declares the company to be excluded from federal sanctions relating to Sudan.
  - The Public Fund may not divest or prohibit acquisition of indirect holdings in actively managed investment funds. Indirect holdings are defined as securities of a company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the act. Private equity funds are considered actively managed investment funds
- Section 5 of the acts sets out reporting requirements of the Public Fund. The Fund must file a report with the General Assembly that includes the scrutinized companies list within 30 days after the list is created. Thereafter, the report must be filed annually and a copy sent to the United States Presidential Special Envoy to Sudan.
- Section 6 of the act provides that the act expires if the Darfur genocide has been halted for 12 months, the U.S. revokes all sanctions against Sudan, Sudan has honored certain commitments, or the U.S. declares that mandatory divestment interferes with the conduct of U.S. foreign policy.

- Section 7 exempts the Public Fund from conflicting statutory or common law obligations, with respect to actions taken in compliance with the act.
- Section 8 provides that the Public Fund may cease divesting from or reinvest in scrutinized companies if clear and convincing evidence shows that the value for all assets under management by the Fund becomes equal to or less than 99.50% of the hypothetical value of all assets under management by the Fund assuming no divestment had occurred.
- Section 9 provides enforcement of the act by the Attorney General.
- Section 10 provides for severability in case any part of the act is found to be illegal or unconstitutional.

EFFECTIVE DATE: The act becomes effective July 1, 2007.

BACKGROUND: The following states have adopted legislation to prohibit state investment in the government of Sudan and companies doing business in Sudan: Arizona, California, Louisiana, New Jersey, and Oregon. Colleges and universities throughout the United States have also reviewed their portfolios. They include Harvard, Stanford, University of California, Amherst, Brown University, Dartmouth, University of Pennsylvania, Princeton, Williams College, Smith, Swarthmore, and Yale.

In 2005, the Illinois Legislature adopted legislation that prohibits state investment in the government of Sudan and companies doing business in or with Sudan. Fund managers responsible for Illinois's state pension and retirement funds were given 18 months to divest from such companies. In February, 2007, a federal district court enjoined enforcement of the legislation. *National Foreign Trade Council, Inc v. Giannoulias,* No. 06 C 4251 (Feb. 23, 2007). Specifically, the court found that the amendments to the state pension code violated the Foreign Commerce Clause of the U.S. Constitution, which gives Congress the power to regulate commerce with foreign nations.

H0291e2-SMLA

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 291

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H291-ARB-70 [v.1]

Date _____,2007

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Senator ~~Foster~~ Shaw

moves to amend the bill on page 8, lines 37 and 38, by rewriting the lines to read:
"Assembly that includes the Scrutinized Companies List annually.";

And on page 10, line 15, by rewriting the line to read:
"**SECTION 11.** This act is effective when it becomes law.".

SIGNED ~~Foster~~ Sen. Shaw
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 7

HOUSE BILL 265

Committee Substitute Favorable 2/27/07
Committee Substitute #2 Favorable 3/6/07
Committee Substitute #3 Favorable 3/29/07
Committee Substitute #4 Favorable 4/18/07
Sixth Edition Engrossed 5/1/07
Senate Commerce, Small Business and Entrepreneurship Committee Substitute Adopted 7/23/07

Short Title: Establish Health Insurance Risk Pool. (Public)

Sponsors:

Referred to:

February 20, 2007

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA HEALTH INSURANCE RISK POOL AND TO FUND THE NORTH CAROLINA HEALTH INSURANCE RISK POOL FROM SAVINGS TO THE GENERAL FUND REALIZED FROM THE REPEAL OF THE TAX CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH BENEFITS AND FROM OTHER SOURCES.

The General Assembly of North Carolina enacts:

SECTION 1.1. Article 50 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 6. North Carolina Health Insurance Risk Pool.

"**§ 58-50-175. Definitions.**

The following definitions apply to this Part:

(1) "Administrator" – The Pool Administrator selected by the Executive Director in accordance with this Part.

(2) "Benefit plan" – The coverage offered by the Pool to eligible individuals.

(3) "Board" – The Board of Directors of the Pool.

(4) "Commissioner" – The Commissioner of Insurance of North Carolina or the Commissioner's authorized designee.

(5) "Covered person" – Any individual resident of this State, excluding dependents, who is receiving or is eligible to receive medical care benefits from any insurer.

(6) "Creditable coverage" – The same meaning as defined in G.S. 58-68-30(c)(1).

(7) "Dependent" – A resident spouse, an unmarried child under the age of 19 years, a child who is a full-time student under the age of 23 years and who is financially dependent upon the parent or guardian, a child who is over 18 years of age and for whom a person may be obligated to pay child support, or a child of any age who is disabled and dependent upon the parent or guardian.

(8) "Executive Director" – The individual selected by a majority vote of the Board members and hired to serve as the Executive Director of the Pool.

(9) "Federally defined eligible individual" – The same meaning as the defined term "eligible individual" in G.S. 58-68-60(b).

(10) "Health insurance coverage" – The same meaning as defined in G.S. 58-68-25(a)(5) but does not include benefits described in G.S. 58-68-25(b).

(11) "Insurance arrangement" – The plan, program, contract, or other arrangement through which medical care is provided by an employer to its officers or employees but does not include medical care covered through an insurer.

(12) "Insured" – An individual who is eligible to receive benefits from the Pool.

(13) "Insurer" – Any entity, other than the Pool, that provides medical care benefits, including excess or stop-loss insurance, that covers medical care or administers medical care on any individual in this State. For the purposes of this Part, insurer includes:

a. An insurance company;
b. A hospital or medical service corporation;
c. A health maintenance organization;
d. A multiple employer welfare arrangement;
e. A third-party administrator or claims processor; and
f. Any other nongovernmental entity providing a health benefit plan subject to State insurance regulation.

(14) "Medical care" – All of the following:

a. The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
b. Transportation primarily for and essential to medical care referred to in sub-subdivision a. of this subdivision; and
c. Insurance covering medical care referred to in sub-subdivisions a. and b. of this subdivision.

(15) "Plan of Operation" – The articles, bylaws, and operating rules and procedures adopted by the Board in accordance with this Part.

(16) "Pool" – The North Carolina Health Insurance Risk Pool.

(17) "Provider" – An individual or entity that provides medical care to individuals residing in this State.

(18) "Resident" – An individual who has legal status in the United States and who:

a. Has been legally domiciled in this State for a period of at least 30 days, except that for a federally defined eligible individual, there shall not be a 30-day requirement;

b. Is legally domiciled in this State on the date of application to the Pool and who is eligible for enrollment in the Pool as a result of the Health Insurance Portability and Accountability Act of 1996; or

c. Is legally domiciled in this State on the date of application to the Pool and is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986.

(19) "Special Fund." – The North Carolina Health Insurance Risk Pool Special fund.

(20) "Trade Adjustment Assistance Program" (TAA) – Title II of the Trade Act of 2002, P.L. 107-210.

"**§ 58-50-180. Risk Pool established; board of directors; plan of operation.**

(a) There is hereby created a nonprofit entity to be known as the North Carolina Health Insurance Risk Pool. The Pool shall operate under the supervision and control of the Board.

(b) The Board of the North Carolina Health Insurance Risk Pool shall consist of the Commissioner, who shall serve as an ex officio nonvoting member of the Board, and 11 members appointed as follows:

(1) One member who represents an insurer, as appointed by the Governor.

(2) Two members of the general public who are not employed by or affiliated with an insurance company or plan, group hospital, or other health care provider and can reasonably be expected to qualify for coverage in the Pool. Members of the general public include individuals whose only affiliation with health insurance or health care coverage is as a covered member. The two members of the general public shall be appointed by the General Assembly, as follows:

a. One member upon the recommendation of the President Pro Tempore of the Senate.

b. One member upon the recommendation of the Speaker of the House of Representatives.

(3) Eight members appointed by the Commissioner, as follows:

a. One insurer who sells individual health insurance policies.

b. One who represents the insurance industry, as recommended by the insurer who covers the largest number of persons in the State.

c. One who is licensed to sell health insurance in this State.

d. Two who represent the medical provider community, one as recommended by the North Carolina Medical Society, and one as recommended by the North Carolina Hospital Association.

e. One who represents business, as recommended by the North Carolina Citizens for Business and Industry.

f. One who represents small business, as recommended by the National Federation of Independent Business.

g. One who is either a health policy researcher or a health economist with experience relating to the operation of health insurance risk pools.

(c) The initial appointments by the Governor and the General Assembly upon the recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve a term of three years. The initial appointments by the Commissioner under sub-subdivisions a., b., and d. of subdivision (b)(3) of this section shall be for a term of two years. The initial appointments by the Commissioner under sub-subdivisions c., e., f., and g. of subdivision (b)(3) of this section shall be for a term of one year. All succeeding appointments shall be for terms of three years. Members shall not serve for more than two successive terms.

A Board member's term shall continue until the member's successor is appointed by the original appointing authority. Vacancies shall be filled by the appointing authority for the unexpired portion of the term in which they occur. A Board member may be removed by the appointing authority for cause.

The Board shall meet at least quarterly upon the call of the chair. A majority of the total membership of the Commission shall constitute a quorum.

The Commissioner shall appoint a chair to serve for the initial two years of the Plan's operation. Subsequent chairs shall be elected by a majority vote of the Board members and shall serve for two-year terms. Board members shall receive travel allowances under G.S. 138-6 when traveling to and from meetings of the Board, but shall not receive any subsistence allowance or per diem under G.S. 138-5.

(d) The Board shall submit to the Commissioner a Plan of Operation for the Pool and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the Plan of Operation. The Plan of Operation shall become effective upon approval in writing by the Commissioner consistent with the date on which the coverage under this Part must be made available. If the Board fails to submit a suitable Plan of Operation within 180 days after the appointment of the Board, or at any time thereafter fails to submit suitable amendments to the Plan of Operation, the Commissioner shall adopt temporary rules necessary or advisable to effectuate the provisions of this section. The rules shall continue in force until modified by the Commissioner or superseded by a Plan of Operation submitted by the Board and approved by the Commissioner. The Plan of Operation shall:

(1) Establish procedures for operation of the Pool.

(2) Establish procedures for selecting a Pool Administrator in accordance with G.S. 58-50-185.

(3) Establish procedures to create a fund for administrative expenses, which shall be managed by the Board.

(4) Establish procedures for the collection, handling, disbursing, accounting, and auditing of assets, monies, and claims of the Pool and the Pool Administrator.

(5) Develop and implement a program to publicize the existence of the Pool, the eligibility requirements, procedures for enrollment, and availability of State premium subsidies and to maintain public awareness of the Pool.

(6) Establish procedures under which applicants and participants may have grievances reviewed by a grievance committee appointed by the Executive Director in accordance with G.S. 58-50-230.

(7) Establish procedures for identifying and confirming income levels of applicants for Pool coverage who are eligible to receive a State premium subsidy, if a State premium subsidy is available.

(8) Provide for other matters as may be necessary and proper for the execution of the Executive Director's powers, duties, and obligations under this Part.

(e) The Pool shall have the general powers and authority granted under the laws of this State to health insurers and the specific authority to do all of the following:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this Part, including the authority, with the approval of the Executive Director in collaboration with the Board, to enter into contracts with similar plans of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions.

(2) Sue or be sued.

(3) Take legal action as necessary to:

a. Avoid the payment of improper claims against the Pool or the coverage provided by or through the Plan.

b. Recover any amounts erroneously or improperly paid by the Plan.

c. Recover any amounts paid by the Pool as a result of mistake of fact or law.

d. Recover other amounts due the Pool.

(4) Establish rates and rate schedules in accordance with this Part.

(5) Issue policies of insurance in accordance with the requirements of this Part.

(6) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the Pool, policy, and other contract design, and any other function within the Pool's authority.

(7) Establish policies, conditions, and procedures for reinsuring risks of participating health insurers, as defined in G.S. 58-68-25(a), desiring

to issue Pool coverage in their own name. Provision of reinsurance shall not subject the Pool to any of the capital or surplus requirements, if any, otherwise applicable to reinsurers.

(8) Employ and fix the compensation of employees.

(9) Prepare and distribute certificate of eligibility forms and enrollment instruction forms to insurance producers and to the general public.

(10) Provide for reinsurance for the Pool.

(11) Issue additional types of health insurance policies to provide optional coverage, including Medicare supplemental insurance coverage.

(12) Provide for and employ cost containment measures and requirements including preadmission screening, second surgical opinion, concurrent utilization review, disease management, individual case management, health and wellness programs including a smoking cessation initiative, and other commonly used benefit plan design features for the purpose of making health insurance coverage offered by the Pool more cost-effective.

(13) Design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services, including establishing or contracting with preferred provider organizations, health maintenance organizations, and other limited network provider arrangements.

(14) Adopt bylaws, policies, and procedures as may be necessary or convenient for the implementation of this Part and the operation of the Pool.

(f) The Executive Director, with the approval of the Board, shall operate the Pool in a manner so that the estimated cost of providing the benefit plans offered during any calendar year is not anticipated to exceed the total income the Pool expects to receive from policy premiums and other revenue available to the Pool. The Board may impose a cap on enrollment or may suspend enrollment for an indefinite period if the Board finds that estimated costs are anticipated to exceed income, except that any enrollment cap or suspension shall not apply to federally defined eligible individuals who are eligible to enroll in the Pool pursuant to G.S. 58-50-195(a)(5).

(g) The Executive Director shall make an annual report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Commissioner, the Joint Legislative Health Care Oversight Committee, and the Committee on Employee Hospital and Medical Benefits. The report shall summarize the activities of the Pool in the preceding calendar year, including the net written and earned premiums, benefit plan enrollment, the expense of administration, and the paid and incurred losses.

(h) Neither the Board nor the employees of the Pool are liable for any obligations of the Pool. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the Pool or its agents or employees, the Board, the Executive Director, or the Commissioner or the Commissioner's representatives for any action taken by them in good faith in the performance of their powers and duties under this Part.

(i) The members of the Board are public servants under G.S. 138A-3(30) and are subject to the provisions of Chapter 138A of the General Statutes.

"**§ 58-50-185. Administrator.**

(a) The Executive Director, in collaboration with the Board, shall select through a competitive bidding process one or more insurers to administer the Pool. The Executive Director shall evaluate bids submitted based on criteria established by the Board. The criteria shall allow for the comparison of information about each bidding administrator and selection of a Pool Administrator based on at least the following:

(1) Proven ability to handle health insurance coverage to individuals.
(2) Efficiency and timeliness of the claim processing procedures.
(3) Estimated total charges for administering the Pool.
(4) Ability to apply effective cost containment programs and procedures and to administer the Pool in a cost-efficient manner.
(5) Financial condition and stability.
(6) Evidence of authority to provide third-party administrative services in North Carolina.

(b) The Administrator shall serve for a period specified in the contract between the Pool and the Administrator subject to removal for cause and subject to any terms, conditions, and limitations of the contract between the Pool and the Administrator. At least one year before the expiration of each period of service by an Administrator, the Executive Director shall invite eligible entities, including the current Administrator, unless the current Administrator was removed for cause, to submit bids to serve as the Administrator. Selection of the Administrator for the succeeding period shall be made at least six months before the end of the current period.

(c) The Administrator shall perform such functions relating to the Pool as may be assigned to it, including:

(1) Verification of eligibility.
(2) Payment of claims.
(3) Establishment of a premium billing procedure for collection of premiums from individuals covered under the Pool.
(4) Other necessary functions to assure timely payment of benefits to covered persons under the Pool.

(d) The Administrator shall submit regular reports to the Executive Director and the Board regarding the operation of the Pool. The contract between the Pool and the Administrator shall specify the frequency, content, and form of the report.

(e) Following the close of each calendar year, the Administrator shall determine net written and earned premiums, the expense of administration, and the paid and incurred losses for the year and report this information to the Executive Director and the Board on a form prescribed by the Executive Director.

(f) The Administrator shall be paid as provided in the contract between the Pool and the Administrator.

"**§ 58-50-190. Risk Pool rates and policy forms.**

(a) The Pool shall adopt and modify, as appropriate, rates, rate schedules, rate adjustments, expense allowances, agent referral fees, claim reserve formulas, and any

other actuarial function appropriate to the operation of the Pool. Rates and rate schedules may be adjusted for appropriate factors such as age, sex, and geographic variation in claim cost and shall take into consideration appropriate rating factors in accordance with established actuarial and underwriting practices.

(b) The Pool shall determine the standard risk rate by considering the premium rates charged by other insurers offering health insurance coverage to individuals. The standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for the coverage. Pool rates shall be one hundred fifty percent (150%) to two hundred percent (200%) of rates established as applicable for individual standard rates and shall be adjusted annually, at the time of annual renewal.

(c) The Executive Director, with the approval of the Board and the Commissioner, may develop incentive programs with premium discounts. The Pool may provide for premium surcharges for covered individuals who are smokers. Premium surcharge rates shall be established by the Executive Director, in collaboration with the Board, subject to the approval of the Commissioner.

(d) Provider reimbursement rates under Pool coverage shall be limited to the rates allowed for providers under the Medicare Program for those services covered by Medicare. The Board shall establish reimbursement rates for services for which Medicare has not established an allowed rate. Providers rendering medical care to an insured shall accept payment of the amount established under this subsection, including any applicable deductible, coinsurance, or co-payment amounts, as payment in full for services rendered.

(e) The Pool shall submit all premium rates and premium rate schedules and amendments to the Commissioner for approval. The Pool shall not use any premium rates, premium rate schedules, or amendments to the rates and schedules unless the Commissioner has approved them. The Commissioner, in evaluating the premium rates and premium rate schedules, shall consider the factors provided in this section. The Pool shall provide all individuals enrolled in the Pool with at least 45 days' notice of any change in Pool premium rates or premium rate schedules.

(f) The Pool shall submit all policy forms, riders, endorsements, and applications for coverage to the Commissioner for approval. The Pool shall not use any policy forms, riders, endorsements, or applications for coverages unless the Commissioner has approved them. Except for any provisions that are specifically treated otherwise under this Part, the provisions of this Chapter that apply to benefit plans and policy forms of health insurers generally shall apply to the benefit plans offered and policy forms used by the Pool.

"**§ 58-50-195. Eligibility for Pool coverage.**

(a) Any individual who is and continues to be a resident of this State is eligible for Pool coverage if the individual provides evidence of any of the following:

(1) A notice of rejection or refusal to issue substantially similar health insurance coverage for health reasons by an insurer. A rejection or refusal by an insurer offering only stop-loss, excess loss, or

reinsurance coverage with respect to the applicant is not sufficient evidence of eligibility.

(2) An offer to issue health insurance coverage only with a conditional rider that limits coverage for the individual's high-risk medical condition.

(3) A refusal by an insurer to issue health insurance coverage except at a rate exceeding the Pool rate.

(4) A diagnosis of the individual with one of the medical or health conditions listed by the Board in accordance with this section. An individual diagnosed with one or more of these conditions is eligible for Pool coverage without applying for other health insurance coverage.

(5) Qualification as a federally defined eligible individual, whether or not currently covered by an insurer under that qualification.

(6) An individual who is legally domiciled in this State and is eligible for the credit for health insurance costs under the Trade Adjustment Assistance Reform Act of 2002, section 35 of the Internal Revenue Code of 1986. Each dependent of an individual who is eligible for Pool coverage under this subdivision shall also be eligible for Pool coverage.

(7) The individual has current individual health insurance coverage at a rate exceeding the Pool rate.

(b) The Board, upon recommendation of the Executive Director, shall adopt a list of medical or health conditions for which a person shall be eligible for Pool coverage under subdivision (a)(4) of this section. The Board may amend the list as the Board considers appropriate.

(c) An individual is not eligible for coverage under the Pool if:

(1) The individual has or obtains medical care benefits substantially similar to or more comprehensive than the benefit plan offered by the Pool, or would be eligible to have coverage if the person elected to obtain it, except that:

a. An individual may maintain other coverage for the period of time the individual is satisfying any preexisting condition waiting period under a Pool policy; and

b. An individual may maintain Pool coverage for the period of time the individual is satisfying a preexisting condition waiting period under another health insurance policy intended to replace the Pool policy.

(2) The individual is determined to be eligible for enrollment in the State Medical Assistance Plan.

(3) The individual has previously terminated Pool coverage unless 12 months have lapsed since the termination, except that this subdivision shall not apply with respect to an applicant who is a federally defined

eligible individual or to an applicant eligible for or receiving benefits under the Trade Adjustment Assistance Program.

(4) The individual is an inmate or resident of a public institution, except that this subdivision shall not apply with respect to an applicant who is a federally defined eligible individual.

(5) The individual's premiums are paid for or reimbursed under any government-sponsored program or by any government agency or health care provider, except as an otherwise qualifying full-time employee, or dependent thereof, of a government agency or health care provider. This subdivision shall not apply for individuals receiving benefits under the Trade Adjustment Assistance Program or to individuals receiving premium subsidies made available by the State based on individual income levels.

(6) The individual has in effect on the date Pool coverage takes effect health insurance coverage from an insurer or insurance arrangement.

(d) Coverage under the Pool shall cease:

(1) On the date an individual is no longer a resident of this State.

(2) On the date an individual requests coverage to end.

(3) Upon the death of the covered individual.

(4) On the date State law requires cancellation of the Pool policy.

(5) At the option of the Pool, 30 days after the Pool makes any inquiry concerning the individual's eligibility or residence to which the individual does not reply.

(6) Because the individual has failed to make the payments required under this Part.

(e) Except as provided in subsection (d) of this section, an individual who ceases to meet the eligibility requirements of this section may be terminated at the end of the Pool policy period for which the necessary premiums have been paid.

"**§ 58-50-200. Unfair referral to Pool.**

It is an unfair trade practice under Article 63 of this Chapter and under Chapter 75 of the General Statutes for an employer, an insurer, an insurance producer, as defined in G.S. 58-33-10(7), or a third-party administrator to refer an individual employee to the Pool or arrange for an individual employee to apply to the Pool for the purpose of separating that employee from a group medical care benefit plan provided in connection with the employee's employment. This section shall not prohibit an insurer or insurance producer from informing an individual of other coverage options, including coverage provided by the Pool.

"**§ 58-50-205. Minimum Pool benefits.**

(a) The Pool shall offer at least two types of benefit plans for individuals eligible under G.S. 58-50-195, including preferred provider organizations with different levels of deductibles and cost-sharing, and at least one choice of a health savings account. The covered services and benefit levels may vary between the types of benefit plans, but at least two types of benefit plans must, at a minimum, cover the benefits and services outlined in the National Association of Insurance Commissioners' (NAIC) Model

Health Pool for Uninsurable Individuals Act and be consistent with comprehensive coverage generally available to persons who are eligible for individual health insurance other than Medicare. All benefit plans offered by the Pool shall include disease or case management services.

(b) The Board, upon the recommendation of the Executive Director, shall adopt rules regarding the lifetime limits and per individual combined coinsurance and deductibles for the health insurance products offered by the Pool. The initial rules shall include not less than one million dollars ($1,000,000) lifetime limit and a combined annual limit of up to five thousand dollars ($5,000) per individual on coinsurance and deductibles. The Board, upon recommendation of the Executive Director, shall adopt rules adjusting these limitations at least once every five years to reflect changes in the medical component of the Consumer Price Index. When adopting or adjusting lifetime limits the Board may establish categories of diseases that may be more seriously impacted by the lifetime limits than other diseases covered under the Pool.

"**§ 58-50-210. Preexisting conditions.**

(a) Except as otherwise provided by law, Pool coverage shall exclude charges or expenses incurred during the first 12 months following the effective date of coverage as to any condition for which medical advice, care, or treatment was recommended or received as to such conditions during the 12-month period immediately preceding the effective date of coverage, except that no preexisting condition exclusion shall be applied to a federally defined eligible individual.

(b) Subject to subsection (a) of this section, the preexisting condition exclusions shall be waived to the extent that similar exclusions, if any, have been satisfied under any prior health insurance coverage that was involuntarily terminated, provided that:

(1) Application for Pool coverage is made not later than 63 days following the involuntary termination, and in such case coverage in the Pool shall be effective from the date on which the prior coverage was terminated; and

(2) The applicant is not eligible for continuation or conversion rights that would provide coverage substantially similar to Pool coverage.

"**§ 58-50-215. Nonduplication of benefits.**

(a) The Pool shall be payor of last resort of benefits whenever any other benefit or source of third-party payment is available. Benefits otherwise payable under coverage shall be reduced by all amounts paid or payable through any other medical care benefits and by all hospital and medical expenses paid or payable under any workers' compensation coverage notwithstanding any provision of law to the contrary, automobile medical payment, or liability insurance, whether provided on the basis of fault or no-fault, and by any hospital or medical benefits paid or payable under or provided pursuant to any State or federal law or program.

(b) The Pool shall have a cause of action against an eligible person for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the Pool may be reduced or refused as a setoff against any amount recoverable under this subsection.

"**§ 58-50-220: Reserved for future codification purposes.**

"§ 58-50-225. North Carolina Health Insurance Risk Pool Special Fund.

(a) The North Carolina Health Insurance Risk Pool Special Fund is established as an interest-bearing, non-reverting account in the General Fund. The Special Fund consists of the following revenue:

(1) Premiums, fees, charges, rebates, refunds, and any other receipts occurring or arising in connection with the Pool.

(2) An annual General Fund appropriation of twenty-one million two hundred thousand dollars ($21,200,000); sixteen million two hundred thousand dollars ($16,200,000) of this amount represents the savings to the General Fund from repealing the income tax credit for small business employee health benefits.

(3) Gifts, grants, and other appropriations.

(b) Disbursements from the Special Fund shall include the amounts required to pay the claims, benefits, and administrative costs as may be determined by the Executive Director and the Board. Disbursement from the Special Fund may be made by warrant drawn on the State Treasurer by the Executive Director, or the Executive Director and the Board may by contract authorize the Administrator to draw the warrant.

"§ 58-50-230. Complaint procedures.

An applicant or participant in coverage from the Pool is entitled to have complaints against the Pool reviewed by a grievance committee appointed by the Executive Director. Members of the Board shall not serve on the grievance committee. The grievance process shall comply with G.S. 58-50-62. The grievance committee shall report to the Board after completion of the review of each complaint. The Executive Director shall retain all written complaints regarding the Pool at least until the third anniversary of the date the Pool received the complaint. Independent review of an appeal decision upholding a noncertification or a second-level grievance review decision upholding a noncertification shall be subject to review pursuant to Part 4 of this Article.

"§ 58-50-235. Audit.

An audit of the Pool shall be conducted annually under the oversight of the State Auditor. The cost of the audit shall be reimbursed to the State Auditor from the Special Fund.

"§ 58-50-240. Taxation.

The Pool established under this Part is exempt from any and all State taxes.

"§ 58-50-245. Rules.

The Board and the Commissioner may adopt rules pursuant to Chapter 150B of the General Statutes, including temporary rules, to implement this Part.

"§ 58-50-250. Collective action.

The establishment of rates, forms, or procedures and any other joint or collective action required by this Part may not be the basis of any legal action or criminal or civil liability or penalty against the Pool or any insurer.

"§ 58-50-255. Pool financing; Board reporting.

(a) The Board shall monitor methods of financing the Pool to ensure a stable funding source and allow for its continued operation. This monitoring shall include supplementary sources of funding, such as funds obtained from public and private not-for-profit foundations, or other appropriate and available State or non-State funds. The Board shall also review on a regular basis:

(1) The number of individuals in this State who are uninsured as of a date certain because of high-risk conditions.

(2) The number of uninsured individuals who would qualify for coverage under the Pool based on G.S. 58-50-195 and its Plan of Operation.

(3) The cost of coverage under each of the health insurance plans developed by the Board, including administrative costs.

(4) The status of a request by the State to the Centers for Medicare and Medicaid Services for approval of the North Carolina Health Insurance Risk Pool to be considered an acceptable "alternative mechanism" under the federal Health Insurance Portability and Accountability Act in accordance with 45 C.F.R. § 148.128(e).

(5) Methods for providing a premium subsidy on a sliding scale basis for individuals with incomes up to three hundred percent (300%) of the federal poverty guidelines.

(b) The Board shall report its findings and recommendations to the General Assembly on March 1, 2008, and annually thereafter.

"**§§ 58-50-260 through 265: Reserved for future codification purposes.**"

SECTION 1.2. On or before January 1, 2008, the Executive Director shall notify the Centers for Medicare and Medicaid Services that the State has established the North Carolina Health Insurance Risk Pool and shall request that the North Carolina Health Insurance Risk Pool be approved as an acceptable "alternative mechanism" under the federal Health Insurance Portability and Accountability Act in accordance with 45 C.F.R. § 148.128(e). The Executive Director shall notify the Commissioner when the Centers for Medicare and Medicaid Services approve the request.

SECTION 1.3. The Executive Director shall study methods for encouraging healthy behaviors among the Pool's insureds and report the Executive Director's findings to the Board and to the General Assembly not later than one year after initial implementation of the Pool.

SECTION 1.4. Notwithstanding G.S. 58-50-210(a), individuals enrolling in the Pool within six months of the date that enrollment into the Pool first begins shall be subject to a six-month preexisting condition waiting period.

SECTION 1.5. G.S. 120-70.111(a) reads as rewritten:

"(a) The Joint Legislative Health Care Oversight Committee shall review, on a continuing basis, the provision of health care and health care coverage to the citizens of this State, in order to make ongoing recommendations to the General Assembly on ways to improve health care for North Carolinians. To this end, the Committee shall study the delivery, availability, and cost of health care in North Carolina. The Committee shall also review, on a continuing basis, the implementation of the State Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the

General Statutes. As part of its review, the Committee shall advise and consult with the Department of Health and Human Services as provided under G.S. 108A-70.21. The Committee shall review, on a continuing basis, the implementation of the North Carolina Health Insurance Risk Pool established under Part 6 of Article 50 of Chapter 58 of the General Statutes. As part of its review, the Committee shall advise and consult with the Executive Director of the North Carolina Health Insurance Risk Pool as provided under G.S. 58-50-180. The Committee may also study other matters related to health care and health care coverage in this State."

SECTION 2.1. In addition to the North Carolina Health Insurance Risk Pool Special Fund established under G.S. 58-50-225, as enacted in this act, there is established in the Department of Insurance two separate funds, as follows:

(1) The Start-Up Reserve – State Funds. State funds appropriated to this Fund shall be used to support reasonable expenses for personnel to carry out the Board's responsibilities under the Pool, including contracting a third-party administrator. Funds shall be allocated by the Commissioner of Insurance for the reasonable expenses of the Board in conducting its duties under this Article that are incurred on or before July 1, 2009. At the end of the fiscal year, any unspent and unencumbered State funds and any interest or investment income earned on these funds shall not revert to the General Fund but shall be transferred to the North Carolina Health Insurance Risk Pool Special Fund.

(2) The Start-Up Reserve – Federal Funds. Federal funds received in lump sum or as a draw-down grant for the purposes of this Article shall be deposited to this Reserve and shall be expended and accounted for in accordance with requirements of the federal grant.

SECTION 2.2. It is the intent of the General Assembly that in the event the State is not awarded the federal funds anticipated, the General Fund shall be held harmless.

SECTION 3. There is appropriated from the General Fund to the Start-Up Reserve – State Funds established under Section 2.1 of this act, the sum of two hundred fifty thousand dollars ($250,000) for the 2007-2008 fiscal year. These funds shall be allocated for the purposes of and in accordance with Section 2.1 of this act. Unspent and unencumbered funds remaining on June 30, 2008, shall not revert to the General Fund but shall be used for the purposes described in Section 2.1 of this act.

SECTION 4. G.S. 105-129.16E, credit for small business employee health benefits, is repealed. As provided in G.S. 58-50-225, as enacted in this act, savings to the General Fund from the repeal of the credit for small business employee health insurance will be appropriated on a recurring basis to the North Carolina Health Insurance Risk Pool, as enacted by this act, for claims and other expenses of the North Carolina Health Insurance Risk Pool.

SECTION 5. Notwithstanding G.S. 143C-9-3(b) and G.S. 147-86.30, of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1992 during the 2008-2009 fiscal year, the sum of five

million dollars ($5,000,000) for the 2008-2009 fiscal year shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State transfers) to support General Fund appropriations by the 2007 General Assembly, Regular Session 2008, for operations and claims of the North Carolina Health Insurance Risk Pool, as enacted by this act.

SECTION 6. For the purposes of providing the funds necessary to carry out the powers and duties of the Pool, effective July 1, 2008, the Teachers' and State Employees' Comprehensive Major Medical Plan and any successor Plan shall pay an annual surcharge to the North Carolina Health Insurance Risk Pool Special Fund in the amount of one dollar and fifty cents ($1.50) per member per month based on enrollment of active employee Plan members and their dependents covered under the Plan.

SECTION 7. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 8. Sections 2.1, 2.2, and 3 of this act become effective July 1, 2007, and expire July 1, 2009. The remainder of this act is effective when it becomes law. Enrollment in the Pool shall commence no later than January 1, 2009.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 7

H. B. No. 265

S. B. No. _____

COMMITTEE SUBSTITUTE _____

DATE 7/26/07

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

Rep.)
Sen.) Rand

1 moves to amend the bill on page 15, line 11
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the word "month" and substituting
4 the word "year".
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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S COPY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 4

HOUSE BILL 1231

Committee Substitute Favorable 5/22/07
Committee Substitute #2 Favorable 6/5/07
Senate Judiciary I (Civil) Committee Substitute Adopted 7/23/07

Short Title: Certain Law Officers/Waive Handgun Permit. (Public)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO WAIVE THE REQUIREMENT TO OBTAIN A CONCEALED HANDGUN PERMIT TO CARRY A CONCEALED HANDGUN FOR CERTAIN PERSONS AUTHORIZED BY FEDERAL LAW TO CARRY CONCEALED HANDGUNS AND FOR CERTAIN FEDERAL AND STATE RETIRED LAW ENFORCEMENT OFFICERS, AND TO EXEMPT ARMED ARMORED CAR SERVICE GUARDS AND ARMED SECURITY GUARDS WHILE PERFORMING DUTIES FROM PROHIBITIONS ON CARRYING WEAPONS ON CERTAIN EDUCATIONAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.10 is amended by adding a new subdivision to read:

"(6) Qualified retired law enforcement officer. – An individual who meets all of the following qualifications:

a. Retired in good standing from service with a public agency located in the United States as a law enforcement officer, other than for reasons of mental instability.

b. Prior to retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of, any person for any violation of law, and had statutory powers of arrest.

c. Prior to retirement, was regularly employed as a law enforcement officer for a total of 15 years or more, or retired after completing probationary periods of service due to a service-connected disability, as determined by the agency.

d. Has a vested right to benefits under the retirement plan of the agency."

SECTION 2. G.S. 17C-6(a) is amended by adding a new subdivision to read:

"(16) Establish standards and guidelines for the annual firearms certification of qualified retired law enforcement officers, as defined in G.S. 14-415.10(6), to efficiently implement the provisions of G.S. 14-415.25. The standards shall provide for the courses, qualifications, and the issuance of the annual firearms qualification certification. The Commission may adopt any rules necessary to effect the provisions of this section, and may charge a reasonable fee to applicants for the costs incurred in compliance with this subdivision."

SECTION 3. Article 54B of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-415.25. Exemption from permit requirement.**

Law enforcement officers and qualified retired law enforcement officers authorized by federal law to carry a concealed handgun pursuant to section 926B or 926C of Title 18 of the United States Code, who are in compliance with the requirements of those sections, are exempt from obtaining the permit described in G.S. 14-415.11."

SECTION 4. Article 54B of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-415.26. Certification of qualified retired law enforcement officers.**

(a) In lieu of obtaining a permit under this Article, a qualified retired law enforcement officer may apply to the North Carolina Criminal Justice Education and Training Standards Commission for certification. The application shall include all of the following:

(1) Verification of completion of the firearms qualification criteria established by the Commission.

(2) Photographic identification indicating retirement status issued by the agency from which the applicant retired from service.

(3) Any other application information required by the Commission.

(b) The Commission shall include with the certification a notice of the limitations applicable under federal or State law to the concealed carry of firearms in this State. The failure to receive a notification under this subsection shall not be a defense to any offense or violation of applicable State or federal laws.

(c) The Commission shall not incur any civil or criminal liability as the result of the performance of its duties under this section.

(d) It shall be unlawful for an applicant, or any person assisting an applicant, to make a willful and intentional misrepresentation on any form or application submitted to the Commission. A violation of this subsection shall be a Class 2 misdemeanor, and shall result in the immediate revocation of any certification issued by the Commission. A person convicted under this subsection shall be ineligible for certification under this section, or from obtaining a concealed carry permit under State law.

(e) This section shall not exempt any individual engaged in the private protective services profession in this State from fulfilling the registration and training requirements in Chapter 74C of the General Statutes."

SECTION 5. G.S. 14-415.12(b)(8) reads as rewritten:

"**§ 14-415.12. Criteria to qualify for the issuance of a permit.**

(b) The sheriff shall deny a permit to an applicant who:

...

(8) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, ~~or 14-415.21(b).~~14-415.21(b), or 14-415.26(d)."

SECTION 6. G.S. 14-269.2(g) reads as rewritten:

"(g) This section shall not apply ~~to:~~to any of the following:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school ~~authority;~~authority.

(1a) A person exempted by the provisions of G.S. ~~14-269(b);~~14-269(b).

(2) Firefighters, emergency service personnel, and North Carolina Forest Service personnel, and any private police employed by ~~an educational institution,~~ a school, when acting in the discharge of their official ~~duties;~~duties.

(3) Home schools as defined in G.S. ~~115C-563(a); or~~115C-563(a).

(4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property.

(5) A person registered under Chapter 74C of the General Statutes as an armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.

(6) A person registered under Chapter 74C of the General Statutes as an armed security guard while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university."

SECTION 7. Sections 2, 6, and 7 of this act are effective when it becomes law. The remainder of this act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

HOUSE BILL 1231:
Certain Law Officers/Waive Handgun Permit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Reps. Gibson, Daughtridge	**Summary by:**	Martha Walston
Version:	Fourth Edition		Committee Counsel

SUMMARY: House Bill 1231 waives the concealed handgun permit requirement for certain persons authorized by federal law to carry concealed handguns and for certain federal and state retired law enforcement officers.

Senate Judiciary I amended the bill as follows:

- ***Clarifies that the proposed language authorizing a retired law enforcement officer to obtain certification in lieu of a concealed handgun permit, does not exempt an individual engaged in the private protective services profession in North Carolina from fulfilling the registration and training requirements in the Private Protective Services Act.***
- ***Exempts specified private protective services persons registered under the Private Protective Services Act from the statute prohibiting weapons on campus or other educational property. (G.S. 14-269.2).***

House Bill 1231 is in Senate Finance because it authorizes the North Carolina Criminal Justice Education and Training Standards Commission to charge a reasonable fee for certifying a qualified retired law enforcement officer to carry a concealed handgun. The certification is in lieu of a concealed handgun permit.

CURRENT LAW: Section 926B and 926C of Title 18 of the U.S. Code authorize current law enforcement officers and certain retired law enforcement officers to carry a concealed weapon without first obtaining a concealed carry permit. The federal law requires that certain criteria be met, and that the officers be able to provide certain types of identification showing that the officer or retired officer meets the criteria.

North Carolina does not have a process for retired law enforcement officers to obtain the identification required by federal law.

BILL ANALYSIS: HB 1231 amends the North Carolina Concealed Handgun Permit statutes as follows:

- Adds a definition for qualified retired law enforcement officer.
- Exempts law enforcement officers and qualified retired law enforcement officers authorized to carry a concealed handgun permit under section 926B or 926C of Title 18 of the U.S. Code from obtaining concealed handgun permit under the N.C. statutes.
- Authorizes a qualified retired law enforcement officer to obtain annual certification from the North Carolina Criminal Justice Education and Training Standards Commission to carry a concealed handgun. This certification is in lieu of a permit. The application for certification must include the following:
    1. Verification of completion of firearms qualifications criteria required by the Commission.

2. Photographic identification indicating retirement status from the agency where the applicant was a law enforcement officer.
3. Any other information required by the Commission.

The Commission must include with the certification a notice of the limitations to the concealed carry of firearms in N.C. However, failure to receive this notification is not a defense to a violation of State or federal laws. The Commission is not subject to any liability as a result of its duties under this section. It is a Class 2 misdemeanor for an applicant or any person assisting an applicant to make a willful and intentional misrepresentation on any form or application submitted to the Commission. A sheriff must deny a concealed handgun permit to anyone who has been found guilty of, received a prayer for judgment continued or a suspended sentence for this misdemeanor.

House Bill 1231 amends the North Carolina Criminal Justice Education and Training Standards Commission statutes by giving the Commission the responsibility and authority to establish the necessary standards and guidelines to annually certify qualified retirement officers to carry concealed handguns pursuant to federal law, to adopt rules, and to charge a reasonable fee for the certification. These standards must provide for courses, qualifications, and issuance of the annual firearms qualification certification.

A current law enforcement officer qualified to carry a concealed handgun under federal law would not have to obtain certification but would have to carry photographic identification issued by the governmental agency employing the officer.

HB 1231 amends the statute prohibiting the prohibition of weapons on campus or other educational property by exempting persons who are registered under Chapter 74C (Private Protective Services) as one of the following:

- An armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.
- An armed security guard while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university.

EFFECTIVE DATE: Section 2 of the act is effective when it becomes law. The remainder of the act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

H1231e4-SMLA

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1231 (Fourth Edition)

SHORT TITLE: Certain Law Officers/Waive Handgun Permit.

SPONSOR(S): Representatives Gibson and Daughtridge

	FISCAL IMPACT				
	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUE					
Justice	**No significant change assumed; however, the fee amount is indeterminate.**				
Sheriffs	**Possible decrease in receipts; amount is indeterminate.**				
GENERAL FUND					
Correction	**No significant fiscal impact for either Corrections or the Courts. See pp. 3-4, Assumptions and Methodology.**				
Judicial					
Justice	**No significant fiscal impact (p. 3)**				
TOTAL EXPENDITURES:	**Amount cannot be determined.**				
ADDITIONAL PRISON BEDS: (cumulative)*	**None anticipated.**				
POSITIONS: (cumulative)	**None anticipated.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice; Department of Correction; Judicial Branch; Sheriffs.

EFFECTIVE DATE: December 1, 2007. Sections 2, 6, and 7 are effective upon ratification.

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY: Section 926C of Title 18 of the U.S. Code provides that qualified retired law enforcement officers, as defined by the section, may carry concealed firearms if they possess the following identification:

1. Photo identification, issued by the agency from which the individual retired, that indicates fulfillment of the agency's standards/training for active law enforcement officers to carry a firearm; or,

2. Photo identification issued by the agency from which the individual retired, and *certification* issued by the state in which the individual resides that indicates fulfillment of the agency's standards/training for active law enforcement officers to carry a firearm.

Accordingly, H.B. 1231 provides for the certification of qualified retired law enforcement officers (as similarly defined by federal law) through the N.C. Criminal Justice Education and Training Standards Commission (Department of Justice), and exempts those in compliance with the requirements of sections 926B (active law enforcement) and 926C of Title 18 from North Carolina's concealed handgun permit requirement. Currently, persons without the requisite identification must obtain a concealed handgun permit (Article 54B of Chapter 14); therefore, the certification provides an alternative to the current permitting process.

In addition, H.B. 1231 makes it a Class 2 misdemeanor for an applicant to make a willful and intentional misrepresentation on any form or application submitted to the Commission; it also provides for the denial of a concealed handgun permit to any individual convicted of this offense.

The third edition (Senate committee substitute) makes the following changes to the second edition:

1. Modifies proposed G.S. 14-215.26 to clarify that it does not exempt an individual from fulfilling the registration and training requirements of Chapter 74C.
2. Effective when the act becomes law, amends G.S. 14-269.2 (Weapons on campus or other educational property) to exempt specified private protective services persons registered under Chapter 74C.
3. Makes technical and conforming changes.

Source: Adapted from Bill Digest (H.B. 1231)

ASSUMPTIONS AND METHODOLOGY

PART I. ANNUAL FIREARMS CERTIFICATION

Currently, a person who meets the requisite criteria (Article 54B) may apply for, and receive, a concealed handgun permit from the sheriff of his county of residence. The permit is valid for five years, and must be renewed prior to 30 days of the date of expiration. G.S. 14-415.19, sets forth the following permit fees (payable to the sheriff) and remittances:

General Permit		
Fee type	**Amount**	**Remittance**
Application	$80	County Finance Officer remits $45 of each new application and $40 of each new renewal fee to the Department of Justice for the costs of State and federal criminal record checks, and for the implementation of Article 54B; the remaining $35 is used by the collecting sheriff to pay administrative (Article 54B) and other law enforcement costs.
Renewal	$75	
Duplicate	$15	
Retired Sworn Law Enforcement*		
Fee type	**Amount**	**Remittance**
Application	$45	County Finance Officer remits the proceeds of each new application and renewal fee to the Department of Justice for the costs of State and federal criminal record checks, and for the implementation of Article 54B.
Renewal	$40	

* Retired sworn law enforcement must provide the following information:

1. Copy of the officer's letter of retirement from either the N.C. Teacher's and State Employees' Retirement System or the N.C. Local Governmental Employees' Retirement System; and,
2. Written documentation from the head of the employing agency that indicates the person was neither involuntarily terminated nor under administrative or criminal investigation within six months of retirement

Consequently, fee proceeds could decrease for both the Department of Justice and sheriffs if qualified retired law enforcement officers pursue certification *in lieu of permitting* (or increase for DOJ, depending on the fee amount and actual number of certifications). However, because H.B. 1231 authorizes the Commission to charge a reasonable fee to applicants, no significant change in receipts is assumed for the Department of Justice – *the appropriate fee amount is indeterminate at this time.* Conversely, sheriffs' total receipts could decrease if officers retired from out-of-state service seek certification, rather than a general concealed handgun permit (would forego $35 per permit).

It is not known how many qualified retired law enforcement officers, from service in North Carolina or out-of-state, would apply for *annual* certification. Data collected by the Criminal Justice Education and Training Standards Commission, in consultation with the Retirement Systems Division, indicates that approximately 1,637 officers and deputies have retired in the past 10 years, with an average of 218 having retired per year during the past five years. The number of retirees from out-of-state service is unknown.

While the appropriate fee amount is unknown, the Department of Justice expects that any additional resource needs, arising from the requisite planning and implementation of the certification process, will be covered by future proceeds. Accordingly, no additional funding is required.

PART II. CRIMINAL OFFENSE

H.B. 1231 creates a new Class 2 misdemeanor offense for an applicant to make a willful and intentional misrepresentation on any form or application submitted to the Commission. Since this is a new offense, there is no historical data from which to estimate potential violation. However, Fiscal Research assumes that most applicants will lawfully apply for the certification, resulting in few additional charges and/or convictions. Although some additional costs could be incurred by the Courts and Corrections due to resultant charges and/or convictions, these costs should not prove significant.

Department of Correction

There is no historical data from which to estimate the number of convictions that might result for the proposed offense. However, since *Class 2 misdemeanants serve their designated terms of incarceration within local jails, there is no anticipated impact on the state prison population.*[1] *The potential impact on local jail populations is unknown.*

In FY 2005-06, 17% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 13 days. Per Structured Sentencing, Class 2 active sentences may range from one to sixty days in length. Consequently, the Department of Correction could incur some additional costs for county reimbursement; though, the typical sentence length suggests minimal impact.

The remaining 83% of Class 2 misdemeanants in FY 2005-06 received non-active, intermediate or community punishments. Thus, if new convictions result, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision. Included below is an overview of DCC supervision/sanction costs, per offender.

- General supervision of intermediate and community offenders by a probation officer costs DCC $1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of $0.69 per offender sentenced to the Community Service Work Program.

[1] Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties $18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

- The daily cost per offender on intermediate sanction is much higher, ranging from $7.71 to $14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated $14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

Although the number of resultant charges is unknown, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Presently the estimated costs per Class 2 misdemeanor trial and plea are $2,770 and $230, respectively. These cost estimates account for indigent defense. However, actual costs may vary with time requirements and disposition.

SOURCES OF DATA: Department of Justice; N.C. Sheriffs' Association; Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and Office of State Construction.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and Jean Sandaire

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 26, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

HOUSE BILL 1217

Short Title:	Navassa Annexation Agreement.	(Local)
Sponsors:	Representatives Stiller and Hill (Primary Sponsors).	
Referred to:	Local Government II, if favorable, Finance.	

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF NAVASSA TO ENTER INTO AN AGREEMENT FOR PAYMENTS IN LIEU OF ANNEXATION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any applicable provision of the General Statutes or any other public or local law, the Town of Navassa is granted certain contract powers as follows:

(1) The Town of Navassa may, by agreement, provide that certain property described in the agreement as the "DAK Property" may not be involuntarily annexed by the Town prior to January 1, 2016, under the General Statutes as they now exist or may be subsequently amended. The Town of Navassa shall not seek to repeal this act upon its approval by the General Assembly.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this section to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the Town Council of the Town of Navassa during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

SECTION 2. The Town of Navassa may accept payments in lieu of taxes as consideration for the agreement discussed in Section 1 of this act.

SECTION 3. The Town of Navassa will accept the total amount of one million two hundred thousand dollars ($1,200,000) as payment in lieu of taxes on the DAK Property. DAK shall make biannual payments in the amount of sixty thousand dollars ($60,000). This is one hundred twenty thousand dollars ($120,000) per year during the course of the agreement.

SECTION 4. The agreement under Section 1 of this act shall apply to the DAK Property described as follows: a 615.7999-acre tract in an unincorporated area adjacent to the Town and identified as Brunswick County Parcel No. 01100001.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 1217:
Navassa Annexation Agreement

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Reps. Stiller, Hill	**Summary by:**	Judy Collier
Version:	First Edition		Research Assistant

SUMMARY: ***House Bill 1217 is a local bill that authorizes the Town of Navassa located in Brunswick County to enter into an agreement to accept payment of 1.2 million dollars in lieu of annexing property belonging to DAK[1] for a period of 10 years.***

BILL ANALYSIS: The Town of Navassa is specifically authorized to enter into an agreement that:

- Stipulates that certain property described in the bill, known locally as the "DAK property," may not be involuntarily annexed before January 1, 2016.
- Stipulates that any agreement entered into is a continuing agreement, binding on and enforceable against the current and future members of the Town Council during the full term of the agreement.
- Provides that any agreement entered into is deemed to be proprietary and commercial and is specifically determined to be consistent with the public policy of the State of North Carolina.
- Provides that the parties may modify the agreement by mutual written consent, without the approval of the General Assembly, as long as the modification does not materially alter the concept of the agreement.

EFFECTIVE DATE: HB 1217 would become effective when it becomes law.

BACKGROUND: Similar legislation has been enacted for the following municipalities:

1.	City of Eden	S.L. 2002-74 S.L. 2003-316
2.	Town of Huntersville	S.L. 2000-100
3.	Town of Weldon	S.L. 2001-425

H1217e1-SMRE

Barbara Riley, counsel to House Local Government II Committee substantially contributed to this summary.

H1217e1-SMRE

[1] The DAK Property is described in section 4 of the bill as a 615.7999 acre tract in an unincorporated area adjacent to the Town and identified as Brunswick County Parcel No. 01100001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 864*

Health Care Committee Substitute Adopted 7/11/07

PROPOSED COMMITTEE SUBSTITUTE S864-CSSQf-52 [v.8]

7/26/2007 10:50:12 AM

Short Title: Amend Chiropractic Practice Act. (Public)

Sponsors:

Referred to:

March 19, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHIROPRACTIC PRACTICE ACT TO REQUIRE CRIMINAL RECORD CHECKS ON APPLICANTS FOR LICENSURE AS CHIROPRACTIC PHYSICIANS, TO PROHIBIT CHIROPRACTORS FROM OFFERING ENTICEMENTS TO PROSPECTIVE PATIENTS, TO EXPAND THE GROUNDS FOR PROFESSIONAL DISCIPLINE OF CHIROPRACTORS, TO REPEAL THE SALES AND USE TAX EXEMPTION FOR NUTRITIONAL SUPPLEMENTS SOLD BY A CHIROPRACTOR, AND TO AMEND THE PERFUSIONIST LICENSURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-143.3. Criminal record checks of applicants for licensure.**

(a) Any person applying for licensure as a chiropractic physician in this State shall provide to the Board a fingerprint card in a format acceptable to the Board and a form signed by the applicant consenting to a criminal record check and the use of the applicant's fingerprints and such other identifying information as may be required by the State or national data banks. The Board shall submit these documents to the Department of Justice, along with a request for a criminal record check of the applicant.

(b) Upon receipt of the Board's submission, the Department of Justice shall commence the requested criminal record check. The Department of Justice shall forward a set of the applicant's fingerprints to the State Bureau of Investigation for a search of the State's criminal records, and the State Bureau of Investigation shall forward a set of the applicant's fingerprints to the Federal Bureau of Investigation for a search of national criminal records. The Department of Justice may charge the licensure applicant a fee for performing the criminal record check.

(c) The Board shall keep all information obtained from criminal record checks privileged and confidential, in accordance with applicable State law and federal guidelines, and the information shall not be a public record under Chapter 132 of the General Statutes. If the Board refuses to issue a license based in whole or part on information obtained from a criminal record check, the Board may disclose the relevant information to the applicant but shall not provide a copy of the record check to the applicant.

(d) When acting in good faith and in conformity with this section, the Board, its officers, and employees shall be immune from civil liability for initially refusing licensure based on information contained in a criminal record check supplied by the Department of Justice, even if the information relied upon is later shown to be erroneous."

SECTION 2. Part 2 of Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"**§114-19.20. Criminal record checks of applicants for licensure as chiropractic physicians.**

The Department of Justice may provide to the State Board of Chiropractic Examiners from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 8 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 3. Article 8 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-154.4. Enticements prohibited.**

(a) For purposes of this section, an enticement is anything of monetary value offered by a chiropractor to a prospective patient as an incentive to enter treatment. Except as permitted in subsection (b) of this section, it shall be an unlawful rebate, in violation of G.S. 90-154(b)(12), for a chiropractor to offer an enticement to a prospective patient if, at the time the offer is made, the chiropractor knows or has reason to believe that the prospective patient's treatment expenses will be paid in whole or part by an insurer or other third-party payor.

(b) Unless prohibited by other State or federal law, the following marketing practices shall not be construed as violations of subsection (a) of this section:

(1) Free or reduced rates, services, examinations, or treatments advertised and delivered in conformity with G.S. 90-154.1.

(2) Cash or point-of-service discounts not more than 30 percentage points lower than the charges customarily billed to third-party payors.

(3) Prepaid wellness plans covering only services that can be performed entirely by the offering chiropractor or the chiropractor's staff within the confines of the chiropractor's office.

(4) Merchandise with a value of not more than ten ($10.00) dollars given to a prospective patient for promotional purposes."

SECTION 4. G.S. 90-154(b) is amended by adding a new subdivision to read:

"(b) Any one of the following is grounds for disciplinary action by the Board under subsection (a):

...

(21) Committing an act on or after October 1, 2007 which demonstrates a lack of good moral character which would have been a basis for denying a license under G.S. 90-143(b)(1), had it been committed before application for a license."

SECTION 5. G.S. 90-151.1 reads as rewritten:

"**§ 90-151.1. Selling nutritional supplements to patients.**

A chiropractic physician may sell nutritional supplements at a chiropractic office to a patient as part of the patient's plan of treatment but may not otherwise sell nutritional supplements at a chiropractic office. ~~A chiropractic physician who sells nutritional supplements to a patient must keep a record of the sale that complies with G.S. 105-164.24, except that the record may not disclose the name of the patient.~~"

SECTION 6. G.S. 105-164.13(13c) is repealed.

SECTION 7. G.S. 90-682(2) reads as rewritten:

"**§ 90-682. Definitions.**

The following definitions apply in this Article:

...

(2) Committee. – The ~~North Carolina Perfusion Advisory Committee.~~Perfusionist Advisory Committee of the North Carolina Medical Board.

..."

SECTION 8. G.S. 90-682.1 reads as rewritten:

"**§ 90-682.1. Medical Board approval required.**

(a) The Committee shall report to the Medical Board all actions taken by the Committee pursuant to this Article, except for actions taken by the Committee pursuant to G.S. 90-684. No action by the Committee is effective unless the action is approved by the Medical Board. The Medical Board may also rescind or ~~supercede,~~supersede, in whole or in part, any action taken by the Committee in carrying out the provisions of this Article, except for actions taken by the Committee pursuant to G.S. 90-684. In rescinding or superseding an action by the Committee, the Board may remand the matter back to the Committee with instructions to perform some act consistent with this

Article or Article 1 of Chapter 90. Members of the Medical Board may be selected by the President of the Board to participate in the matter that is subject of the Order remanding the matter back to the Committee.

(b) The Board may waive any requirements of this Article consistent with G.S. 90-12.2."

SECTION 9. G.S. 90-684 is amended by adding a new subsection to read:

"(h) Qualified Immunity. – The Committee and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law. A person, partnership, firm , corporation, association, authority, or other entity acting in good faith without fraud or malice shall be immune from civil liability for (i) reporting, investigating, or providing an expert medical opinion to the Committee regarding the acts and omissions of a licensee or applicant that violates the provisions of G.S. 90-691(a) or any other provision of law relating to the fitness of a licensee or applicant to practice perfusion and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. A person shall not be held liable in any civil proceeding for testifying before the Committee in good faith and without fraud or malice in any proceeding involving a violation of G.S. 90-961(a) or any other law relating to the fitness of an applicant or licensee to practice perfusion, or for making a recommendation to the Committee in the nature of peer review, in good faith and without fraud and malice."

SECTION 10. G.S. 90-685 reads as rewritten:

"**§ 90-685. Powers of the Committee.**

The Committee shall have the power and duty to:

(1) Administer this Article.

(2) Issue interpretations of this Article.

(3) Adopt, amend, or repeal rules as may be necessary to carry out the provisions of this Article.

(4) Employ and fix the compensation of personnel that the Committee determines is necessary to carry into effect the provisions of this Article and incur other expenses necessary to effectuate this Article.

(4a) Establish the standards for qualifications and fitness of applicants for licensure, provisional licensure, licensure renewal, and reciprocal licensure.

(5) Determine the qualifications and fitness of applicants for licensure, provisional licensure, licensure renewal, and reciprocal licensure.

(6) Issue, renew, deny, suspend, or revoke licenses, order probation, issue reprimands, and carry out any other disciplinary actions authorized by this Article.

(7) Set fees for licensure, provisional licensure, reciprocal licensure, licensure renewal, and other services deemed necessary to carry out the purposes of this Article.

(8) Establish continuing education requirements for licensees.

(9) Establish a code of ethics for licensees.

(10) Maintain a current list of all persons who have been licensed under this Article.

(11) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensees exist.

(12) Maintain a record of all proceedings and make available to all licensees and other concerned parties an annual report of all Committee action.

(13) Adopt a seal containing the name of the Committee for use on all official documents and reports issued by the Committee.

(14) Summon and issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the Committee.

(15) Order that any patient records, documents or other material concerning any matter to be heard before or inquired into by the Committee shall be produced before the Committee or made available for inspection, notwithstanding any other provisions of law providing for the application of any physician-patient privilege with respect to such records, documents or other material. The Committee shall withhold from public disclosure the identity of a patient including information relating to dates and places of treatment, or any other information that would tend to identify the patient, unless the patient or the representative of the patient expressly consents to the disclosure.

(16) Order a licensee whose health and effectiveness have been significantly impaired by alcohol, drug addiction or mental illness to attend and successfully complete a treatment program as deemed necessary and appropriate."

SECTION 11. Article 40 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-685.1. Confidentiality of Committee investigative information.**

(a) All records, papers, investigative files, investigative reports, other investigative information and other documents containing information in the possession of or received or gathered by the Committee, or its members or employees as a result of investigations, inquiries or interviews conducted in connection with a licensing, complaint, or disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Committee, its employees or agents involved in the application for license or discipline of a license holder, except as provided in subsection (b) of this section. For purposes of this subsection, investigative information includes information relating to the identity of, and a report made by, a perfusionist, or other person performing an expert review for the Committee.

(b) The Committee shall provide the licensee or applicant with access to all information in its possession that the Committee intends to offer into evidence in presenting its case in chief at the contested hearing on the matter, subject to any

privilege or restriction set forth by rule, statute, or legal precedent, upon written request from a licensee or applicant who is the subject of a complaint or investigation, or from the licensee's or applicant's counsel, unless good cause is shown for delay. The Committee is not required to provide any of the following:

(1) A Committee investigative report.

(2) The identity of a non-testifying complainant.

(3) Attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Rules of Civil Procedure or the Rules of Evidence."

SECTION 12. G.S. 90-690 reads as rewritten:

"**§ 90-690. Renewal of licenses.**

(a) All licenses to practice perfusion shall expire two years after the date they were issued. The Committee shall send a notice of expiration to each licensee at his or her last known address at least 30 days prior to the expiration of his or her license. All applications for renewal of unexpired licenses shall be filed with the Committee and accompanied by proof satisfactory to the Committee that the applicant has completed the continuing education requirements established by the Committee and the renewal fee as required by G.S. 90-689.

(b) An application for renewal of a license that has been expired for less than three years shall be accompanied by proof satisfactory to the Committee that the applicant has current certification as defined by G.S. 90-682(1), has satisfied the continuing education requirements established by the Committee and has paid the renewal and late fees required by G.S. 90-689. A license that has been expired for more than three years shall not be renewed, but the applicant may apply for a new license by complying with the current requirements for licensure under this Article."

SECTION 13. Article 40 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-690.1. Maintenance of certification to maintain licensure.**

(a) After December 31, 2007, all licensed perfusionists who are licensed under this Article shall maintain certification as defined in G.S. 90-682(1) in order to maintain licensure. If certification shall lapse at any time, the Committee may initiate disciplinary action under G.S. 90-691, or upon a finding consistent with G.S. 150B-3(c), may order the summary suspension of the perfusionist's license.

(b) The provisions of this section shall not apply to perfusionists who were licensed under Section 2 of S. L. 2005-267.

SECTION 14. G.S. 90-691 reads as rewritten:

"**§ 90-691. ~~Suspension, revocation, and refusal to renew.~~Disciplinary Authority.**

(a) The Committee may place on probation with or without conditions, impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public letters of concern, require satisfactory completion of treatment programs or remedial or educational training, deny, refuse to renew, suspend, or revoke an application or license ~~or order probation or issue a reprimand~~ if the applicant or licensee:

(1) Gives false information or withholds material information from the Committee in procuring or attempting to procure a license.

(2) Gives false information or withholds material information from the Committee during the course of an investigation conducted by the Committee.

(3) Has been convicted of or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to practice perfusion as defined in this Article or that indicates the person has deceived, defrauded, or endangered the public.

(4) Has a habitual substance abuse or mental impairment that interferes with his or her ability to provide appropriate care as established by this Article or rules adopted by the Committee. The Committee is empowered and authorized to require a licensee to submit to a mental or physical examination by persons designated by the Committee before or after charges may be presented against the licensee, and the results of the examination shall be admissible in evidence in hering before the Committee.

(5) Has demonstrated gross negligence, incompetency, or misconduct in the practice of perfusion as defined in this Article. The Committee may, upon reasonable grounds, require a licensee to submit to inquiries or examinations, written or oral, as the Committee deems necessary to determine the professional qualifications of the licensee.

(6) Has had an application for licensure or a license to practice perfusion in another jurisdiction denied, suspended, or revoked for reasons that would be grounds for similar action in this State.

(7) Has willfully violated any provision of this Article or rules adopted by the Committee.

(8) Has allowed his or her certification to lapse.

(b) The taking of any action authorized under subsection (a) of this section may be ordered by the Committee after a hearing is held in accordance with Article 3A of Chapter 150B of the General Statutes. The Committee may reinstate a revoked license if it finds that the reasons for revocation no longer exist and that the person can reasonably be expected to perform the services authorized under this Article in a safe manner."

SECTION 15. This act becomes effective October 1, 2007.

SENATE BILL 864:
Amend Chiropractic Practice Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Sen. Purcell	**Summary by:**	Martha Walston
Version:	PCS to Second Edition S864-CSLA		Committee Counsel

SUMMARY: Senate Bill 864, which was given a favorable report in Senate Health Care, amends the statutes governing the licensure of chiropractic physicians as follows:

- ***Requires criminal record checks on applicants for licensure as a chiropractic physician.***
- ***Prohibits chiropractors from offering enticements to prospective patients.***
- ***Expands the grounds for professional discipline of licensees by the State Board of Chiropractic Examiners.***

The PROPOSED COMMITTEE SUBSTITUTE amends the chiropractic statutes as follows:

- ***Authorizes the Department of Justice to conduct a criminal history check of any applicant for licensure with the State Board of Chiropractic Examiners***
- ***Repeals the sales tax exemption for nutritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment.***

The PROPOSED COMMITTEE SUBSTITUTE also amends the Perfusionist Licensure Act as set out in the Bill Analysis.

BILL ANALYSIS:

Section 1 requires a criminal record check of any applicant for licensure as a chiropractic physician. Applicants shall provide to the Board a signed consent form authorizing the background check, a finger print car, and other identifying materials needs to conduct the check. SB 864 direct the Board to submit these documents to the Department of Justice to commence the criminal record check and authorizes the Department to charge a fee to the applicant for performing the criminal record check. The Board must keep all information obtained from the criminal record check confidential. The Board is released from liability for refusing to grant a license based on information contained in the criminal record check.

Section 2 authorizes the Department of Justice to conduct criminal history checks on applicants for licensure with the Board.

Section 3 prohibits a chiropractor from offering an enticement (anything of monetary value) to a prospective patient, if at the time of the offer the chiropractor knows or has reason to know that an insurer or another third party payor will be paying for some portion of the treatment. The act sets out specified marketing practices that are not violations.

Section 4 provides that a licensee's act demonstrating a lack of good moral character is grounds for disciplinary action by the Board.

Sections 5 and 6 repeal the sales tax exemption for nutritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment, and deletes language that is no longer required because of the repeal.

Sections 7 through 14 make the following changes to the Perfusionist Licensure Act.[1]

- Renames the NC Perfusion Advisory Committee, the Perfusionist Advisory Committee of the North Carolina Medical Board. (Current law requires this Committee to report all actions taken by the Committee to the Medical Board.) **Section 7**
- If the Medical Board rescinds or supersedes the Perfusionist Advisory Committee, the Board may remand the matter back to the Committee. The President of the Medical Board may select members of the Medical Board to participate in the matter being remanded. **Section 8**
- The Perfusionist Advisory Committee and its members and staff are given immunity in any civil or criminal proceeding if they acted in good faith. Qualified immunity from civil liability is also given to anyone providing information to the Committee, bringing an action before the Committee, or testifying before the Committee if done in good faith without fraud or malice. **Section 9**
- Expands the powers of the Perfusionist Advisory Committee. **Section 10**
- Provides that investigative information and other documents in the possession of or received or gathered by the Committee in connection with a licensing, complaint or disciplinary matter are confidential. Requires the Committee to provide the licensee or applicant access to all information in possession of the Committee if requested by the licensee or applicant or their counsel, except certain specified documents. **Section 11**
- Clarifies that an applicant for renewal of a license that has been expired for less than three years must show proof satisfactory to the Committee that the applicant has a current certification that the applicant has successfully completed the examination process and has been issued a certificate by the American Board of Cardiovascular Perfusion. **Section 12**
- After December 31, 2007.all perfusionists who are licensed under the Article must maintain certification in order to maintain licensure. This requirement does not apply to perfusionists who were issued a license because his or her primary job function has been operating cardiopulmonary bypass systems during cardiac surgery cases in a licensed health care facility in the five years immediately preceding application to the Committee or within five of the last eight years preceding application to the Committee. **Section 13**
- Expands the disciplinary authority of the Committee. **Section 14**

EFFECTIVE DATE: The act becomes effective October 1, 2007.

S0864e2-SMLA-CSLA

[1] Practice of perfusion is the performing of functions, under the supervision of a licensed physician, necessary for the support, eatment, measurement, or supplementation of the cardiovascular, circulatory, and respiratory systems or other organs, or the combination of those functions, and the ensuring safe management of physiological function by monitoring and analyzing the parameters of the systems during any medical situation where it is necessary to support or replace the patient's cardiopulmonary or circulatory function.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 26, 2007

TO: Senate Committee on Finance

FROM: Rodney Bizzell and Bryce Ball
Fiscal Research Division

RE: S864-CSSQf-52

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
General Fund	**$0.1 m**	**$0.2 m**	**$0.2 m**	**$0.2 m**	**$0.2 m**
Justice			**Up to 5,700 annually.**		
EXPENDITURES:					
Justice			**Approximately $5,500 annually.**		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Department of Justice.

EFFECTIVE DATE: October 1, 2007

BILL SUMMARY:
The PCS for SB 864:

- Authorizes the Department of Justice to conduct a criminal history check of any applicant for licensure with the State Board of Chiropractic Examiners
- Repeals the sales tax exemption for nutritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment.

The PROPOSED COMMITTEE SUBSTITUTE also amends the Perfusionist Licensure Act as set out in the Bill Analysis.

ASSUMPTIONS AND METHODOLOGY:

The State Board of Chiropractic Examiners anticipates approximately 120 to 150 applicants for licensure annually. The State Bureau of Investigation (SBI) of the Department of Justice charges non-criminal justice agencies $38 per state and national record check, as follows:

NC Fingerprint Check:	$14
National Fingerprint Check:	$24 ($2 to DOJ, $22 remitted to the FBI)
Total:	$38

FRD assumes the costs of conducting these criminal record checks will be incurred by the applicants for licensure, including any costs incurred for fingerprinting (live-scan, electronic fingerprinting assumed). Accordingly, assuming up to 150 state and national record checks, DOJ annual fee proceeds would approach $5,700.

The unit cost for conducting national and criminal record checks via live-scan is $14.54 (cost includes overhead and equipment). Each staff member in the SBI's fingerprint identification section can perform, on average, 8,000 - 10,000 checks per year. As indicated, the costs incurred for criminal record checks are largely offset by fee collections, and existing SBI staff and resources should accommodate any increase in workload.

Record Check	Agency Fee	DOJ Total Cost*
Live-Scan Fingerprint Check (NC data only)	$14.00	$14.54
Live-Scan Fingerprint Check (NC and FBI data)	$38.00	$36.54

*2005 unit costs are derived from OSBM "Study of the Cost of Providing Criminal Record Checks;" costs include an equipment allowance and 12.5% overhead rate

Cost for state and federal record checks includes $22 remittance per check to the Federal Bureau of Investigation

Sections 5 and 6 repeal the sales tax exemption for nutritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment. The Department of Revenue indicates that this exemption currently results in a loss of $200,000 annually. Therefore, repealing the exemption would result in a gain of $200,000 annually. This amount is increased by 3% each year to account for inflation.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 646*

Agriculture/Environment and Natural Resources Committee Substitute Adopted 7/23/07

PROPOSED COMMITTEE SUBSTITUTE S646-CSLAf-33 [v.1]

7/26/2007 12:20:59 PM

Short Title: Enact WASC Recommendations/Funds. (Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR WORKING WATERFRONT PROPERTY, TO ESTABLISH THE ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS, TO MAKE EXPANDED PUBLIC ACCESS TO COASTAL WATERS A PRIORITY IN PLANNING STATE ROAD PROJECTS, TO INCREASE FEES FOR VESSEL TITLING; TO WAIVE PERMIT FEES FOR EMERGENCY COASTAL AREA MANAGEMENT ACT PERMITS, AND TO DIRECT A STUDY OR CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES, AS RECOMMENDED BY THE WATERFRONT ACCESS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. PROPERTY TAX RELIEF FOR WORKING WATERFRONT PROPERTY.

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"**§ 105-277.14. Taxation of working waterfront property.**

(a) Definitions. – The following definitions apply in this section:

(1)Coastal fishing waters. – Defined in G.S. 113-129.

(2) Commercial fishing operation. – Defined in G.S. 113-168.

(3) Fish processing. -- Processing fish, as defined in G.S. 113-129, for sale.

(4) Working waterfront property. – Any of the following:

a. A pier that extends into coastal fishing waters and limits access to those who pay a fee.

b. Real property that is adjacent to coastal fishing waters and is primarily used for a commercial fishing operation or fish processing.

(b) Classification. – Working waterfront property is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section. Working waterfront property must be taxed on the basis of the value of the property in its present use rather than on its true value.

(c) Deferred Taxes. -- The difference between the taxes that are due on working waterfront property taxed on the basis of its present use and that would be due if the property were taxed on the basis of its true value are a lien on the property. The difference in taxes must be carried forward in the records of each taxing unit as deferred taxes. The deferred taxes become due when the property no longer qualifies as working waterfront property. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the property had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the property no longer qualifies as working waterfront property, the assessor must determine the amount of deferred taxes applicable to that part and that amount becomes payable with interest. Upon the payment of any taxes deferred under this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished.

(c) Application. – To obtain the benefit of this section, the owner of working waterfront property must submit an application for classification and exclusion to the assessor of the county in which the property is located and the assessor must approve the application. An application must contain the information and be in the form required by the assessor. An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed or within 30 days of the date shown on a notice of change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred or becomes ineligible for classification under this section.

PART II. ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS.

SECTION 2.1. There is established the Advisory Committee for the Coordination of Waterfront Access within the Department of Environment and Natural Resources. The Advisory Committee shall be composed of the following members:

(1) The Secretary of Environment and Natural Resources or the Secretary's designee, Chair.

(2) The Director of the Division of Coastal Management of the Department of Environment and Natural Resources or the Director's designee.

(3) The Director of the Division of Parks and Recreation of the Department of Environment and Natural Resources or the Director's designee.
(4) The Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources or the Director's designee.
(5) The Director of the Division of Aquariums of the Department of Environment and Natural Resources or the Director's designee.
(6) The Executive Director of the Wildlife Resources Commission or the Executive Director's designee.
(7) A representative of the State Property Office appointed by the Secretary of Administration.
(8) The Executive Director of North Carolina Sea Grant.
(9) One local government representative appointed by the North Carolina League of Municipalities.
(10) One local government representative appointed by the North Carolina Association of County Commissioners.

SECTION 2.2. The Advisory Committee for the Coordination of Waterfront Access shall:

(1) Develop a coordinated plan for providing greater waterfront access in the State. This plan shall specifically address geographic diversity of waterfront access, diversity of types of waterfront access, and funding for waterfront access. The entities represented on the Advisory Committee shall adhere to the plan to the maximum extent practicable.
(2) Develop recommendations for increasing and improving waterfront access in the State.

SECTION 2.3. The Advisory Committee shall report its progress in implementing this Part, including any recommendations developed pursuant to this Part, to the Joint Legislative Commission on Seafood and Aquaculture no later than October 1 of each year. The first report required by this section shall be submitted no later than October 1, 2008.

PART III. DIRECT THE DEPARTMENT OF TRANSPORTATION TO EXPAND PUBLIC ACCESS TO COASTAL WATERS.

SECTION 3.1. G.S. 136-18 is amended by adding a new subdivision to read:

"(40) To expand public access to coastal waters in its road project planning and construction programs. The Department shall work with the Wildlife Resources Commission, other State agencies, and other entities to ensure that public access to coastal waters is expanded along the roadways, bridges, and other transportation infrastructure owned or maintained by the Department. The Department shall report on its progress in expanding public access to coastal waters to the Joint

Legislative Commission on Seafood and Aquaculture no later than March 1 of each year."

SECTION 3.2. The first report required by G.S. 136-18, as enacted by this section, is due no later than March 1, 2008.

PART IV. INCREASE BOATING FUNDING.

SECTION 4.1. G.S. 75A-3(c) reads as rewritten:

"(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars ($3.00) of each one-year certificate of number fee and at least nine dollars ($9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance."

SECTION 4.2. G.S. 75A-5(a) reads as rewritten:

"(a) Application for Certificate of Number and Fees. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee of ten dollars ($10.00)~~ fee. The fee is fifteen dollars ($15.00) for a one-year period or ~~by a fee of twenty-five dollars ($25.00)~~ forty dollars ($40.00) for a three-year ~~period; provided, however, there shall be no fee charged for~~ period. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not

be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation."

SECTION 4.3. G.S. 75A-5(c) reads as rewritten:

"(c) Change of Ownership. – Should the ownership of a vessel change, a new application form with a fee ~~of ten dollars ($10.00) for a one-year period or by a fee of twenty-five dollars ($25.00) for a three-year period~~ in the amount set in subsection (a) of this section shall be filed with the Commission and a new certificate bearing the same identification number shall be awarded to the new owner in the same manner as an original certificate of number. Possession of the certificate shall in cases involving prosecution for violation of any provision of this Chapter be prima facie evidence that the person whose name appears on the certificate is the owner of the vessel referred to on the certificate."

SECTION 4.4. G.S. 75A-5(h) reads as rewritten:

"(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number pursuant to this Chapter shall renew the certificate on or before the first day of the month after which the certificate expires; otherwise, the certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee ~~of ten dollars ($10.00) for a one-year period or by a fee of twenty-five dollars ($25.00) for a three-year period; provided, there shall be no fee~~ in the amount set in subsection (a) of this section. No fee is required for a period of one year for renewal of certificates of number that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section."

PART V. WAIVER OF FEES FROM CAMA EMERGENCY PERMITS.

SECTION 5. G.S. 113A-118(f) reads as rewritten:

"(f) The Secretary may issue special emergency permits under this Article. These permits may only be issued in those extraordinary situations in which life or structural property is in imminent danger as a result of storms, sudden failure of man-made structures, or similar occurrence. These permits may carry any conditions necessary to protect the public interest, consistent with the emergency situation and the impact of the proposed development. If an application for an emergency permit includes work beyond that necessary to reduce imminent dangers to life or property, the emergency permit shall be limited to that development reasonably necessary to reduce the imminent danger; all further development shall be considered under ordinary permit procedures. This emergency permit authority of the Secretary shall extend to all development in areas of environmental concern, whether major or minor development, and the mandatory notice provisions of G.S. 113A-119(b) shall not apply to these emergency permits. To the extent feasible, these emergency permits shall be coordinated with any emergency permits required under G.S. 113-229(e1). The fees associated with any permit issued pursuant to this subsection or rules adopted pursuant to this subsection shall be waived."

PART VI. STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES.

SECTION 6. The Division of Emergency Management of the Department of Crime Control and Public Safety shall study ways to facilitate the construction and repair of water dependent structures such as fish processing and packing facilities and boat repair and building facilities located in regulated flood zones. The Division shall report the results of its study, including any recommendations, to the Joint Legislative Commission on Seafood and Aquaculture by March 1, 2008.

PART VII. EFFECTIVE DATE.

SECTION 7. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. Sections 4.1 through 4.4 of this act become effective January 1, 2008. The remainder of this act is effective when it becomes law.

SENATE BILL 646:
Enact WASC Recommendations/Funds

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Sen. Albertson	**Summary by:**	Martha Walston
Version:	PCS to Second Edition S646-CSLA		Committee Counsel

SUMMARY: The proposed committee substitute for Senate Bill 646 does the following:

- ***Creates a new classification of property (working waterfront property) for property tax purposes.***
- ***Working waterfront property will be taxed on its present use rather than true value***
- ***Deferred taxes for the preceding three years become due on the property when it no longer qualifies as working waterfront property***
- ***Establishes the Advisory Committee for the Coordination of Waterfront Access within the Department of Environment and Natural Resources.***
- ***Directs the Department of Transportation to expand public access to coastal waters in its road project planning and construction programs***
- ***Increases certain boat numbering fees that are held in the Wildlife Resource Commission's Boating and Waterway Account.***
- ***Waives fees for CAMA emergency permits***
- ***Directs the Division of Emergency Management to study ways to facilitate construction and repair of water dependent structures in regulated flood zones..***

BILL ANALYSIS:

Part I. Property Tax Relief for Working Waterfront Property

This Part classifies working waterfront property as a special class of property that must be appraised, assessed, and taxed at its present use rather than its true value. Working waterfront property is any of the following:

- A pier that extends into coastal fishing waters and limits access to those who pay a fee.
- Real property that is adjacent to coastal fishing waters and is primarily used for a commercial fishing operation or fish processing.

The deferred taxes[1] for the preceding three fiscal years become due when the property no longer qualifies as working waterfront property. These deferred taxes are a lien on the property, and the lien is not extinguished until the taxes are paid. The owner of working waterfront property must submit an application to the tax assessor to receive the special tax treatment. A new application must be submitted when the property is transferred or loses its eligibility for classification.

Part II. Advisory Committee for the Coordination of Waterfront Access

[1] Deferred taxes are the difference between the taxes due on the property taxed at its present use and the taxes that would be due if the property were taxed at its true value.

The PCS would establish the Advisory Committee for the Coordination of Waterfront Access within the Department of Environment and Natural Resources. The Advisory Committee would be composed of representatives of State and local government and would be charged with developing a coordinated plan and recommendations for providing greater waterfront access in the State. The Committee must report its progress and any recommendations to the Joint Legislative Commission on Seafood and Aquaculture no later than October 1 of each year.

Part III. Department of Transportation to Expand Public Access to Coastal Waters

The PCS would direct the Department of Transportation to expand public access to coastal waters in its road project planning and construction programs. The Department must report on its progress to the Joint Legislative Commission on Seafood and Aquaculture no later than March 1 of each year.

Part IV. Increase Boating and Waterway Access Funding

The PCS would increase certain boat numbering fees that are held in the Wildlife Resource Commission's Boating and Waterway Account. Currently the fee for numbering a boat is $10. The PCS would require a $15 fee for a one-year period and a $40 fee for a three-year period.

The PCS would also provide that interest and other investment income earned in the Account accrue to the Account.(Effective January 1, 2008)

Part V. Waiver of Fees From CAMA Emergency Permits

Under current law, the Secretary of Environment and Natural Resources may issue special emergency CAMA building permits when life or structural property is in imminent danger as a result of a storm, sudden failure of a man-made structure, or similar occurrence. The PCS would provide that the fees associated with such a permit be waived.

Part VI. Study Construction and Repair in Regulated Flood Zones

The PCS directs the Division of Emergency Management to study ways to facilitate construction and repair of water dependent structures in regulated flood zones.

EFFECTIVE DATE:

BACKGROUND:

S0646e2-SMLA-CSLA

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: Senate Bill 646 (Second Edition)

SHORT TITLE: Enact WASC Recommendations/Funds.

SPONSOR(S): Senator Albertson

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2007-08	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
REVENUES:					
General Fund (CAMA Permit Fees)	**($400)**	**($400)**	**($400)**	**($400)**	**($400)**
Wildlife Resources Fund	**$1,089,542**	**$2,250,631**	**$2,325,114**	**$2,395,273**	**$2,478,781**
NC Local Governments	***No estimate available – See Assumptions and Methodology***				
EXPENDITURES:					
	No estimate available – See Assumptions and Methodology				
Crime Control and Public Safety	**$50,000**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources; Wildlife Resources Commission; Department of Crime Control and Public Safety

EFFECTIVE DATE: Section 7.1 of this act becomes effective July 1, 2007. Sections 1.1 through 1.9 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2008. Section 4.1 through 4.4 of this act becomes effective January 1, 2008. The remainder of this act is effective when it becomes law.

BILL SUMMARY:

March 7, 2007

S 646. CONTINUE WATERFRONT ACCESS STUDY (=H 534). Filed 3/7/07. TO CONTINUE THE STUDY OF WATERFRONT ACCESS ISSUES.

Identical to H 534, filed 3/7/07.

July 23, 2007

S 646. ENACT WASC RECOMMENDATIONS/FUNDS (NEW). Filed 3/7/07. Senate committee substitute replaces the content of the 1st edition with AN ACT TO ESTABLISH WORKING WATERFRONTS AS A SPECIAL CLASS OF PROPERTY SUBJECT TO PRESENT-USE VALUE; TO ESTABLISH THE ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS; TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO MAKE EXPANDED PUBLIC ACCESS TO COASTAL WATERS A PRIORITY IN ITS ROAD PROJECT PLANNING AND CONSTRUCTION PROGRAMS; TO INCREASE FEES FOR VESSEL TITLING; TO PROVIDE THAT FEES ASSOCIATED WITH AN EMERGENCY COASTAL AREA MANAGEMENT ACT PERMIT SHALL BE WAIVED; AND TO DIRECT THE DIVISION OF EMERGENCY MANAGEMENT TO STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES, AS RECOMMENDED BY THE WATERFRONT ACCESS STUDY COMMITTEE.

Present use value. Beginning with the 2008-09 property tax year, amends GS 105-277.3 to provide that working waterfront land that has produced an average income of at least $1,000 for the three years preceding the year for which the tax benefit is claimed is taxed at the land's present use value. Makes conforming changes to the catch lines of GS 105-277.4, GS 105-277.5, and GS 105-277.6. Amends GS 105-277.2 to (1) include working waterfront land in the definition of present use value and (2) provide that the capitalization rate for agricultural and horticultural land is between 6% and 7%, as determined by the Use-Value Advisory Board. Amends GS 105-277.7 to add a representative of the Division of Marine Fisheries of the Department of Environment and Natural Resources (DENR) to the Use-Value Advisory Board. Effective July 1, 2007, appropriates $100,000 for 2007-08 from the General Fund to the Agricultural Extension Service of North Carolina State University for the Use-Value Advisory Board. Makes technical, conforming, and clarifying changes to GS 160A-37(f1) and GS 160A-49(f1).

Advisory committee. Establishes the Advisory Committee for the Coordination of Waterfront Access within DENR to develop a plan for providing greater waterfront access in North Carolina and develop recommendations for increasing and improving water access. The committee is required to report on implementation to the Joint Legislative Commission on Seafood and Aquaculture by October 1 of each year, beginning in 2008.

Public access. Amends GS 136-18 to require the Department of Transportation (DOT) to expand public access to coastal waters in its road project planning and construction programs. Requires DOT to report on its progress to the Joint Legislative Commission on Seafood and Aquaculture by March 1 of each year, beginning in 2008.

Boating and waterway access funding. Amends GS 75A-3(c) to change the Boating Account to the Boating and Waterways Account and to provide that money for administering and enforcing the chapter remains available until it is expended. Amends GS 75A-5 to increase the fees for boat numbering, for renewal, and for a change in ownership from $10 to $15 for a one-year period and from $25 to $40 for a three-year period. Effective January 1, 2008.

CAMA. Amends GS 113A-118(f) to waive the fees for an emergency Coastal Area Management Act (CAMA) permit.

Study. Requires the Division of Emergency Management of the Department of Crime Control and Public Safety to study ways to facilitate the construction and repair of water dependent structures located in regulated flood zones and to report to the Joint Legislative Commission on Seafood and Aquaculture by March 1, 2008.

Source: Bill Digest S.B. 646 (03/07/0200)

ASSUMPTIONS AND METHODOLOGY:

Part 1 – Present-Use Value for Working Waterfronts

No estimate available. According to the Department of Revenue and the Waterfront Access Study Committee, no data is available regarding the acreage or value of working waterfront property that would be eligible for present-use value. Eligible properties would include fish houses and certain commercial piers and docks in the inter-tidal zone that generated an average gross income of $1,000 for the past three years.

The assessed value of eligible properties would be determined by reducing the market value by the percentage that all present-use value property in the agriculture, horticulture and forest land programs is reduced. The present-use value of all property in the program for FY 2005-06 represented 38.1% of the market value.

Part 3 – Direct the Department of Transportation to Expand Public Access to Coastal Waters

No estimate available. According to the Department of Transportation, expanded public access could include, for example, raising or constructing bridges, improving or constructing roads, or improving boat ramp access. The expenditures would depend on the specific projects undertaken.

The Wildlife Resources Commission (WRC) has indicated that increased opportunities to partner with DOT to provide public access will likely impact their operating expenses within the Engineering Services Division. The Engineering Service Division is responsible for developing additional public fishing and boating access areas. However, increases in operating expenses may be offset by the reduction in acquisition costs associated with using state owned land for new access areas.

Part 4 – Increase Boating and Waterway Access Funding

The Boating and Waterway Access Account is comprised of motor fuel excise tax for watercraft, vessel registrations, and interest earnings. The bill will increase vessel registrations from $10 to $15 for one year registrations and from $25 to $40 for three year registrations. WRC has estimated that vessel registrations will continue to increase at an average of 2% to 3% per year. Using the actual count per type of vessel registration for FY 2006-07, the following table displays an example of how much additional revenue would have been generated with the fee increases.

	1 Year Registrations			3 Year Registrations		
	Count	Current	Proposed	Count	Current	Proposed
New Registrations	916	$9,160	$13,740	24,211	$605,275	$968,440
Transfer of Ownership	904	$9,040	$13,560	30,009	$750,225	$1,200,360
Registration Renewals	9,353	$93,530	$140,295	72,976	$1,824,400	$2,919,040
Total		$111,730	$167,595		$3,179,900	$5,087,840

The additional revenue generated in proposed fee increases in the above chart totals $55,865 in 1 year registrations and $1,907,940 in 3 year registrations. However, due to the January 1, 2008 effective date for the fee increases, FY 2008-09 will generate only half of this amount, or approximately $1.1 million.

Section 5 – Waive CAMA Emergency Permit Fees

Since 1999, only eight Major Permits have been authorized under the provisions of G.S. 113A-118(f); an average of one permit each year is authorized under this Statute. Seven of the eight permits issued were assessed a $400 fee and one was assessed at $250 fee. Thus, Fiscal Research estimates that waiving CAMA permit fees under G.S. 113A-118(f) would result in a $400 loss of fee revenue annually.

Section 6 - Study Construction and Repair in Regulated Flood Zones

The bill directs the Division of Emergency Management of the Department of Crime Control and Public Safety (CCPS) to study ways to facilitate the construction and repair of water dependent structures such as fish processing and packing facilities and boat repair and building facilities located in regulated flood zones. The Division shall report the results of the study, including any recommendations, to the Joint Legislative Commission on Seafood and Aquaculture by March 1, 2008. Department estimates that it will cost $50,000 to administer this study.

SOURCES OF DATA: Department of Environment and Natural Resources; Wildlife Resources Commission: Department of Crime Control and Public Safety.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Rodney Bizzell, Joy Hicks, Kristin Walker, Bob Weiss, Jean Sandair

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 26, 2007

Official
Fiscal Research Division
Publication

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 684
PROPOSED COMMITTEE SUBSTITUTE S684-CSSVf-49 [v.5]

7/25/2007 10:35:00 AM

Short Title: Spay/Neuter Funding. (Public)

Sponsors:

Referred to:

March 13, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FUNDING FOR THE STATEWIDE SPAY AND NEUTER PROGRAM FROM THE SALE OF RABIES VACCINATION TAGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-190 reads as rewritten:

"**§ 130A-190. Rabies vaccination tags.**

(a) Issuance. – A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words "North Carolina" or the initials "N.C." and the words "rabies vaccine." Dogs and cats shall wear rabies vaccination tags at all times. However, cats may be exempted from wearing the tags by local ordinance.

(b) Fee. – Rabies vaccination tags, ~~links and~~ links, and rivets may be obtained from the Department. The Secretary is authorized to establish by rule a fee for the rabies tags, ~~links and rivets.~~ links, and rivets in accordance with this subsection. ~~Except as otherwise authorized in this section, the fee shall not exceed the actual cost of the rabies tags, links and rivets, plus transportation costs. The Secretary may increase the fee beyond the actual cost plus transportation, by an amount not to exceed five cents ($.05) per tag, to fund rabies education and prevention programs.~~ The fee for each tag is the sum of the following:

(1) The actual cost of the rabies tag, links, and rivets.

(2) Transportation costs.

(3) Five cents ($.05). This portion of the fee shall be used to fund rabies education and prevention programs.

(4) Twenty cents ($.20). This portion of the fee shall be credited to the Spay/Neuter Account established in G.S. 19A-62 and used to fund statewide spay/neuter programs. This portion of the fee shall not be

imposed for tags provided to persons who own and vaccinate ten or more dogs per year.

~~(c) The Department shall make available a special edition rabies tag to be known as the "I Care" tag. This tag shall be different in shape from the standard tag and shall carry the inscription "I Care" in addition to the information required by subsection (a) of this section. The Secretary is authorized to establish a fee for the "I Care" rabies tag equal to the amount set forth in subsection (b) of this section plus an additional fifty cents ($.50). The additional fifty cents ($.50) shall be credited to the Spay/Neuter Account established in G.S. 19A-62.~~"

SECTION 2. G.S. 19A-62 reads as rewritten:

"**§ 19A-62. Spay/Neuter Account established.**

(a) Creation. – The Spay/Neuter Account is established as a nonreverting special revenue account in the Department of Health and Human Services. The Account consists of the following:

(1) ~~Fifty cents (50¢) of the fee imposed by G.S. 130A-190(c) on the costs of obtaining rabies vaccination tags~~ The portion of the fee imposed under G.S. 130A-190(b)(4) for obtaining a rabies vaccination tag from the Department of Health and Human Services.

(2) Ten dollars ($10.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.

(3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. – The revenue in the Account shall be used by the Department of Health and Human Services as follows:

(1) If the revenue generated by the portion of the fee imposed under G.S. 130A-190(b)(3) is less than $47,500 for the fiscal year, then funds up to the difference between $47,500 and the amount of revenue generated may be used from this Account to fund rabies education and prevention programs."

(2) Twenty percent (20%) shall be used to develop and implement the statewide education program component of the Spay/Neuter Program established in G.S. 19A-61(a).

~~(2)~~(3) Up to twenty percent (20%) of the money in the Account may be used to defray the costs of administering the Spay/Neuter Program established in this Article.

~~(3)~~(4) Funds remaining after deductions for the education program and administrative expenses shall be distributed quarterly to eligible counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed during the previous year. A county or city is ineligible to receive funds under this subdivision unless it requires the owner to show proof of rabies vaccination at the time of the procedure or, if none, require vaccination at the time of the procedure."

SECTION 3. This act becomes effective January 1, 2008.

SENATE BILL 684: Spay/Neuter Funding

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Sen. Kinnaird	**Summary by:**	Trina Griffin
Version:	PCS to First Edition S684-CSSVf-49		Committee Counsel

SUMMARY: Senate Bill 684 does the following:

- ***It would increase the fee for obtaining a rabies vaccination tag. The proceeds derived from the increase would be used to fund statewide spay/neuter programs.***
- ***It would limit funds for reduced-cost spay/neuter programs to those local governments that require proof of rabies vaccination, or if none, require vaccination at the time of the procedure.***
- ***It would ensure that funds dedicated for rabies education and prevention programs remain at the current level.***

CURRENT LAW: Dogs and cats are required to be vaccinated against rabies. However, cats may be exempted by local ordinance. Issued by a licensed veterinarian or a certified rabies vaccinator, a rabies tag represents proof of vaccination and must be worn at all times by the animal. Veterinarians and other vaccinators may obtain the tags from either the Department of Health and Human Services or the private market. The fee for tags provided by the Department may not exceed the actual cost of the tag, links, and rivets, transportation costs, plus an amount not to exceed five cents ($.05) to fund rabies education and prevention programs. The actual cost plus the transportation cost is currently two cents ($.02).

The Department also makes available a special edition rabies tag known as the "I Care" tag. The fee for this special edition tag is an additional fifty cents ($.50). The proceeds from the additional fifty cents are credited to the Spay/Neuter Account. The Spay/Neuter Account is also funded by the additional fee charged for the Animal Lovers special license plate and any other funds available from appropriations or from contributions or grants from public or private sources.

The funds in the Account may be used as follows:

- 20% is used to develop and implement the statewide education component of the Spay/Neuter Program.
- Up to 20% may be used to defray costs of administering the Spay/Neuter Program.
- Remaining funds are distributed quarterly to eligible counties and cities seeking reimbursement for the reduced-costs spay/neuter surgeries performed during the previous year.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 684 does the following:

- It eliminates the voluntary "I Care" special edition tag.
- It increases the fee for all rabies tags by twenty cents ($.20). The proceeds from the increase are to be credited to the Spay/Neuter Account and used for statewide spay/neuter programs.
- It exempts from the additional $.20-cent-portion of the fee, persons who own and vaccinate ten or more dogs per year.

- It provides that if the revenue generated by the $.05-cent-portion of the rabies tag fee is less than $47,500 in a fiscal year, which represents the current funding level, then the difference between $47,500 and the amount generated may be used from the Spay/Neuter Account for rabies education and prevention programs.
- It would provide that a county or city is ineligible to receive funds for reimbursement for reduced-cost spay/neuter surgeries unless it requires proof of rabies vaccination at the time of the procedure or, if there is none, that the provider vaccinate at the time of the procedure

EFFECTIVE DATE: This act becomes effective January 1, 2008.

S0684e1-SMSV-CSSVf-49

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 25, 2007

TO: Senate Finance Committee

FROM: Andrea Poole
Fiscal Research Division

RE: Senate Bill 684 (PCS to First Edition S684-CSSVf-49))

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Division of Public Health; local municipalities.

EFFECTIVE DATE: January 1, 2008

BILL SUMMARY:

The Proposed Committee Substitute amends the General Statutes in two places, G.S. 130A-190 and G.S. 19A-62, to do the following:

- Eliminate the voluntary "I Care" special edition tag.
- Increase the fee for all rabies tags by twenty cents ($.20). The proceeds from the increase are to be credited to the Spay/Neuter Account and used for statewide spay/neuter programs.
- Exempt from the additional $.20-cent-portion of the fee, persons who own and vaccinate ten or more dogs per year.
- Provide that if the revenue generated by the $.05-cent-portion of the rabies tag fee is less than $47,500 in a fiscal year, which represents the current funding level, then funds from the Spay/Neuter Account up to the difference between that amount and the amount generated may be used for rabies education and prevention programs.
- Provide that a county or city is ineligible to receive funds for reimbursement for reduced-cost spay/neuter surgeries unless it requires proof of rabies vaccination at the time of the procedure or, if there is none, that the provider give the vaccination at the time of the procedure

ASSUMPTIONS AND METHODOLOGY:

Currently, the fee structure is as shown in the table below (Table 1: Current Fee Structure): the cost of the tag itself ($.02), the fee for the rabies education and prevention programs ($.05), and the optional fee for the "I Care" tag ($.50). The table includes estimates of the number of tags the Department issued in FY 2006-07 (from the Department of Health and Human Services) subject to each fee category. These estimates were used to calculate the total estimated revenue from each part of the fee structure. A total of 9,700 "I Care" tags were purchased for total additional revenue of $4,850. All tags purchased were subject to the Rabies Education Fee ($.05), which created total estimated revenue of $47,485 for these programs.

Table 1: Current Fee Structure

	Cost	# of Tags	Revenue
Tag	$0.02	949,700	$18,994
Rabies Education Fee	$0.05	949,700	$47,485
"I Care" Fee	$0.50	9,700	$4,850
Total Revenue			**$71,329**
Less Cost of Tags			($18,994)
Total Net Revenue			**$52,335**

Table 2, (next page), shows the proposed fee structure. It also shows the potential additional revenues if there were no changes to the number of tags purchased. However, it is anticipated that there may be a reduction in the number of tags purchased because of this increase in fees. According to the Department of Health and Human Services, Division of Public Health, the private market cost of these tags ranges from $.09 to $.23. The proposed changes would bring the total cost per tag to $.27 – higher than the private market cost. It is assumed that some veterinarians and certified rabies vaccinators currently purchasing their tags from the Department at $.07 per tag would chose to purchase their tags in the private market if the proposed fees were to take effect.

There is no estimate of the number of tags that would no longer be purchased from the Department and therefore it is not possible to estimate the fiscal impact of these proposed changes. The impact is likely to range between a loss of $52,335 if no tags are purchased (the current amount of net revenue, see Table 1) and a gain of $237,425 if there is no change in the number of tags purchased (see Table 2). The impact would be both to the Department of Health and Human Services, Division of Public Health and to the cities and counties that receive reimbursement for spay/neuter programs from the Spay/Neuter Account.

Table 2: Proposed Fee Structure with No Change in Tags Purchased

	Cost	# of Tags	Revenue
Tag	$0.02	949,700	$18,994
Rabies Education Fee	$0.05	949,700	$47,485
Spay/Neuter Fee	$0.20	949,700	$189,940
Total Revenue			**$256,419**
Less Cost of Tags			*($18,994)*
Total Net Revenue			**$237,425**

However, it is possible to estimate the minimum number of tags that would need to be purchased under the proposed fees for the programs to "break-even". The PCS provides that if the revenue generated by the $.05-cent-portion of the rabies tag fee is less than $47,500 in a fiscal year, which represents the current funding level, then funds from the Spay/Neuter Account up to the difference between that amount and the amount generated may be used for rabies education and prevention programs – in other words, as fewer tags are purchased from the Department, more funding will come from the Spay/Neuter Account to make up the difference. If at least 209,340 tags (22% of the tags currently purchased) are purchased under the proposed fees (see Table 3, below), the new $.20 fee will generate enough revenue to make up the difference and still contribute the current amount of funding of $4,850 (currently from the "I Care" tag, see Table 1) to the Spay/Neuter Account for the current Spay/Neuter Account purposes.

Table 3: Minimum Number of Tags Purchased Needed to Avoid Reducing Spay/Neuter Account Funding

	Cost	# of Tags	Revenue
Tag	$0.02	209,340	$4,187
Rabies Education Fee	$0.05	209,340	$10,467
Spay/Neuter Fee	$0.20	209,340	$41,868
Amount of Spay/Neuter Fee into Rabies Education			*$37,018*
Amount of Spay/Neuter Fee into Spay/Neuter Account			*$4,850*
Total Revenue			**$56,522**
Less Cost of Tags			($4,187)
Total Net Revenue			**$52,335**

SOURCES OF DATA: Department of Health and Human Services, Division of Public Health

TECHNICAL CONSIDERATIONS: None

Animal Shelter Reporting Data 2005

Total Number in Shelter	Total Number Euthanized	Total Cost
318,358	241,790	$28,040,727.42

Number in Shelter	Number Euthanized	Cost
3,095	2672	$469,711.00
3,016	2097	
1,123	992	$103,335.00
1,255	1,006	
310	309	$34,468.32
787	771	
799	749	$179,481.00
865	665	
1,374	1,329	$165,457.78
1,562	1,306	
341	255	$58,794.00
423	204	
1,131	689	$98,796.00
2,195	1,517	
4,018	3,692	$554,455.78
3,197	1,904	
3,897	3,181	$696,319.00
4,084	2,253	
2,456	2,368	$209,000.00
3,029	2,262	
2,367	2,212	$561,595.00
2,579	1,775	
2,650	2,393	$320,871.45
2,817	2,342	
2,578	2,096	$231,764.00
1,622	666	
962	856	$81,428.53
1,224	960	
3,688	3,327	$472,799.00
3,400	2,299	
808	411	$357,113.00
1,153	458	
806	711	$179,290.00
745	478	
3,215	3,153	$377,583.00
3,875	3,441	
1,833	1,715	$157,997.00
2,131	1,536	
132	88	$66,739.96
172	31	
3,216	3,037	$318,449.73
2,886	2,192	
5,316	4,750	$853,336.00
6,180	4,627	
336	190	$33,751.29

1,084	924	$279,099.00
705	227	
139	130	$131,831.22
103	26	
3,446	3,275	$362,603.00
3,893	3,093	
740	656	$103,097.20
1,015	661	
1,179	946	$124,454.00
2,278	1,442	
2,745	2,170	$705,390.00
3,640	2,451	
373	362	$38,638.13
258	195	
415	370	$127,406.34
1,028	696	
1,148	820	$0
1,643	748	
3,924	3,627	$1,012,125.00
4,519	3,720	
484	437	$105,593.00
411	326	
339	307	$70,359.30
584	464	
6,076	3,863	$105,026.67
7,632	4,044	
694	666	$202,367.48
1,264	1,104	
2,115	1,619	$295,643.00
3,204	2,132	
1,514	1,431	$324,881.00
1,956	1,082	
1,691	1,420	$556,612.00
1,795	1,176	
677	572	$106,411.00
1,182	614	
3,534	3,360	$689,373.34
3,532	2,863	
434	229	$146,271.45
608	234	
251	75	$53,681.74
460	95	
1,314	1,275	$369,968.52
1,911	1,549	
807	169	$174,024.00
772	384	
1,395	1,356	$113,730.41
1,715	1,441	
7,497	6,236	$4,500,000.00
10,229	6,019	
603	399	$72,963.52
785	389	

602	598	$127,597.60
947	866	
2,274	1,576	$617,137.00
2,354	1,505	
758	465	$156,300.00
1,279	635	
1,637	1,588	$271,403.77
1,500	1,287	
2,176	1,642	$1,058,528.00
2,370	1,083	
290	239	$61,904.82
304	231	
2,131	1,036	$1,018,468.00
2,250	843	
1,844	1395	$155,425.94
1,381	378	
1,029	792	$158,581.67
1,229	787	
308	268	$55,576.00
289	225	
984	944	$142,000.00
1,355	1,169	
2,211	1,522	$463,005.00
2,679	1,444	
2,775	2,655	$271,602.00
3,270	2,831	
1,631	1,279	$362,886.88
2,741	1,901	
1,336	1,124	$244,610.61
3,973	2,874	
2,328	2,262	$112,350.00
2,726	2,446	
8	8	$931.97
$7.00	7	
4,372	3,271	$509,122.00
3,825	2,326	
1,594	1,594	$215,311.28
2,509	1,467	
2,162	2,119	$176,852.66
3,456	3,212	
616	416	$179,605.46
1,074	545	
2,187	2,142	$268,896.20
1,682	1,248	
1,546	1,310	$176,559.00
1,296	1,278	$248,299.06
1,894	1,687	
196	140	$42,079.00
418	214	
3,397	3,087	$1,643,179.34
3,497	2,576	
527	500	$83,000.00

1,852	1,734	
4,398	3,563	$501,325.00
4,248	2,097	
502	501	$38,108.00
814	776	
736	308	$173,500.00
658	75	
3,394	3,232	$291,258.00
3,132	2,619	
2,811	2,548	$374,660.00
3,109	2,364	
1,295	1,194	$327,676.00
1,548	1,335	
579	360	$158,901.00
670	213	
318,358	**241,790**	**$28,040,727.42**

Number of Dogs and Cats Killed in Animal Shelters Each Year

Location	Animals Killed Per 1000 People	Year	1000's People	Number of Animals Killed
Connecticut	0.08	2003	3,483	2,647
Michigan	13.3	2004	9,991	133,000
New Jersey	5.9	2003	8,638	50,637
North Carolina	**28.1**	**2004**	**8,407**	**236,327**
Oregon	9.3	2002	3,560	33,132
Virginia	15.7	2005	7,568	118,760
Washington	11.1	2005	6,132	68,054
U. S. Total	14.8		296,410	4,381,680

Location	Animals Killed Per 1000 People	Year	1000's People	Number of Animals Killed
Alamance County, NC*	**46.0**	**2006**	**125**	**5,751**
Baltimore	9.2	2003	762	7,003
Buncombe County, NC	**25.5**	**2005**	**213**	**5,444**
Dallas, Texas	10.8	2005	2,306	25,000
Houston, Texas	22.2	2004	3,596	80,000
McDowell County, NC	**79.7**	**2004**	**44**	**3,500**
St. Louis, MO	15.6	2003	1,365	21,336
Wake County, NC	**15.2**	**2003**	**656**	**10,000**
West Palm Beach	13.5	2005	1,216	16,411

For additional information, go to *www.animalpeoplenews.org*

This chart prepared by Sam and Vicky Hunt, Pet Adoption and Welfare Society
PO Box 2440, Burlington, NC, 27216, Phone # 336.565.8677

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1513

Commerce, Small Business and Entrepreneurship Committee Substitute Adopted 5/21/07

PROPOSED COMMITTEE SUBSTITUTE S1513-CSLA-32 [v.1]

7/25/2007 3:53:56 PM

Short Title: County Financing/Powell Bill/City Election. (Public)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW COUNTIES TO PARTICIPATE IN FINANCING IMPROVEMENTS TO PUBLIC STREETS, HIGHWAYS, AND BRIDGES; AND TO ALLOW MUNICIPALITIES THAT RECEIVE AN ALLOCATION OF FUNDS FROM THE HIGHWAY FUND AND THE HIGHWAY TRUST FUND WITH MONIES FOR REPAIR, MAINTENANCE, CONSTRUCTION, RECONSTRUCTION, WIDENING, OR IMPROVING STREETS OF THE MUNICIPALITY AN OPTION TO ELECT TO CONTINUE TO RECEIVE ALLOCATIONS OR HAVE THE ALLOCATION REPROGRAMMED TO FUND ANY PROJECT ON THE DEPARTMENT OF TRANSPORTATION'S TRANSPORTATION IMPROVEMENT LIST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18(29a) reads as rewritten:

"(29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State highway system resulting from the development of the proposed sites. All public and private entities shall, upon acquiring land for a new school or prior to beginning construction of a new school, relocating a school, or expanding an existing school, request from the Department a written evaluation and written recommendations to ensure that all proposed access points comply with the criteria in the current North Carolina Department of Transportation "Policy on Street and Driveway Access". The Department shall provide the written evaluation and recommendations within a reasonable time, which shall not exceed 60 days. This subdivision shall not be construed to require the public or

private entities planning schools to meet the recommendations made by the ~~Department.~~Department, except those highway improvements that are required for safe ingress and egress to the State highway system."

SECTION 2. G.S. 136-45 reads as rewritten:

"**§ 136-45. General purpose of law; control, repair and maintenance of highways.**

The general purpose of the laws creating the Department of Transportation is that said Department of Transportation shall take over, establish, construct, and maintain a statewide system of hard-surfaced and other dependable highways running to all county seats, and to all principal towns, State parks, and principal State institutions, and linking up with state highways of adjoining states and with national highways into national forest reserves by the most practical routes, with special view of development of agriculture, commercial and natural resources of the State, ~~and~~ and, except as otherwise provided by law, for the further purpose of permitting the State to assume control of the State highways, repair, construct, and reconstruct and maintain said highways at the expense of the entire State, and to relieve the counties and cities and towns of the State of this burden."

SECTION 3. G.S. 136-51 reads as rewritten:

"**§ 136-51. Maintenance of county public roads vested in Department of Transportation.**

From and after July 1, 1931, the exclusive control and management and responsibility for all public roads in the several counties shall be vested in the Department of Transportation as hereinafter provided, and all county, district, and township highway or road commissioners, by whatever name designated, and whether created under public, public-local, or private acts, shall be abolished:

Provided, that for the purpose of providing for the payment of any bonded or other indebtedness, and for the interest thereon, that may be outstanding as an obligation of any county, district, or township commission herein abolished, the boards of county commissioners of the respective counties are hereby constituted fiscal agents, and are vested with authority and it shall be their duty to levy such taxes on the taxable property or persons within the respective county, district, or township by or for which said bonds or other indebtedness were issued or incurred and as are now authorized by law to the extent that the same may be necessary to provide for the payment of such obligations; and the respective commissions herein abolished shall on or before July 1, 1931, turn over to said boards of county commissioners any moneys on hand or evidences of indebtedness properly applicable to the discharge of any such indebtedness (except such moneys as are mentioned in paragraph (a) above); and all uncollected special road taxes shall be payable to said boards of county commissioners, and the portion of said taxes applicable to indebtedness shall be applied by said commissioners to said indebtedness, or invested in a sinking fund according to law. All that portion of said taxes or other funds coming into the hands of said county commissioners and properly applicable to the maintenance or improvement of the public roads of the county shall be held by them as a special road fund and disbursed upon proper orders of the Department of Transportation.

Provided, further, that in order to fully carry out the provisions of this section the respective boards of county commissioners are vested with full authority to prosecute all suitable legal actions.

Nothing in this section shall prevent a county from participating in the cost of rights-of-way, construction, reconstruction, improvement, or maintenance of a road on the State highway system under agreement with the Department of Transportation. A county is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain and make improvements to portions of the State highway system lying within or outside the county limits utilizing local funds that have been authorized for that purpose. The provisions of G.S. 153A-15 apply to any county attempting to acquire property outside its limits. All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of Transportation."

SECTION 4. G.S. 136-98 reads as rewritten:

"**§ 136-98. ~~Prohibition of local road taxes and bonds and construction of roads by local authorities; existing contracts.~~Counties authorized to participate in costs of road construction and maintenance.**

~~(a) From and after the first day of July, 1931, no county or road district by authority of any public, public-local, or private act shall levy any taxes for the maintenance, improvement, reconstruction, or construction of any of the public roads in the various and several counties of the State, nor shall any county, through the board of commissioners thereof or the highway commission, nor shall any district or township highway commission, issue or sell or enter into any contract to issue or sell any bonds heretofore authorized to be issued and sold, but unissued and unsold, for the purpose of obtaining money with which to improve, maintain, reconstruct, or construct roads, except for the purpose of discharging obligations entered into prior to the ratification of this section, and all acts authorizing the board of county commissioners, the county highway commissions, district highway or township commissions, to issue and sell bonds for the purpose aforesaid, are hereby amended so as to conform to this section. No board of county commissioners nor county highway commission, nor district nor township highway commission from and after the passage of this section shall enter into any contract to build or construct roads in the various and several counties except for such projects as can be completed and paid for prior to July 1, 1931. All contracts heretofore entered into by any county through the board of county commissioners, county highway commission, and all contracts heretofore entered into by any district or township highway commission which shall be incomplete on July 1, 1931, shall be taken over by the Department of Transportation and completed by the Department of Transportation by the use of money and funds applicable thereto, by the terms of the said contracts. Nothing in this section or in any section of Chapter 145 of the Public Laws of 1931 that may appear in this Code shall be construed to prohibit the levying of taxes authorized by law for the payment of interest or principal on outstanding bonds or other evidences of debt lawfully issued. Any county or road district which has heretofore issued bonds or other evidences of debt by authority of law for road~~

~~improvement purposes may refund said bonds or other evidences of debt under and pursuant to the laws of the State of North Carolina relative thereto.~~

(b) Nothing in this Article prohibits counties from establishing service districts for road maintenance under Part 1, Article 16 of Chapter 153A of the General Statutes.

(c) A county is authorized to participate in the cost of rights-of-way, construction, reconstruction, improvement, or maintenance of a road on the State highway system under agreement with the Department of Transportation."

SECTION 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-41.4. Municipal use of allocated funds; election.**

A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1 shall have the option to accept all funds allocated to the municipality, under that section, for the repair, maintenance, construction, reconstruction, widening, or improving of the municipality's streets, or the municipality may elect to have some or all of the allocation reprogrammed for any Transportation Improvement Project currently on the approved project list within the municipality's limits or within the area of any metropolitan planning organization or rural planning organization.

If a municipality chooses to have its allocation reprogrammed, the minimum amount that may be reprogrammed is an amount equal to that amount necessary to complete one full phase of the project selected by the municipality or an amount that, when added to the amount already programmed for the Transportation Improvement Project selected, would permit the completion of at least one full phase of the project."

SECTION 6. Section 5 of this act becomes effective October 1, 2007. The remainder of this act is effective when it becomes law.

SENATE BILL 1513:
County Financing/Highway and Bridge Projects

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Sen. Jenkins	**Summary by:**	Martha Walston Committee Counsel
Version:	PCS to Second Edition S1513-CSLA		

SUMMARY: Senate Bill 1513 does the following:

- ***require entities that are planning schools to follow recommendations of DOT for highway improvements that are required for safe ingress and egress to the State highway system***
- ***authorizes counties to participate in the cost of construction and maintenance of roads on the State highway system.***

SB 1513 was given a favorable report in Senate Commerce, Small Business and Entrepreneurship.

The PROPOSED COMMITTEE SUBSTITUTE adds language that would allow municipalities that receive Powell Bill Funds the option of accepting all funds allocated to the municipality or to elect to have some or all of the allocation reprogrammed for certain Transportation Improvement Projects.[1]

CURRENT LAW:

Driveway access to schools. G.S. 136-18(29a) provides that for all new school construction, relocation, and renovation projects, the public or private entity responsible for the project must request from the Department of Transportation a written evaluation and recommendations regarding the compliance of proposed access points to criteria developed by the Department. The Department must provide the evaluation and recommendations within 60 days of receiving the request, but the entity responsible for the school project is not required to act on the evaluation and recommendations.

County participation in road construction and maintenance. G.S. 136-51 provides that the Department of Transportation has the exclusive control and management and responsibility for all public roads in the counties. G.S. 136-98(a) prohibits counties from levying taxes, issuing bonds, or entering into any contract to build or construct roads.

Powell Bill Funds (G.S. 136-41.4 through G.S. 136-41.3)

Each year DOT is required to pay from the Highway Fund an allocation to all active and qualifying municipalities a sum equal to 1 ¾ cents on each taxed gallon of motor fuel. In addition, revenue is allocated and appropriated from the Highway Trust Fund. The Powell Bill Funds shall be expended only for the purposes of maintaining, repairing, constructing, reconstructing or widening of any street including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality, or for the planning, construction, and maintenance of bikeways or sidewalks along public streets and highways.

BILL ANALYSIS:

Driveway access to schools. Senate Bill 1513 would amend G.S. 136-18(29a) to require entities responsible for school projects to comply with the recommendations provided by the Department with

[1] These projects are listed in a schedule designated as the Transportation Improvement Program, which includes the project's anticipated cost for a period of seven years into the future and the anticipated funding sources.

regard to highway improvements that are required for safe ingress and egress to the State highway system.

County participation in road construction and maintenance. Senate Bill 1513 would amend the current law to authorize counties to participate in the cost of construction and maintenance of roads on the State highway system under agreements with the Department.

Option for municipal use of allocated Powell Bill Funds (Section 5 of the bill)

Senate Bill 1513 gives municipalities that qualify for an allocation of Powell Bill Funds an option to either:

- Accept all funds allocated to the municipality under the Powell Bill statutes to be used for the repair, maintenance, construction, reconstruction, widening, or improving of the municipality's streets, or
- Elect to have some or all of the allocation of funds reprogrammed for any Transportation Improvement Project currently on the approved project list within the city's limits or within the area of any metropolitan planning organization or rural planning organization. The minimum amount that may be reprogrammed is equal to the amount necessary to complete one full phase of the selected project or an amount that, when added to the amount already programmed for the TIP, would permit the completion of at least one full phase of the project.

EFFECTIVE DATE: Section 5 of the bill becomes effective October 1, 2007. The remainder of the act is effective when it becomes law.

Wendy Graf Ray, counsel to Senate Commerce, Small Business and Entrepreneurship, substantially contributed to this summary.

S1513e2-SMLA-CSLA

HOUSE BILL 820:
Amend Interbasin Transfer Laws

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 25, 2007
Introduced by:	Reps. Allen, Gibson	**Summary by:**	Jeff Hudson
Version:	PCS to First Edition H820-CSRTf-40 [v.2]		Committee Counsel

SUMMARY: The Proposed Committee Substitute for House Bill 820 would establish a new process for applying for a certificate for an interbasin transfer and for determining whether such a certificate should be issued.

CURRENT LAW AND BILL ANALYSIS:

Study.

The Environmental Review Commission (Commission), with the assistance of the Department of Environment and Natural Resources (DENR), would study the allocation of surface water resources and their availability and maintenance in the State, including issues related to the transfer of water from one river basin to another and the withdrawal of water for consumptive use. The study would include an evaluation of the benefits of establishing a formal or informal process for negotiating interbasin transfers. The Environmental Review Commission could submit an interim report to the 2008 Regular Session of the General Assembly and would submit a final report of its findings and recommendations, including any legislative proposals, to the 2009 General Assembly.

The Division of Water Resources of the Department of Environment and Natural Resources, in consultation with the Environmental Review Commission, would prepare a new river basin map that defines the extent to which river basins in North Carolina extend into adjacent states.

Certificate Required.

A person would be required to obtain a certificate from the Commission in order to transfer 2,000,000 gallons of water or more per day from one river basin to another.

(The current interbasin transfer law has the same threshold for when a certificate is required.)

Notice of Intent to File a Petition.

The applicant would prepare a notice of intent to file a petition that includes a non technical description of the applicant's request and identifies the proposed water source. Within 90 days of filing the notice of intent, the applicant would hold at least one public meeting in the source river basin upstream from the proposed point of withdrawal, at least one public meeting in the source river basin down stream from the proposed point of withdrawal, and at least one public meeting in the receiving river basin to provide information to interested parties and the public regarding the nature and extent of the proposed transfer and to receive comment on the scope of the environmental documents. The applicant would provide at least 30 days notice of the public meetings by publishing notice in the North Carolina Register; by publishing notice in a newspaper of general circulation in many of the potentially affected areas in North Carolina and adjacent states; and by giving notice by first class mail to many potentially affected state and local governments and water users in North Carolina and adjacent states.

(The current interbasin transfer law provides that upon receipt of the petition, the Commission will hold a public hearing on the proposed transfer after giving at least 30 days' written notice of the hearing.

The notice must include a nontechnical description of the applicant's request and a statement as to the effects of the water transfer on the source and receiving river basins. Notice must be given by publishing notice in the North Carolina Register; by publishing notice in a newspaper of general circulation in the area of the river basin downstream from the point of withdrawal; and by giving notice by first-class mail to many potentially affected state and local governments and water users in North Carolina.)

Environmental Documents and Public Hearing.

An environmental assessment would be prepared for every petition for a certificate and an environmental impact statement would be prepared for every petition for a certificate for an interbasin transfer. An environmental impact statement would include a comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted. The environmental impact statement would also include an evaluation of alternatives to the proposed interbasin transfer and a description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer.

Within 30 days of the completion of the draft environmental impact document, the Commission would hold a public hearing on it. Notice of the hearing on the draft environmental document would be given as provided for notice of intent to file a petition, except that notice would be given in the Environmental Register rather than the North Carolina Register. The Commission could not act on the petition until the Commission determines that the environmental document is complete and adequate.

(The current interbasin transfer law requires that an environmental assessment be prepared and may require that a full environmental impact statement be prepared. There is no requirement to hold a separate public hearing on the adequacy of the environmental documents.)

Petition.

An applicant for a certificate would petition the Commission. The petition would be in writing and contain information on the nature and extent of the transfer as well as current and future water uses, including: a description of the facilities to be used to transfer the water; a description of the proposed uses of the water to be transferred; a description of water quality in the source and receiving river basins; a description of the water conservation measures used by the applicant; a description of every source of water within the receiving river basin; a description of existing, planned, or reasonably foreseeable water transfers and withdrawals from the source river basin; a demonstration that the proposed transfer would not impair existing uses of water within the source river basin; and any other information deemed necessary by the Commission.

(The current interbasin transfer law also requires the applicant to petition the Commission. The petition must be in writing and include a description of the facilities to be used to transfer the water; a description of the proposed uses of the water; the water conservation measures to be used by the applicant to assure efficient use of the water and avoidance of waste, and any other information deemed necessary by the Commission.)

Settlement Discussions.

Within 30 days after an applicant files a petition, the Commission would appoint a mediation officer who would initiate settlement discussions between the applicant and all other interested parties.

Draft Determination and Public Hearing on the Draft Determination.

Within 90 days after the Commission determines that the environmental document is adequate or the applicant submits its petition for a certificate, whichever occurs later, the Commission would issue a

draft determination on whether to grant the certificate. The draft determination would be based on the same criteria and include the same conditions and limitations, findings of fact, and conclusions of law that would be required in a final determination. Notice of the draft determination would be given as provided for notice of intent to file a petition. Within 60 days of the issuance of the draft determination, the Commission would hold a public hearing on the draft determination. At least one hearing would be held in the affected area of the source river basin and at least one hearing would be held in the affected area of the receiving river basin. The Commission would give at least 30 days' written notice of the public hearing as provided for notice of intent to file a petition.

(The current interbasin transfer law does not require the Commission to make a draft determination.)

Final Determination: Factors to be Considered.

In determining whether a certificate may be issued for the transfer, the Commission would specifically consider a number of factors, including: the necessity and reasonableness of the amount of surface water proposed to be transferred and its proposed uses; the present and reasonably foreseeable future detrimental effects on the source river basin; the cumulative effect on the source major river basin of existing and projected water transfer or consumptive water uses; the present and reasonably foreseeable beneficial and detrimental effects on the receiving river basin; all reasonable alternatives to the proposed transfer; and any other facts and circumstances that the Commission finds reasonably necessary to implement the interbasin transfer law.

(The current interbasin transfer law provides that in determining whether a certificate may be issued for the transfer, the Commission must specifically consider a number of factors, including: the necessity, reasonableness, and beneficial effects of the amount of surface water proposed to be transferred and its proposed uses; the present and reasonably foreseeable future detrimental effects on the source river basin; the cumulative effect on the source major river basin of any water transfer or consumptive water use; the detrimental effects on the receiving river basin; reasonable alternatives to the proposed transfer; any other facts and circumstances that the Commission finds are reasonably necessary to implement the interbasin transfer law.)

Final Determination: Information to be Considered.

In determining whether a certificate may be issued for the transfer, the Commission would consider the petition, the environmental document, all oral and written comment submitted, the water quality of the source river basin and the receiving river basin, any other information that the Commission determines to be relevant and useful.

(The current interbasin transfer law does not include a similar separate provision on information to be considered.)

Final Determination: Burden and Standard of Proof; Specific Findings.

The Commission would grant a certificate for a water transfer if the Commission finds that the applicant has established by a preponderance of the evidence that: the benefits of the proposed transfer outweigh the detriments of the proposed transfer; the detriments have been or will be mitigated to the maximum degree practicable; the amount of the transfer does not exceed the amount of the projected shortfall under the applicant's water supply plan after first taking into account all other sources of water that are available to the applicant; and there are no reasonable alternatives to the proposed transfer.

(The current interbasin transfer law provides that a certificate will be granted if the applicant establishes and the Commission concludes by a preponderance of the evidence that the benefits of the

proposed transfer outweigh the detriments of the proposed transfer and the detriments have been or will be mitigated to a reasonable degree.)

Final Determination: Certificate Conditions and Limitations.

The Commission would be authorized to grant the certificate in whole or in part, or deny the certificate. The Commission would be authorized to impose any conditions or limitations on a certificate that the Commission found necessary. The certificate would have to include a number of conditions, including: a water conservation plan; a drought management plan; the maximum amount of water that may be transferred on a daily basis; a provision that the Commission may amend the certificate under certain conditions; and a provision that prohibits the resale of transferred water except under certain conditions...

(The current interbasin transfer law provides that the Commission may grant the certificate in whole or in part, or deny the certificate. The Commission may also grant a certificate with any conditions attached that the Commission believes are necessary. The certificate must include a drought management plan and indicate the maximum amount of water that may be transferred.)

Administrative and Judicial Review; Certain Pre Existing Transfers; Emergency Transfers; Relationship to Federal Law; Planning Requirements.

For these provisions, the current interbasin transfer law and the PCS are very similar or identical.

Statement of Policy.

It would be the public policy of the State to maintain, protect, and enhance water quality within North Carolina; that projected future water needs in a receiving river basin are subordinate to projected future water needs in a source river basin; and that the cumulative impact of transfers from a source river basin would not result in a violation of the State and federal antidegradation policies.

(The current interbasin transfer law contains a similar provision, except that it does not explicitly state that projected future water needs in a receiving river basin are subordinate to projected future water needs in a source river basin.)

Application Fee.

An applicant for a certificate under this section would pay an application fee of ten thousand dollars ($10,000.00) to the Commission for processing a petition for a certificate. The applicant would pay the fee at the time the applicant submits the petition for a certificate to the Commission.

(There is no application fee under the current interbasin transfer law.)

EFFECTIVE DATE:

The Proposed Committee Substitute for House Bill 820 would become effective 1 December 2007 and apply to any petition for a certificate for an interbasin transfer made on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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HOUSE BILL 820*
PROPOSED SENATE COMMITTEE SUBSTITUTE H820-CSRTf-40 [v.2]

7/25/2007 1:03:23 PM

Short Title: Amend Interbasin Transfer Laws. (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER RIVER BASIN AND THE ALLOCATION OF SURFACE WATER RESOURCES AND TO AMEND THE LAWS GOVERNING THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER RIVER BASIN.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Assembly finds that:

(1) The findings set out in the Preamble to the Regional Water Supply Planning Act of 1971, G.S. 162A-21, remain largely true today and the purposes of that Act remain largely unfulfilled today.

(2) North Carolina still lacks a comprehensive regime for regulating surface water withdrawals for consumptive and nonconsumptive uses and that absence hinders the State's ability to make progress towards fulfilling the goals of the Act of 1971.

(3) The provisions of G.S. 143-215.73A, which require the Department of Environment and Natural Resources to prepare a statewide plan for water resources development projects, are too limited in terms of scope and time, and the resources available to the Department are insufficient to produce a comprehensive approach to water resource management.

(4) The particular requirements of other statutes regarding water resources, such as those regulating water transfers and withdrawals and those regulating capacity use areas, are difficult to apply and lead to unintended and even harmful consequences when applied in the absence of a sufficient comprehensive system of regulation of surface water resources within North Carolina.

(5) A number of North Carolina's major river basins extend into adjoining states, creating the potential for conflicts between North Carolina and adjoining states over the management of shared water basins, whereas a comprehensive system of surface water withdrawal and management would provide the State with a better means for avoiding or mitigating those potential interstate conflicts.

SECTION 1.(b) The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the allocation of surface water resources and their availability and maintenance in the State, including issues related to the transfer of water from one river basin to another and the withdrawal of water for consumptive use. The study shall include an evaluation of the benefits of establishing formal or informal procedures for negotiating transfers of water from one river basin to another. In the conduct of this study, the Environmental Review Commission may employ independent consultants as provided in G.S. 120-32.02 and G.S. 120-70.44. The Environmental Review Commission may submit an interim report to the 2008 Regular Session of the General Assembly and shall submit a final report of its findings and recommendations, including any legislative proposals, to the 2009 General Assembly.

SECTION 1.(c) The Division of Water Resources of the Department of Environment and Natural Resources, in consultation with the Environmental Review Commission, shall prepare a revised map entitled "Major River Basins and Sub-basins in North Carolina". The revised map shall be prepared as a recommended replacement for the map referenced in G.S. 143-215.22G. The revised map shall define the extent to which any river basin that encompasses any river that flows from another state into North Carolina or that flows from North Carolina into another state extends into an adjacent state. The Environmental Review Commission shall recommend a revised map and a conforming legislative proposal to amend the definition of "river basin" set out in G.S. 143-215.22G to the 2008 Regular Session of the General Assembly.

SECTION 2. G.S. 143-215.22I is repealed.

SECTION 3. Part 2A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.22L. Regulation of surface water transfers.**

(a) Certificate Required. – No person, without first obtaining a certificate from the Commission, may:

(1) Initiate a transfer of 2,000,000 gallons of water or more per day from one river basin to another.

(2) Increase the amount of an existing transfer of water from one river basin to another by twenty-five percent (25%) or more above the average daily amount transferred during the year ending 1 July 1993 if the total transfer including the increase is 2,000,000 gallons or more per day.

(3) Increase an existing transfer of water from one river basin to another above the amount approved by the Commission in a certificate issued under G.S. 162A-7 prior to 1 July 1993.

(b) Exception. – Notwithstanding the provisions of subsection (a) of this section, a certificate shall not be required to transfer water from one river basin to another up to the full capacity of a facility to transfer water from one basin to another if the facility was in existence or under construction on 1 July 1993.

(c) Notice of Intent to File a Petition. – An applicant shall prepare a notice of intent to file a petition that includes a nontechnical description of the applicant's request and an identification of the proposed water source. Within 90 days after the applicant files a notice of intent to file a petition, the applicant shall hold at least one public meeting in the source river basin upstream from the proposed point of withdrawal, at least one public meeting in the source river basin downstream from the proposed point of withdrawal, and at least one public meeting in the receiving river basin to provide information to interested parties and the public regarding the nature and extent of the proposed transfer and to receive comment on the scope of the environmental documents. Written notice of the public meetings shall be provided at least 30 days before the public meetings. At the time the applicant gives notice of the public meetings, the applicant shall request comment on the alternatives and issues that should be addressed in the environmental documents required by this section. The applicant shall accept written comment on the scope of the environmental documents for a minimum of 30 days following the public meetings. Notice of the public meetings and opportunity to comment on the scope of the environmental documents shall be provided as follows:

(1) By publishing notice in the North Carolina Register.

(2) By publishing notice in a newspaper of general circulation in:

a. Each county in this State located in whole or in part of the area of the source river basin upstream from the proposed point of withdrawal.

a1. Each county in an adjacent State located in whole or in part of the area of the source river basin upstream from the proposed point of withdrawal, up to the point of the last impoundment upstream from the point of withdrawal. This sub-subdivision shall not apply if there are no impoundments located in the source river basin upstream from the proposed point of withdrawal.

b. Each county in this State or in an adjacent state located in whole or in part of the area of the source river basin downstream from the proposed point of withdrawal.

c. Any area in the State in a river basin for which the source river basin has been identified as a future source of water in a local water supply plan prepared pursuant to G.S. 143-355(l).

d. Each county in the State located in whole or in part of the receiving river basin.

(3) By giving notice by first-class mail or electronic mail to each of the following:

a. The board of commissioners of each county in this State or any adjacent state that is located entirely or partially within the source river basin of the proposed transfer.
b. The board of commissioners of each county in this State or any adjacent state that is located entirely or partially within the receiving river basin of the proposed transfer.
c. The governing body of any public water supply system that withdraws water upstream or downstream from the withdrawal point of the proposed transfer.
d. If any portion of the source or receiving river basins is located in an adjacent state, all state water management or use agencies, environmental protection agencies, and the office of the governor in each adjacent state upstream or downstream from the withdrawal point of the proposed transfer.
e. All persons who have registered a water withdrawal or transfer from the proposed source river basin under this Part or under similar law in an adjacent state.
f. All persons who hold a certificate for a transfer of water from the proposed source river basin under this Part or under similar law in an adjacent state.
g. All persons who hold a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit for a discharge of 100,000 gallons per day or more upstream or downstream from the proposed point of withdrawal.
h. To any other person who submits to the applicant a written request to receive all notices relating to the petition.

(d) Environmental Documents. – The definitions set out in G.S. 113A-9 apply to this section. The Department shall conduct a study of the environmental impacts of any proposed transfer of water for which a certificate is required under this section. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. An environmental assessment shall be prepared for any petition for a certificate under this section. The determination of whether an environmental impact statement shall also be required shall be made in accordance with the provisions of Article 1 of Chapter 113A of the General Statutes; except that an environmental impact statement shall be prepared for every proposed transfer of water from one major river basin to another for which a certificate is required under this section. The applicant who petitions the Commission for a certificate under this section shall pay the cost of special studies necessary to comply with Article 1 of Chapter 113A of the General Statutes. An environmental impact statement prepared pursuant to this subsection shall include all of the following:

(1) A comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted.

(2) An evaluation of alternatives to the proposed interbasin transfer, including water supply sources that do not require an interbasin transfer and use of water conservation measures.

(3) A description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer.

(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer.

(f) Determination of Adequacy of Environmental Document. – The Commission shall not act on any petition for an interbasin transfer until the Commission has determined that the environmental document is complete and adequate. A decision on the adequacy of the environmental document is subject to review in a contested case on the decision of the Commission to issue or deny a certificate under this section.

(g) Petition. – An applicant for a certificate shall petition the Commission for the certificate. The petition shall be in writing and shall include all of the following:

(1) A description of the facilities to be used to transfer the water, including the location and capacity of water intakes, pumps, pipelines, and other facilities.

(2) A description of all the proposed consumptive and nonconsumptive uses of the water to be transferred.

(3) A description of the water quality of the source river and receiving river, including information on aquatic habitat for rare, threatened, and endangered species; in-stream flow data for segments of the source and receiving rivers that may be affected by the transfer; and any waters that are impaired pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)).

(4) A description of the water conservation measures used by the applicant at the time of the petition and any additional water conservation measures that the applicant will implement if the certificate is granted.

(5) A description of every source of water within the receiving river basin, including surface water impoundments, groundwater wells, reinjection storage, and purchase of water from another source within the river basin, that is a practicable alternative to the proposed transfer that would meet the applicant's water supply needs. The description of water sources shall include sources available at the time of the petition for a certificate and any planned or potential water sources.

(6) A description of water transfers and withdrawals registered under G.S. 143-215.22H or included in a local water supply plan prepared pursuant to G.S. 143-355(l) from the source river basin, including transfers and withdrawals at the time of the petition for a certificate and any planned or reasonably foreseeable transfers or withdrawals.

(7) A demonstration that the proposed transfer, if added to all other transfers and withdrawals required to be registered under G.S. 143-215.22H or included in any local water supply plan prepared pursuant to G.S. 143-355(l) from the source river basin at the time of the petition for a certificate, would not reduce the amount of water available for use in the source river basin to a degree that would impair existing uses, pursuant to the antidegradation policy set out in 40 Code of Federal Regulation § 131.12 (Antidegradation Policy) (1 July 2006 Edition) and the statewide antidegradation policy adopted pursuant thereto, or existing and planned consumptive and nonconsumptive uses of the water in the source river basin. If the proposed transfer would impact a reservoir within the source river basin, the demonstration must include a finding that the transfer would not result in a water level in the reservoir that is inadequate to support existing uses of the reservoir, including recreational uses.

(8) The applicant's future water supply needs and the present and reasonably foreseeable future water supply needs in the source river basin. The analysis of future water supply needs shall include agricultural, recreational, industrial, and hydropower uses. Local water supply plans prepared pursuant to G.S. 143-355(l) for water systems in the source river basin shall be used to evaluate the projected future water needs in the source river basin that will be met by public water systems.

(9) The applicant's water supply plan prepared pursuant to G.S. 143-355(l). If the applicant's water supply plan is more than two years old at the time of the petition, then the applicant shall include with the petition an updated water supply plan.

(10) Any other information deemed necessary by the Commission for review of the proposed water transfer.

(g1) Settlement Discussions. – Within 30 days after an applicant files a petition under this section, the Commission shall appoint a mediation officer. The mediation officer may be a member of the Commission, an employee of the Department, or a neutral third party but shall not be a hearing officer under subsections (e) or (i) of this section. The mediation officer shall make a reasonable effort to initiate settlement discussions between the applicant and all other interested parties. Evidence of statements made and conduct that occurs in a settlement discussion conducted under this subsection, whether attributable to a party, a mediation officer, or other person shall not be subject to discovery and shall be inadmissible in any subsequent proceeding on the

petition for a certificate. The Commission may adopt rules to govern the conduct of the mediation process.

(h) Draft Determination. – Within 90 days after the Commission determines that the environmental document prepared in accordance with subsection (d) of this section is adequate or the applicant submits its petition for a certificate, whichever occurs later, the Commission shall issue a draft determination on whether to grant the certificate. The draft determination shall be based on the criteria set out in this section and shall include the conditions and limitations, findings of fact, and conclusions of law that would be required in a final determination. Notice of the draft determination shall be given as provided in subsection (c) of this section.

(i) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (h) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer.

(j) Final Determination: Factors to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission shall specifically consider each of the following items and state in writing its findings of fact and conclusions of law with regard to each item:

(1) The necessity and reasonableness of the amount of surface water proposed to be transferred and its proposed uses.

(2) The present and reasonably foreseeable future detrimental effects on the source river basin, including present and future effects on public, industrial, economic, recreational, and agricultural water supply needs, wastewater assimilation, water quality, fish and wildlife habitat, hydroelectric power generation, navigation, and recreation. Local water supply plans prepared pursuant to G.S. 143-355(l) that affect the source river basin shall be used to evaluate the projected future water needs in the source river basin that will be met by public water systems. Information on projected future water needs that is more recent than the local water supply plans may be used if the Commission finds the information to be reliable. The determination shall include a specific finding as to measures that are necessary or

advisable to mitigate or avoid detrimental impacts on the source river basin.

(3) The cumulative effect on the source major river basin of any water transfer or consumptive water use that, at the time the Commission considers the petition for a certificate is occurring, is authorized under this section, or is projected in any local water supply plan that has been submitted to the Department in accordance with G.S. 143-355(l).

(4) The present and reasonably foreseeable future beneficial and detrimental effects on the receiving river basin, including present and future effects on public, industrial, economic, recreational, and agricultural water supply needs, wastewater assimilation, water quality, fish and wildlife habitat, hydroelectric power generation, navigation, and recreation. Local water supply plans prepared pursuant to G.S. 143-355(l) that affect the receiving river basin shall be used to evaluate the projected future water needs in the receiving river basin that will be met by public water systems. Information on projected future water needs that is more recent than the local water supply plans may be used if the Commission finds the information to be reliable. The determination shall include a specific finding as to measures that are necessary or advisable to mitigate or avoid detrimental impacts on the receiving river basin.

(5) The availability of alternatives to the proposed transfer, including the potential capacity of alternative sources of water, the potential of each alternative to reduce the amount of or avoid the proposed transfer, probable costs, and environmental impacts. The determination shall include a specific finding as to why the applicant's need for water cannot be satisfied by alternatives within the receiving basin, including unused capacity under a transfer for which a certificate is in effect or that is otherwise authorized by law at the time the applicant submits the petition. The determination shall include a specific finding as to whether a current water source of the applicant is no longer available due to depletion or contamination. The determination shall consider the extent to which access to potential sources of surface water or groundwater within the receiving river basin are unavailable as a result of the operation of other provisions of law that the restrict the use of those potential sources. The determination shall consider the feasibility of the applicant's purchase of water from other water suppliers within the receiving basin and of the transfer of water from another sub-basin within the receiving major river basin. Except in circumstances of technical or economic infeasibility or adverse environmental impact, the Commission's determination as to reasonable alternatives shall give preference to alternatives that would involve a transfer from one sub-basin to another within the major receiving river basin over

alternatives that would involve a transfer from one major river basin to another major river basin.

(6) If applicable to the proposed project, the applicant's present and proposed use of impoundment storage capacity to store water during high-flow periods for use during low-flow periods and the applicant's right of withdrawal under G.S. 143-215.44 through G.S. 143-215.50.

(7) If the water to be withdrawn or transferred is stored in a multipurpose reservoir constructed by the United States Army Corps of Engineers, the purposes and water storage allocations established for the reservoir at the time the reservoir was authorized by the Congress of the United States.

(8) Any other facts and circumstances that are reasonably necessary to carry out the purposes of this Part.

(k) Final Determination: Information to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission shall consider all of the following sources of information:

(1) The petition.

(2) The environmental document prepared pursuant to subsection (d) of this section.

(3) All oral and written comment and all accompanying materials or evidence submitted pursuant to subsections (e) and (i) of this section.

(4) Information developed by or available to the Department on the water quality of the source river basin and the receiving river basin, including waters that are identified as impaired pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)), that are subject to a total maximum daily load (TMDL) limit under subsections (d) and (e) of section 303 of the federal Clean Water Act, or that would have their assimilative capacity impaired if the certificate is issued.

(5) Any other information that the Commission determines to be relevant and useful.

(l) Final Determination: Burden and Standard of Proof; Specific Findings. – The Commission shall grant a certificate for a water transfer if the Commission finds that the applicant has established by a preponderance of the evidence all of the following:

(1) The benefits of the proposed transfer outweigh the detriments of the proposed transfer. In making this determination, the Commission shall be guided by the approved environmental document and the policy set out in subsection (s) of this section.

(2) The detriments have been or will be mitigated to the maximum degree practicable.

(3) The amount of the transfer does not exceed the amount of the projected shortfall under the applicant's water supply plan after first taking into account all other sources of water that are available to the applicant.

(4) There are no reasonable alternatives to the proposed transfer.

(m) Final Determination: Certificate Conditions and Limitations. – The Commission may grant the certificate in whole or in part, or deny the certificate. The Commission may impose any conditions or limitations on a certificate that the Commission finds necessary to achieve the purposes of this Part. The conditions and limitations shall include any mitigation measures proposed by the applicant to minimize any detrimental effects within the source and receiving river basins. In addition, the certificate shall require all of the following conditions and limitations:

(1) A water conservation plan that specifies the water conservation measures that will be implemented by the applicant in the receiving river basin to ensure the efficient use of the transferred water. The water conservation plan shall provide for the mandatory implementation of water conservation measures by the applicant that equal or exceed the most stringent water conservation plan implemented by a public water system that withdraws water from the source river basin.

(2) A drought management plan that specifies how the transfer shall be managed to protect the source river basin during drought conditions or other emergencies that occur within the source river basin. This drought management plan shall include mandatory reductions in the permitted amount of the transfer based on the severity and duration of a drought occurring within the source river basin and shall provide for the mandatory implementation of a drought management plan by the applicant that equals or exceeds the most stringent water conservation plan implemented by a public water system that withdraws water from the source river basin.

(3) The maximum amount of water that may be transferred on a daily basis, and methods or devices required to be installed and operated that measure the amount of water that is transferred.

(4) A provision that the Commission may amend a certificate to reduce the maximum amount of water authorized to be transferred whenever it appears that an alternative source of water is available to the certificate holder from within the receiving river basin, including, but not limited to, the purchase of water from another water supplier within the receiving basin or to the transfer of water from another sub-basin within the receiving major river basin.

(5) A provision that the Commission shall amend the certificate to reduce the maximum amount of water authorized to be transferred if the Commission finds that the applicant's current projected water needs are significantly less than the applicant's projected water needs at the time the certificate was granted.

(6) Except as provided in this subdivision, a provision that the applicant will not resell the water that would be transferred pursuant to the certificate to another public water supply system. In the case of a petition where the applicant proposes to furnish water to another

public water supply system within the receiving river basin, the Commission may approve a certificate that contemplates the resale if each jurisdiction included within the regional water supply system is a co-applicant for the transfer and will be subject to all the terms, conditions, and limitations made applicable to the primary applicant.

(n) Administrative and Judicial Review. – Administrative and judicial review of a final decision by the Commission on a petition for a certificate under this section shall be governed by Chapter 150B of the General Statutes.

(o) Certain Preexisting Transfers. – In cases where an applicant requests approval to increase a transfer that existed on 1 July 1993, the Commission may approve or disapprove only the amount of the increase. If the Commission approves the increase, the certificate shall be issued for the amount of the preexisting transfer plus any increase approved by the Commission. A certificate for a transfer approved by the Commission under G.S. 162A-7 shall remain in effect as approved by the Commission and shall have the same effect as a certificate issued under this Part. A certificate for the increase of a preexisting transfer shall contain all of the conditions and limitations required by subsection (m) of this section.

(p) Emergency Transfers. – In the case of water supply problems caused by drought, a pollution incident, temporary failure of a water plant, or any other temporary condition in which the public health requires a transfer of water, the Secretary of Environment and Natural Resources may grant approval for a temporary transfer. Prior to approving a temporary transfer, the Secretary shall consult with those parties listed in subdivision (3) of subsection (c) of this section that are likely to be affected by the proposed transfer. However, the Secretary shall not be required to satisfy the public notice requirements of this section or make written findings of fact and conclusions of law in approving a temporary transfer under this subsection. If the Secretary approves a temporary transfer under this subsection, the Secretary shall specify conditions to protect other water users. A temporary transfer shall not exceed six months in duration, but the approval may be renewed for a period of six months by the Secretary based on demonstrated need as set forth in this subsection.

(q) Relationship to Federal Law. – The substantive restrictions, conditions, and limitations upon surface water transfers authorized in this section may be imposed pursuant to any federal law that permits the State to certify, restrict, or condition any new or continuing transfers or related activities licensed, relicensed, or otherwise authorized by the federal government. This section shall govern the transfer of water from one river basin to another unless preempted by federal law.

(r) Planning Requirements. – When any transfer for which a certificate was issued under this section equals or exceeds eighty percent (80%) of the maximum amount authorized in the certificate, the applicant shall submit to the Department a detailed plan that specifies how the applicant intends to address future foreseeable water needs. If the applicant is required to have a local water supply plan, then this plan shall be an amendment to the local water supply plan required by G.S.143-355(l). When the transfer equals or exceeds ninety percent (90%) of the maximum amount authorized in

the certificate, the applicant shall begin implementation of the plan submitted to the Department.

(s) Statement of Policy. – It is the public policy of the State to maintain, protect, and enhance water quality within North Carolina. It is the public policy of this State that projected future water needs in a receiving river basin are subordinate to projected future water needs in a source river basin. Further, it is the public policy of the State that the cumulative impact of transfers from a source river basin shall not result in a violation of the antidegradation policy set out in 40 Code of Federal Regulations § 131.12 (1 July 2006 Edition) and the statewide antidegradation policy adopted pursuant thereto.

(t) Fee. – An applicant for a certificate under this section shall pay a fee of ten thousand dollars ($10,000) to the Commission for processing a petition for a certificate. The applicant shall pay the fee at the time the applicant submits the petition for a certificate to the Commission."

SECTION 4. G.S. 113A-8.1 reads as rewritten:

"**§ 113A-8.1. Surface water transfers.**

An environmental assessment shall be prepared for any transfer for which a petition is filed in accordance with ~~G.S. 143-215.22I.~~G.S. 143-215.22L. The determination of whether an environmental impact statement is needed with regard to the proposed transfer shall be made in accordance with the provisions of this Article."

SECTION 5. G.S. 143-215.6A(a)(9) reads as rewritten:

"(9) Is required, but fails, to apply for or to secure a certificate required by ~~G.S. 143-215.22I,~~ G.S. 143-215.22L, or who violates or fails to act in accordance with the terms, conditions, or requirements of the certificate."

SECTION 6. This act becomes effective when it becomes law and applies to any petition for a certificate for a transfer of surface water from one river basin to another river basin made on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 820*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H820-ARI-25 [v.1]

Date July 26 ,2007

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Senator Hartsell

moves to amend the bill on page 12, line 28,
by inserting between the words "basin" and "made" the word "first".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE FINANCE COMMITTEE
Friday, July 27, 2007 at 11:00 a.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met in room 544 of the Legislative Office Building, on Friday, July 27, 2007, at 11:00 a.m. Twenty members of the committee were present. Senator David Hoyle presided.

H.B. 177 – Comm. Coll./Participate in Energy Loan Prog.

Representative Tolson was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 628 – Uniform Graduated Co-Payment MH/DD/SA Svcs.

Representative Insko was recognized to explain the bill. Senator Purcell moved for a favorable report and division was called. The bill was displaced. A copy of the bill, the summary, and the fiscal note is attached.

H.B. 546 – Gen. Stat. Comm. Tech. Corrections – Arts.

Representative Ross was recognized to explain the bill. Copies of the bill were not yet available so the bill was displaced.

H.B. 1259 – Historic Rehabilitation Tax Credit.

The bill was taken up and Senator Kerr motioned for a favorable report. The motion carried. A copy of the bill and the summary is attached.

S.B. 1214 – Amend Interstate Compact/Adult Offenders.

Senator Rand was recognized to explain the bill and moved for a favorable report. The motion carried. A copy of the bill and the summary is attached.

H.B. 562 – Morrisville Annexation.

Senator Cowell was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 11:25 a.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Friday	July 27, 2007	11:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 177	Comm. Coll./Participate in Energy Loan Prog.	Representative Tolson
HB 546	Gen. Stat. Comm. Technical Corrections - Arts.	Representative Ross
HB 628	Uniform Graduated Co-Paymt MH/DD/SA Svcs.	Representative Insko
HB 859	Extend Nutrient Offset Payment Sunset.	Representative Allen Representative Gibson, III
HB 1259	Historic Rehabilitation Tax Credit.	Representative Howard
SB 1214	Amend Interstate Compact/Adult Offenders.-AB	Senator Rand
SB 1352	Toll Violation Enforcement.	Senator Hoyle
SB 1517	Prohibit Gift Card Maintenance Fees.	Senator Atwater

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Senate Finance Committee
Friday, July 27, 2007, 11:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 1517	Prohibit Gift Card Maintenance Fees.	Senator Atwater
HB 177	Comm. Coll./Participate in Energy Loan Prog.	Representative Tolson
HB 546	Gen. Stat. Comm. Technical Corrections - Arts.	Representative Ross
HB 628	Uniform Graduated Co-Paymt MH/DD/SA Svcs.	Representative Insko
HB 859	Extend Nutrient Offset Payment Sunset.	Representative Allen
HB 1259	Historic Rehabilitation Tax Credit.	Representative Gibson, III Representative Howard
SB 1214	Amend Interstate Compact/Adult Offenders.-AB	Senator Rand
SB 1352	Toll Violation Enforcement.	Senator Hoyle
HB 1027	Yadkin County Occupancy Tax.	Representative Holmes

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Friday, July 27, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

S.B.(CS #1) **1214** Amend Interstate Compact/Adult Offenders.-AB
Sequential Referral: None
Recommended Referral: None

H.B.(CS #2) **177** Comm. Coll./Participate in Energy Loan Prog.
Sequential Referral: None
Recommended Referral: None

H.B. **1259** Historic Rehabilitation Tax Credit.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 3

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Friday, July 27, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **562** Morrisville Annexations.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 177

Committee Substitute Favorable 3/1/07

Committee Substitute #2 Favorable 3/14/07

Short Title: Comm. Coll./Participate in Energy Loan Prog. (Public)

Sponsors:

Referred to:

February 14, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING COMMUNITY COLLEGE BOARDS TO SECURE LOANS UNDER THE ENERGY IMPROVEMENT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-20 reads as rewritten:

"**§ 115D-20. Powers and duties of trustees.**

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

...

(10) To enter into guaranteed energy savings contracts pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(10a) To enter into loan agreements under the Energy Improvement Loan Program pursuant to Part 3 of Article 36 of Chapter 143 of the General Statutes.

(11) To enter into lease purchase and installment purchase contracts for equipment under G.S. 115D-58.15.

...."

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

HOUSE BILL 177:
Comm. Coll./Participate in Energy Loan Prog

BILL ANALYSIS

Committee:	House Education	**Date:**	March 21, 2007
Introduced by:	Rep. Tolson	**Summary by:**	Heather Fennell
Version:	Third Edition		Committee Counsel

SUMMARY: The third edition of House Bill 177 would authorize local community college boards to enter into loans under the Energy Improvement Loan Program.

CURRENT LAW: The Business Energy Improvement Program was created in 2000 to give information and assistance, including low cost loans, for energy efficient improvements to businesses in North Carolina. In 2001, the title of the program was changed to the Energy Improvement Loan Program, and the beneficiaries of the program were expanded to include local governmental units and nonprofit organizations. For the purposes of this program, the term "local governmental units" is defined to include any board of a community college.

G.S. 143-345.18 authorizes the Department of Administration to:

- establish a revolving fund for secured loans in amounts not greater than $500,000 per entity to install energy-efficient capital improvements within local governmental units.
- develop and adopt rules to allow State-regulated financial institutions to provide secured loans to local government units in accordance with terms and criteria established by the department.

BILL ANALYSIS: G.S. 115D-20 provides certain powers and duties to the trustees of the local administrative boards of community colleges. Subsection (10) of G.S. 115D-20 currently authorizes trustees to enter into guaranteed energy savings contracts under Part 2 of Article 3B of Chapter 143 of the General Statutes. A guaranteed energy savings contract is a contract for the evaluation, recommendation, or implementation of energy conservation measures, including the design and installation of equipment, or the replacement of existing equipment. Payments for the contracts must be made over time, and the energy savings must be guaranteed to exceed costs.

The third edition of House Bill 177 would add a new subsection authorizing trustees of individual community colleges to enter into loan agreements under the Energy Improvement Loan Program (EILP) found in Chapter 143, Article 36, Part 3. EILP provides low interest loans for eligible conservation measures to qualifying organizations. The loans can be repaid from the energy savings these improvements generate. The time period of the loan equals the average payback time of the conservation measures, but cannot exceed 10 years.

EFFECTIVE DATE: This bill is effective when it becomes law.

Jennifer Mundt, Legislative Analyst, and Kara McCraw, Staff Attorney, substantially contributed to this summary.

H0177e3-SMTC-CSTC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 4

HOUSE BILL 628*

Committee Substitute Favorable 3/26/07
Committee Substitute #2 Favorable 4/17/07
Senate Health Care Committee Substitute Adopted 7/25/07

Short Title: Uniform Graduated Co-paymt - MH/DD/SA Svces. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A UNIFORM CO-PAYMENT SCHEDULE FOR MH/DD/SA SERVICES AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-146 reads as rewritten:

"**§ 122C-146. ~~Fee for service.~~Uniform co-payment schedule.**

(a) The ~~area authority~~LME and its contractual provider agencies shall ~~prepare fee schedules~~ implement the co-payment schedule based on family income adopted by the Secretary ~~for services and~~ under G.S. 122C-112.1(a)(34). The LME is responsible for determining the applicability of the co-payment to individuals authorized by the LME to receive services. An LME that provides services and its contractual provider agencies shall also make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party ~~payment, except that individuals~~ payments. However, no individual may be refused services because of an inability to pay.

(b) Individuals may not be charged for free services, as required in "The Amendments to the Education of the Handicapped Act", P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption from charges does not exempt insurers or other third-party payors from being charged for payment for these services, if the person who is legally responsible for any eligible infant or toddler is first advised that the person may or may not grant permission for the insurer or other payor to be billed for the free services. ~~However, no individual may be refused services because of an inability to pay.~~

(c) All funds collected from ~~fees from area authority~~co-payments for LME operated services shall be used ~~for the fiscal operation or capital improvements of the area authority's programs.~~to provide services to individuals in targeted populations.

The collection of ~~fees~~ co-payments by ~~an area authority~~ an LME that provides services may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue. All funds collected from co-payments by contractual provider agencies shall be used to provide services to individuals in targeted populations."

SECTION 2. G.S. 122C-112.1(a) is amended by adding a new subdivision to read:

"**§ 122C-112.1. Powers and duties of the Secretary.**

(a) The Secretary shall do all of the following:

...

(34) Adopt rules for the implementation of a co-payment graduated schedule to be used by LMEs and by contractual provider agencies under G.S. 122C-146. The co-payment graduated schedule shall be developed to require a co-payment for services identified by the Secretary. Families whose family income is four hundred percent (400%) or greater of the federal poverty level are eligible for services with the applicable co-payment."

SECTION 3. The Secretary of the Department of Health and Human Services shall identify all services that are funded by or through the Department's budget and that do not require income-based criteria in order for an individual to be eligible to receive the service. The Secretary shall develop a proposal for implementing income-based criteria for eligibility for those programs and shall submit the proposal to the General Assembly and the Fiscal Research Division by November 1, 2007.

SECTION 4. Section 1 of this act becomes effective July 1, 2008, and applies to services provided on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 628:
Uniform Graduated Co-paymt - MH/DD/SA Svces

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Rep. Insko	**Summary by:**	Cindy Avrette
Version:	Fourth Edition		Committee Counsel

SUMMARY: ***House Bill 628[1] would authorize the Department of Health and Human Services (Department) to create a statewide uniform sliding fee schedule for Local Management Entity (LME) authorized MH/DD/SAS services and would require funds collected from these fees by contractual provider agencies be used to provide services to individuals in targeted populations. The LMEs that may impose the fees are the ones that provide the services.***

The bill would also direct the Department to identify and develop a proposal to address services that do not have income-related eligibility. The Department must submit its proposal by November 1, 2007.

This bill is a recommendation of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services. It received a favorable report from the House Committee on Mental Health Reform.

CURRENT LAW: LMEs are responsible for the management and oversight of the public system of mental health, developmental disabilities, and substance abuse services at the community level. A LME may be an area authority, a county program, or a consolidated human services agency. A LME may provide the services or it may contract with a public or private entity for the implementation of the services. A LME or the contractual agency providing the services is required to prepare a fee schedule for the services and make reasonable efforts to collect appropriate reimbursement for costs from individuals or entities based on an ability to pay.[2]

A survey of LMEs by the Division of Mental Heath, Developmental Disabilities, and Substance Abuse Services (Division) during the fall of 2006 showed there is no uniformity across the State regarding fee schedules. LMEs may or may not use the same fee schedule for all services. Some look at gross income, others do not. Some set an income floor below which no fee is charged, others do not. All LMEs that reported on their sliding fee scale had a maximum income above which no relief was provided. However, those maximum incomes ranged from $7,200 to $99,000 for a family of one. Two LMEs charged for "no shows", but the vast majority did not. Only one LME had a maximum monthly liability limit.[3]

BILL ANALYSIS: House Bill 628 directs the Department to adopt rules that would implement a standard fee schedule and a sliding fee schedule to be used by LMEs and contractual provider agencies for locally authorized services. The Division is hiring a consultant to help determine the appropriate fee schedule. It is anticipated that it may take as long as a year for the schedule to be completed. The proposed committee substitute assumes that the standard fee schedule will be completed by July 1, 2008, and thus provides that the LMEs that provide the services and their contractual provider agencies must begin applying the standardized fees for services offered on or after July 1, 2008.

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[1] As introduced, the bill is identical to Senate Bill 1265.

[2] G.S. 122C-146

[3] Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services Report to the 2007 General Assembly

Effective July 1, 2008, the bill requires funds collected from fees by contractual provider agencies be used to provide services to individuals in targeted populations. A 'targeted population' is defined as individuals who are given service priority under the State Plan. Presently, the use of the funds collected by contractual provider agencies varies from LME to LME.

The bill further directs the Department to submit to the General Assembly and the Fiscal Research Division by November 1, 2007, a proposal to address program services that do not have income-based criteria for eligibility.

EFFECTIVE DATE: Section 1 of the bill, which directs the LMEs and contractual provider agencies to implement the standardized fee schedule, would become effective July 1, 2008, and apply to services offered on or after that date. The remainder of the bill would become effective when it becomes law.

Shawn Parker, legislative analyst for the House Committee on Mental Health Reform, substantially contributed to this summary.

H0628e4-SMTD

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 628 (Fourth Edition)

SHORT TITLE: Uniform Graduated Co-paymt - MH/DD/SA Svces.

SPONSOR(S): Representative Insko

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
Local Management Entities		No Estimate Available			
EXPENDITURES					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Local Management Entities

EFFECTIVE DATE: Section 1 of this act becomes effective July 1, 2008 and only applies to services provided on or after that date. The remainder of this act is effective when it becomes law.

BILL SUMMARY:

Currently, Local Management Entities (LMEs) and their contractual agencies are required to prepare fee schedules for services and make reasonable efforts to collect appropriate reimbursement for costs from individuals or entities based on ability to pay. House Bill 628 would direct LMEs and private providers to implement a standardized co-payment schedule based on family income and rules adopted by the Secretary of the Department of Health and Human Services (DHHS). The LME would be responsible for determining the co-payment for individuals who the LME authorizes to receive services. The Secretary is directed to adopt rules to implement a co-payment graduated schedule to be used by LMEs and private providers. Families whose income is 400% or greater of the Federal Poverty Level are eligible for services subject to the applicable co-pay.

ASSUMPTIONS AND METHODOLOGY:

Revenues: Currently, fees from LME-operated services collected under G.S.122C-146 are used for the fiscal operation or capital improvements of the LME. HB 628 amends G.S. 122C-146 in the following ways:

- Changes the fee to a co-payment and to specify that the LME is responsible for determining the applicability of the co-payment to individuals authorized by the LME to receive services.
- Changes the use of these funds (currently "fees" and proposed to be "co-payments") from fiscal operation or capital improvements to service provision to targeted populations.
- Modifies the non-supplant language to state that the collection of co-payments by an LME *that provides services* may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue (italics added for emphasis). Currently the collection of fees by any LME (not just one providing services) may not be used as justification for the reduction or replacement of budgeted commitment of local tax revenue.
- Adds that all funds collected from co-payments by contractual provider agency shall be used to provide services to targeted populations.

A new, statewide co-payment schedule will change the amount of receipts collected at the local level and therefore the amount of resources available for service provision. However, because the new co-payment schedule is not yet known, it is impossible to estimate the revenue to be generated by the new schedule and whether it would increase or decrease local revenue.

Expenditures: The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMHDDSAS) plans to hire a contractor to assist them in developing the standardized co-payment schedule required in HB 628. The contractor would establish the statewide co-payment schedule for mental health, developmental disability, and substance abuse services and establish standardized policies and procedures for the implementation of the standardized co-payment schedule. This work would also include a comprehensive review of fee and co-payment schedules and policies in other states for mental health, developmental disability, and substance abuse services which are administered on a statewide basis.

DMHDDSAS estimates that this contract should not exceed $70,000. DMHDDSAS expects to pay for this contract out of existing funds during FY 2007-08 from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.

In addition to establishing the co-payment schedule, policies, and procedures, the Department of Health and Human Services will also need to implement rules for this standardized co-payment schedule. There is no anticipated additional cost for this because rule implementation is within the scope of the Department's existing work.

Additionally, the LMEs and MH/DD/SA providers may need to update or change their computer systems based on the new, standardized co-payment schedule. For example, LMEs will need to implement a method for indicating to providers whether or not a family authorized for services is

subject to the co-payment schedule. However, LMEs and providers routinely change their systems to reflect payment changes for third party insurers, and any changes from this statewide co-payment schedule are likely to be within the scope of those routine changes.

SOURCES OF DATA: Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Andrea Poole

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 26, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1259*

Short Title:	Historic Rehabilitation Tax Credit.	(Public)
Sponsors:	Representatives Howard; and Faison.	
Referred to:	Finance.	

April 2, 2007

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE SUNSET ON THE PASS-THROUGH ENTITY ALLOCATION PROVISIONS OF THE HISTORIC REHABILITATION TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476 and Section 1 of S.L. 2003-415, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. ~~G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, 2008, for property placed in service on or after that date.~~ Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

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

HOUSE BILL 1259:
Historic Rehabilitation Tax Credit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 27, 2007
Introduced by:	Rep. Howard	**Summary by:**	Cindy Avrette
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 1259 removes the sunset on the pass-through entity allocation provisions of the historic rehabilitation tax credit. The bill is effective when it becomes law.

CURRENT LAW: North Carolina allows an income tax credit[1] to taxpayers that qualify for the federal historic rehabilitation tax credit.[2] The amount of the credit is equal to 20% of the expenses of rehabilitating an income-producing historic structure.[3] A pass-through entity may qualify for the rehabilitation credit and pass the credits on to its owners.[4]

For most State tax credits, a pass-through entity is required to allocate the credit among its owners in the same proportion that other items, such as the federal rehabilitation credit, are allocated under the Internal Revenue Code. Under the Internal Revenue Code, tax credits are allocated among S corporation shareholders in accordance with their pro rata share of the corporation, which is determined on the basis of stock ownership, [5] and tax credits are allocated among partners in a partnership in accordance with the partnership agreement.[6] However, in 1999, the General Assembly amended the law to provide for the separate sale of the historic tax credit for income-producing property by allowing a pass-through entity to allocate the tax credit among its owners at its discretion. The allocation of the credit allows the tax credit to be utilized more fully since it can be redistributed to North Carolina investors with State income tax liability. The owner's adjusted basis in the pass-through entity must be equal to at least 40% of the amount of credit allocated to the owner.[7] Each year an allocated credit is claimed, the pass-through entity and its owners must include a statement with their tax return that shows both the allocation made and the allocation that would otherwise have been required under G.S. 105-131.8 and G.S. 105-269.15.

BILL ANALYSIS: The provisions of State law allowing the allocation of the credit among the owners of a pass-through entity will expire for taxable years beginning on or after January 1, 2008. The original provision would have expired for taxable years beginning on or after January 1, 2002. S.L. 2001-476 extended the provision for two years and S.L. 2003-415 extended it for four more years. This act would repeal the sunset so that the credit could continue to be allocated among the owners of a pass-through entity.

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[1] G.S. 105-129.35. The credit may not be taken for the tax year the property is placed in service but must be taken in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

[2] The federal tax credit is available for rehabilitating only income-producing historic structures. The federal credit amount is equal to 20% of the rehabilitation expenses.

[3] North Carolina also allows an income tax credit of 30% of the expenses of rehabilitating an historic structure that is not income-producing, and thus not eligible for the federal income tax credit.

[4] A pass-through entity is an entity, such as a partnership, a limited liability company, or a Subchapter S corporation, that is treated as owned by individuals or other entities under federal tax law and whose income, losses, and credits are reported by the owners on their State income tax returns.

[5] State law provides that the tax credit allowed a shareholder in a Subchapter S corporation is based on the percentage of stock held by the shareholder in the corporation. G.S. 105-131.8.

[6] State law provides that the tax credit allowed a partner is based on the partnership agreement, which must have substantial economic effect, which means that the allocation agreement must reflect the economic interest of the partners in the partnership and cannot be based solely on tax consequences. G.S. 105-269.15.

[7] S.L. 2003-415. Prior to 2003, the amount of credit allocated to an owner could not exceed the owner's adjusted basis in the entity.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 1214

Judiciary I (Civil) Committee Substitute Adopted 6/14/07

Short Title: Amend Interstate Compact/Adult Offenders.-AB (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4B of Chapter 148 of the General Statutes reads as rewritten:

"Article 4B.

"Interstate Compact for ~~the Supervision of Adult Offenders.~~ Adult Offender Supervision.

"**§ 148-65.4. Short title.**

This Article may be cited as "The Interstate Compact for ~~the Supervision of Adult Offenders~~Adult Offender Supervision".

"**§ 148-65.5. Governor to execute compact; form of compact.**

The Governor of North Carolina is authorized and directed to execute a compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

Preamble.

Whereas: The Interstate Compact for the Supervision of Parolees and Probationers was established in 1937, it is the earliest corrections "compact" established among the states, and has not been amended since its adoption over 62 years ago;

Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders;

Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements, and sex offender registration;

Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability;

Whereas: The General Assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety. The Governor is hereby authorized and directed to enter into a compact on behalf of the State of North Carolina with any state of the United States and other territorial possessions of the United States legally joining therein in the form substantially as follows;

Whereas: Upon the adoption of this Interstate Compact for ~~the Supervision of Adult Offenders,~~ Adult Offender Supervision, it is the intention of the General Assembly to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers one year after the effective date of this compact.

...

Article IV.
The State Council.

(a) Each member state shall create a State Council for Interstate Adult Offender Supervision that shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators.

(b) Each compacting state retains the right to determine the qualifications of the Compact Administrator, who shall be appointed by the state council or by the Governor in consultation with the legislature and the judiciary. In addition to appointment of its own commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including, but not limited to, development of policy operations and procedures of the compact within that state.

...

"§ 148-65.6. Implementation of the compact.

(a) The North Carolina State Council for Interstate Adult Offender Supervision shall be established, consisting of ~~11~~ 14 members. ~~The Secretary of Correction, or the Secretary's designee, shall serve as the Compact Administrator for the State of North Carolina and as North Carolina's Commissioner to the Interstate Compact Commission. The Secretary of Correction, or the Secretary's designee, is a member of the State Council and serves as chairperson of the State Council.~~ North Carolina's Commissioner to the Interstate Compact Commission is a member of the State Council and serves as

chair of the State Council. The remaining members of the State Council shall consist of the following:

(1) One member representing the executive branch, to be appointed by the Governor;

(2) One member from a victim's assistance group, to be appointed by the Governor;

(3) One at-large member, to be appointed by the Governor;

(4) One member of the Senate, to be appointed by the President Pro Tempore of the Senate;

(5) One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives;

(6) A superior court judge, to be appointed by the Chief Justice of the Supreme Court; ~~and~~

(6a) A district court judge, to be appointed by the Chief Justice of the Supreme Court;

(7) Four members representing the Division of Community Corrections, to be appointed by the Director of the Division of Community ~~Corrections.~~Corrections;

(8) A district attorney, to be appointed by the Governor; and

(9) A sheriff, to be appointed by the Governor.

(a1) The Governor, in consultation with the legislature and judiciary, shall appoint the Compact Administrator. The Compact Administrator shall be appointed by the State Council as North Carolina's Commissioner to the Interstate Compact Commission.

(b) The State Council shall meet at least twice a year and may also hold special meetings at the call of the chairperson. All terms are for three years.

(c) The State Council may advise the Compact Administrator on participation in the Interstate Commission activities and administration of the compact.

(d) The members of the State Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses in accordance with the policies of the Office of State Budget and Management.

(e) The State Council shall act in an advisory capacity to the Secretary of Correction concerning this State's participation in Interstate Commission activities and other duties as may be determined by each member state, including recommendations for policy concerning the operations and procedures of the compact within this State.

(f) The Governor shall by executive order provide for any other matters necessary for implementation of the compact at the time that it becomes effective, and, except as otherwise provided for in this section, the State Council may promulgate rules or regulations necessary to implement and administer the compact.

"**§ 148-65.7. ~~Supervision fee.~~ Fees.**

(a) Persons convicted in this State who make a request for transfer to another state pursuant to the compact shall pay a transfer application of one hundred fifty dollars ($150.00) for each transfer application submitted. The transfer application fee shall be paid to the Compact Commissioner upon submission of the transfer application. The Commissioner or the Commissioner's designee may waive the application fee if either

the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

All fees collected pursuant to this section shall be deposited in the Interstate Compact Fund and shall be used only to support administration of the Interstate Compact.

The Interstate Compact Fund is established within the Department of Correction as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert, and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Department of Correction pursuant to this subsection shall be remitted to the State Treasurer to be deposited and held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to the Department of Correction for the administration of the Interstate Compact.

(b) Persons supervised in this State pursuant to this compact shall pay the supervision fee specified in G.S. 15A-1374(c). The fee shall be paid to the clerk of court in the county in which the person initially receives supervision services in this State. The Commissioner or the Commissioner's designee may waive the fee if either the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

"§ 148-65.8. Interstate parole and probation hearing procedures.

(a) Where supervision of an offender is being administered pursuant to the Interstate Compact for ~~the Supervision of Adult Offenders,~~ Adult Offender Supervision, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole, probation, or post-release supervision violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this section within a reasonable time, unless such hearing is waived by the offender. ~~The appropriate officer or officers of this State shall, as soon as practicable following termination of any such hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the offender by the sending state.~~ Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the offender involved for a period not to exceed 15 days prior to the ~~hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.~~ hearing. The offender shall not be entitled to bail pending the hearing.

(b) Any hearing pursuant to this section may be before the Administrator of the Interstate Compact for ~~the Supervision of Adult Offenders,~~ Adult Offender Supervision, a deputy of the Administrator, any other person appointed by the Administrator, or any person authorized pursuant to the laws of this State to hear cases of alleged parole, probation, or post-release supervision violation, except that no hearing officer shall be the person making the allegation of violation.

(c) With respect to any hearing pursuant to this section, the offender:

(1) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that the offender has committed a violation that may lead to a revocation of parole, probation, or post-release supervision.

(2) Shall be permitted to advise with any persons whose assistance the offender reasonably desires, prior to the hearing.

(3) Shall have the right to confront and examine any persons who have made allegations against the offender, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.

(4) May admit, deny, or explain the violation alleged and may present proof, including affidavits and other evidence, in support of the offender's contentions. ~~A record of the proceedings shall be made and preserved.~~

(c1) A record of the hearing shall be made and preserved. As soon as practicable following termination of any hearing conducted pursuant to this section or the waiver of such hearing, the appropriate officer or officers of this State shall report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the offender by the sending state. If the hearing recommendation is to retake or reincarcerate the offender, the hearing officer or officers may detain the offender until notice is received from the sending state. If the sending state provides notice that it intends to retake or reincarcerate the offender, the offender shall remain in custody for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

(d) In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact for ~~the Supervision of Adult Offenders,~~ Adult Offender Supervision, any appropriate judicial or administrative officer or agency in another state may hold a hearing on the alleged violation. Upon receipt of the record of a parole, probation, or post-release supervision violation hearing held in another state pursuant to a statute substantially similar to this section, that record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter.

"**§ 148-65.9. North Carolina sentence to be served in another jurisdiction.**

The Post-Release Supervision and Parole Commission, with the concurrence of the Secretary of Correction, may direct that the balance of any sentence imposed by the courts of this State shall be served concurrently with a sentence or sentences in another state or federal institution and may effect a transfer of custody of such individual to the other jurisdiction for such purpose. In the event the individual's sentence liability in the other jurisdiction terminates prior to the expiration of the individual's North Carolina sentence, the individual shall be either paroled (if eligible) or returned to the prison

department of this State, in the discretion of the Post-Release Supervision and Parole Commission."

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

SENATE BILL 1214:
Amend Interstate Compact/Adult Offenders.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Sen. Rand	**Summary by:**	Heather Fennell
Version:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 1214 would make technical corrections, expand the membership of the State Council, provide for appointment of the Compact Administrator and Commissioner in accord with the terms of the Compact, establish fees for in-state transfer applications, and modify procedures for hearings.***

CURRENT LAW: Article 4B of Chapter 148 established the Interstate Compact for the Supervision of Adult Offenders (ICSAO). The ICSAO provides for a joint compact among the states to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and return offenders to their originating jurisdictions when necessary.

The Compact creates a State Council responsible for appointing a Commissioner to serve on the Interstate Compact Commission for that state. The Compact requires that the State Council appoint as Commissioner the Compact Administrator from that state. Each state retains the right to determine the qualifications of the Compact Administrator, who is appointed by either the State Council or by the Governor in consultation with the legislature and the judiciary.

G.S. 148-65.6 provides for implementation of the Compact. The North Carolina State Council consists of 11 members:

- Secretary of Correction (or designee) – Chairperson.
- 1 executive branch representative, 1 member from a victim's assistance group, and 1 at-large member, all appointed by the Governor.
- 1 member of the Senate, appointed by the President Pro Tempore.
- 1 member of the House of Representatives, appointed by the Speaker of the House.
- 1 superior court judge, appointed by the Chief Judge of the Supreme Court.
- 4 members representing the Division of Community Corrections, appointed by the Director of the Division of Community Corrections.

The Secretary of Correction, or designee, serves as the Compact Administrator and North Carolina's Commissioner to the Interstate Compact Commission.

G.S. 148-65.7 provides for supervision fees as specified in G.S. 15A-1374(c). G.S. 15A-1374(c) establishes a monthly fee of thirty dollars ($30.00) for parolee supervision. The fee is payable to the clerk of superior court of the county in which the offender initially receives supervision services in the State.

G.S. 148-65.8 provides the procedures for interstate parole and probation hearings.

- When the appropriate authorities determine that consideration should be given to retaking or reincarceration for a parole, probation, or post-release supervision violation by an offender supervised under the ICSAO, the Compact Administrator of the sending state must be notified.
- Prior to notification, a hearing must be held within a reasonable time unless waived by the offender. As soon as practicable following the hearing, the appropriate officer must report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the offender's disposition by the sending state.
- Pending proceedings pursuant to this section, appropriate officers may take custody of and detain an offender for a period of not more than 15 days prior to the hearing. If it appears to the hearing officer that retaking or reincarceration is likely to follow, the offender may be detained for a reasonable period after the hearing or waiver as necessary for retaking or reincarceration.

BILL ANALYSIS: Senate Bill 1214 would make the following changes to Article 4B.

- Would make technical changes by correcting the title from "Interstate Compact for the Supervision of Adult Offenders" to "Interstate Compact for Adult Offender Supervision" throughout the Article.
- Would add 3 new members to the State Council in G.S. 148-65.6: 1) a district court judge to be appointed by the Chief Judge of the Supreme Court, 2) a district attorney, to be appointed by the Governor, and 3) a sheriff, to be appointed by the Governor.
- Would appoint the Commissioner as a member of the State Council in place of the Secretary of Correction, and would make the Commissioner the chair of the State Council. Would require the Governor to appoint the Compact Administrator in consultation with the legislature and judiciary, and would require the State Council to appoint the Compact Administrator as the Commissioner to the Interstate Compact Commission.
- Would add the following fees under G.S. 148-65.7. Persons convicted in NC who make a transfer request under the ICAOS would pay a transfer application fee of $150 for each transfer application submitted, payable to the Compact Commissioner. The Compact Commissioner may waive the fee if either the Commissioner or Commissioner's designee found the payment to be an undue economic burden on the offender. Fees would be deposited in the Interstate Compact Fund and used only in support of administration of the Interstate Compact.
- Would establish in G.S. 148-65.7 the Interstate Compact Fund within the Department of Correction as a nonreverting, interest-bearing special revenue account, used to supplement funds otherwise available to the Department of Corrections for administration of the Compact.
- Would allow the Commissioner or the Commissioner's designee to waive the fee for supervision in NC, which would remain at $30, if either felt that payment of the fee would constitute an undue economic burden on the offender.
- Would reorganize the procedures for interstate parole and probation hearings under G.S. 148-65.8 as follows.
  - Would eliminate the provisions under G.S. 148-65.8(a) regarding notice to other states and providing that the offender could be held for a reasonable period after the hearing or waiver of hearing as necessary if it appeared to hearing officers that retaking or reincarceration was likely.
  - Would add to subsection (a) the mandate that offenders are not entitled to bail pending hearings.
  - Would create a new subsection (c1) providing for recording of the hearing, notification to the sending state, and requiring that if the hearing recommendation was to retake or reincarcerate the offender, the hearing officer could detain the offender until notice was received from the sending state, and that if the sending state provided notice that it intended to retake or reincarcerate the offender, the offender must remain in custody after the hearing as necessary to arrange for the retaking.

EFFECTIVE DATE: This bill would become effective when it becomes law.

BACKGROUND: The 1937 Interstate Compact for the Supervision of Parolees and Probationers was replaced by the member states with the Interstate Compact for Adult Offender Supervision, which North Carolina adopted in 2002. All 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands are members of the Compact.

S1214e2-SMTD

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 562*

Short Title:	Morrisville Annexations.	(Local)
Sponsors:	Representative T. Harrell.	
Referred to:	Local Government I, if favorable, Finance.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MORRISVILLE TO ANNEX CERTAIN PROPERTIES CURRENTLY TOTALLY SURROUNDED BY THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-48, a municipality to which that section applies may adopt ordinances annexing property that, on February 15, 2007, was completely enclosed by the corporate limits of the municipality, if the ordinance makes a finding that the total acreage being annexed is less than five percent (5%) of the total acreage within the corporate limits of the municipality prior to the annexation and also either:

(1) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation is necessary for the orderly growth and development of the municipality; or

(2) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation improves the ability to provide public safety services.

SECTION 2. The procedure for recording any annexation under this act is as provided in G.S. 160A-51.

SECTION 3. Any annexation ordinance adopted under this act shall be adopted before December 31, 2017.

SECTION 4. This act applies only to the Town of Morrisville.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 562:
Morrisville Annexations

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 27, 2007
Introduced by:	Rep. T. Harrell	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 562 is a local bill that authorizes the Town of Morrisville to annex certain property that is totally surrounded by the corporate limits without being subject to the statutory requirement of development for urban purposes. This act is effective when it becomes law.

[As introduced, this bill was identical to S491, as introduced by Sen. Cowell, which is currently in House Local Government I .]

CURRENT LAW: North Carolina authorizes municipalities to involuntarily annex territory if specified criteria set out in G.S. 160A-48 are met. One of the requirements concerns the location of the property in relationship to the municipality's existing corporate boundaries: the area proposed to be annexed must be adjacent or contiguous to the municipality's boundaries. Specifically, at least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary, and no part of the area may be included within the boundary of another incorporated municipality.

In addition to the general requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

BILL ANALYSIS:

House Bill 562 would authorize the annexation of an area currently surrounded by the existing city limits of Morrisville without being subject to the statutory requirement that part or all of the area to be annexed be developed for urban purposes as defined in G.S. 160A-48(c). Although the area to be annexed would not have to meet the development criteria, the town would still be required to follow the annexation procedures set out in Part 3 of Article 4A.

The bill further requires that the annexation ordinance make a finding that the total acreage being annexed is less than five percent (5%) of the total acreage within the corporate limits of the municipality prior to the annexation and that either:

- Based upon circumstances and evidence satisfactory to the municipality, the annexation is necessary for the orderly growth and development of the municipality; or
- Based upon circumstances and evidence satisfactory to the municipality, the annexation improves the ability to provide public safety services.

The annexation ordinance must be adopted before December 31, 2017.

EFFECTIVE DATE: This act is effective when it becomes law.

H0562e1-SMSV

SENATE FINANCE COMMITTEE
Friday, July 27, 2007 at 3:00 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met in room 544 of the Legislative Office Building, on Friday, July 27, 2007, at 3:00 p.m. Twenty-five members of the committee were present. Senator David Hoyle and Senator Daniel Clodfelter presided.

H.B. 859 – Extend Nutrient Offset Payment Sunset.

Senator Clodfelter was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the proposed committee substitute is attached.

H.B. 628 – Uniform Graduated Co-Payment MH/DD/SA Svcs.

Representative Insko was recognized to explain the bill. Senator Purcell moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Hagan was recognized to offer an amendment and moved for its adoption. The motion carried. (DUE to a proofreading error, the bill that was reported out of committee did not have the amended changes. This was corrected by a floor amendment offered by Senator Nesbitt.) Senator Hagan moved to adopt the proposed committee substitute as amended and the motion carried. A copy of the PCS, the summary, the fiscal note and the amendment is attached.

H.B. 546 – Gen. Stat. Comm. Tech. Corrections – Arts.

Senator Hartsell was recognized to explain the bill and moved for a favorable report. The motion carried. A copy of the bill is attached.

S.B. 1180 – No Monetary Exaction for Development.

Senator Dalton was recognized to explain the bill. Paul Wilm, NC Homebuilders Association, was recognized to answer questions. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 1152 – Interest on Illegally Levied Exactions.

Senator Hoyle was recognized to explain the bill. Senator McKissick moved for a favorable report and the motion carried. A copy of the bill is attached.

S.B. 1352 – Toll Violation Enforcement.

Senator Hoyle was recognized to explain the bill and moved to adopt the proposed committee substitute for adoption. The motion carried. Senator Hoyle offered an amendment. Senator Stevens moved to adopt the amendment and the motion carried. Senator Hoyle offered a second amendment and moved for its adoption. The motion carried. David Joyner, NC Turnpike Authority, was recognized to answer questions. Senator Apodaca and Senator Purcell made a joint motion to adopt the proposed

committee substitute as amended and the motion carried. A copy of the proposed committee substitute, the amendments, the fiscal note and a handout is attached.

S.B. 1435 – Amend Funeral Serv. Prac./Other Related Laws.

Senator Atwater was recognized to explain the bill. Paul Harris, NC Funeral Board, and Jack Pinnix, lobbyist, were recognized to speak in favor of the bill and answer questions. Senators Soles, Hartsell and McKissick offered a joint motion for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 1517 – Prohibit Gift Card Maintenance Fees.

Senator Atwater was recognized to explain the bill and moved to adopt the proposed committee substitute for adoption. The motion carried. Senator Hoyle moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

The meeting adjourned at 4:38 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Friday	July 27, 2007	3:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 546	Gen. Stat. Comm. Technical Corrections - Arts.	Representative Ross
HB 628	Uniform Graduated Co-Paymt MH/DD/SA Svcs.	Representative Insko
HB 859	Nutrient Offset Program Transition.	Representative Allen Representative Gibson, III
SB 1152	Interest on Illegally Levied Exactions.	Senator Hoyle
SB 1180	No Monetary Exaction for Development.	Senator Dalton
SB 1352	Toll Violation Enforcement.	Senator Hoyle
SB 1435	Amend Funeral Serv. Prac./Other Related Laws.	Senator Atwater
SB 1517	Prohibit Gift Card Maintenance Fees.	Senator Atwater

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Friday, July 27, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1352** Toll Violation Enforcement.

Draft Number:	85365
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **1517** Prohibit Gift Card Maintenance Fees.

Draft Number:	35424
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Friday, July 27, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1152** Interest on Illegally Levied Exactions.
Sequential Referral: None
Recommended Referral: None

S.B. **1180** No Monetary Exaction for Development.
Sequential Referral: None
Recommended Referral: None

S.B.(CS #1) **1435** Amend Funeral Serv. Prac./Other Related Laws.
Sequential Referral: None
Recommended Referral: None

H.B. **546** Gen. Stat. Comm. Technical Corrections - Arts.
Sequential Referral: None
Recommended Referral: None

H.B.(SCS #1) **859** Nutrient Offset Program Transition.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

H.B.(SCS #1) **628** Uniform Graduated Co-Paymt MH/DD/SA Svcs.
Draft Number: 70608
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 6

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 27, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dexter Matthews	EnR Waste Mangmt
Steve Wall	DENR
Jack Herrera CCCSIA.	CCCSIA
Ellen Hainich	Center for Responsible Lending
Christa Wagner	Sierra Club

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Don McConnaughhay	MFS
Jim Blackburn	NC Association of County Commissioners
Andy Romanet	NCLM
Steve Woodson	NC Farm Bureau
Daniel Bunn	
Berry Jenkins	Carolinas AGC
NCTA	Reid Simons
Paul Stock	NCBIA
Joanna Reese	DOT
Betty Tumner	BAC
Penny Griffin	Daily Bulletin

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 26, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Claire Cox	BPMIC
John Phelps	NCLM
Roger Bone	Bone and Assoc
Evan Rogoff	Center for Responsible Lending
Ellen Harnick	" " "
Tracy Little	DOC
Beau Ritter	Appalachian Coalition
John McAllister	NC Chamber
Robin Smith	DENR
Charles Wakild	DENR/DWQ

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 859*

Senate Agriculture/Environment and Natural Resources Committee Substitute Adopted 7/26/07

Short Title: Nutrient Offset Program Transition. (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH TRANSITIONAL NUTRIENT OFFSET PAYMENTS AND TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP AND IMPLEMENT A PLAN TO TRANSITION THE NORTH CAROLINA ECOSYSTEM ENHANCEMENT PROGRAM NUTRIENT OFFSET PROGRAM FROM A FEE-BASED PROGRAM TO A PROGRAM BASED ON THE ACTUAL COSTS OF PROVIDING NUTRIENT CREDITS.

Whereas, the General Assembly established the Riparian Buffer Protection Program (G.S. 143-214.20) to provide alternatives for persons who would otherwise be required to maintain riparian buffers; and

Whereas, the General Assembly directed the Environmental Management Commission to establish a compensatory mitigation fee to be paid into the Riparian Buffer Restoration Fund; and

Whereas, the Environmental Management Commission adopted a revised schedule of compensatory mitigation fees for nutrient loading offsets on 12 January 2006 in accordance with the Administrative Procedure Act; and

Whereas, the General Assembly enacted S.L. 2006-215, as amended by S.L. 2006-218 and S.L. 2006-255, which established a temporary per pound factor and method of calculation for nutrient offset fees in lieu of the fee schedule adopted by the Environmental Management Commission and directed the Environmental Review Commission to study issues related to the nutrient offset payment program; and

Whereas, the Environmental Review Commission entered into a contract with Research Triangle Institute, International (RTI), to provide consultant services for a study of the costs associated with providing nutrient controls that are adequate to offset point source and nonpoint source discharges of nitrogen and other nutrients; and

Whereas, the Environmental Review Commission received the final report from RTI on 11 June 2007; and

Whereas, the final report from RTI recommended a nutrient offset payment factor for nitrogen in the Neuse River Basin of $25.77 per pound of nitrogen; and

Whereas, the final report from RTI recommended a nutrient offset payment factor for nitrogen in the Tar-Pamlico River Basin of $19.70 per pound of nitrogen; and

Whereas, the final report from RTI recommended a nutrient offset payment factor for phosphorous in the Tar-Pamlico River Basin of $26.02 per tenth of a pound of phosphorus; and

Whereas, the final report from RTI recommended that a 10% fee be added to the nutrient offset payments to cover the costs of program administration;

Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The per pound factors for nutrient offset payments are established as follows:

(1) For nitrogen in the Neuse River Basin, twenty-eight dollars and thirty-five cents ($28.35) per pound of nitrogen, calculated in accordance with the method used as of 1 January 2006 for determining pounds of nitrogen per acre.

(2) For nitrogen in the Tar-Pamlico River Basin, twenty-one dollars and sixty-seven cents ($21.67) per pound of nitrogen, calculated in accordance with the method used as of 1 January 2006 for determining pounds of nitrogen per acre.

(3) For phosphorous in the Tar-Pamlico River Basin, twenty-eight dollars and sixty-two cents ($28.62) per tenth of a pound of phosphorous.

SECTION 2. No later than 1 September 2009, the Department of Environment and Natural Resources shall develop and implement a plan to transition the North Carolina Ecosystem Enhancement Program nutrient offset program from a fee-based program to a program based on the actual costs of providing nutrient credits. The new program shall use the least cost alternative for providing nutrient offset credits consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin.

SECTION 3. The Department of Environment and Natural Resources shall report on its progress in developing and implementing a new fee structure for the nutrient offset program to the Environmental Review Commission on 1 September 2008 and 1 March 2009.

SECTION 4. Nutrient offset payments may be used to partially offset the nitrogen loading requirements specified in 15A NCAC 2B .0234 and 2B .0235 for the Neuse River Basin and to partially offset the nitrogen and phosphorous loading requirements specified in 15A NCAC 2B .0258 for the Tar-Pamlico River Basin by payment into the Riparian Buffer Restoration Fund administered by the Department of Environment and Natural Resources. In addition, partial offset credits to meet the requirements of 15A NCAC 2B .0234, 2B .0235, and 2B .0258 may also be obtained through nutrient offset projects provided by organizations and parties not affiliated with the Department. All nutrient offset projects authorized under this section shall be

consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin and shall be located within the same eight digit Cataloging Unit, designated by the United States Geological Survey, in which the associated nutrient loading takes place.

SECTION 5. This act becomes effective 1 September 2007 and applies to all nutrient offset payments, including those set out in 15A NCAC 2B .0240, as adopted by the Environmental Management Commission on 12 January 2006. The fee schedule set out in Section 1 of this act expires 1 September 2009.

HOUSE BILL 859:
Nutrient Offset Program Transition

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 27, 2007
Introduced by:	Reps. Gibson, Allen	**Summary by:**	Jeff Hudson
Version:	Second Edition		Dan Ettefagh
			Committee Counsel

SUMMARY: ***House Bill 859 would provide for the transition of the Nutrient Offset Payment Program from a fee-based program to a program based on the actual costs of providing nutrient offsets.***

[As introduced, this bill was identical to S603, as introduced by Sen. Malone, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW AND BACKGROUND:

During the 1999 Regular Session, the General Assembly established the Riparian Buffer Protection Program to provide alternatives for persons who would otherwise be required to maintain riparian buffers. The General Assembly also directed the Environmental Management Commission (EMC) to establish a schedule of compensatory mitigation fees for the program. In January, 2006, the EMC adopted a revised schedule of compensatory mitigation fees. There were a number of concerns expressed about the amount of increase in these nutrient offset payment fees. In response, the General Assembly enacted legislation during the 2006 Short Session to establish temporary nutrient offset payment fees in lieu of the fee schedule adopted by the EMC and directed the Environmental Review Commission (ERC) to study issues related to the nutrient offset payment program. The ERC entered into a contract with Research Triangle Institute, International (RTI), to provide consultant services for a study of the costs associated with providing nutrient controls adequate to offset point source and nonpoint source discharges of nitrogen and other nutrients. The ERC received the final report from RTI in June of 2007. In, the final report, RTI recommended:

- A nutrient offset payment factor for nitrogen in the Neuse River Basin of twenty-five dollars and seventy-seven cents ($25.77) per pound of nitrogen.
- A nutrient offset payment factor for nitrogen in the Tar-Pamlico River Basin of nineteen dollars and seventy cents ($19.70) per pound of nitrogen.
- A nutrient offset payment factor for phosphorous in the Tar-Pamlico River Basin of twenty-six dollars and two cents ($26.02) per tenth of a pound of phosphorus.
- A ten percent (10%) fee be added to the nutrient offset payments to cover the costs of program administration.

BILL ANALYSIS:

House Bill 859 would establish the following nutrient offset payment fees:

- For nitrogen in the Neuse River Basin, twenty-eight dollars and thirty-five cents ($28.35) per pound of nitrogen.
- For nitrogen in the Tar-Pamlico River Basin, twenty-one dollars and sixty-seven cents ($21.67) per pound of nitrogen.

- For phosphorous in the Tar-Pamlico River Basin, twenty-eight dollars and sixty-two cents ($28.62) per tenth of a pound of phosphorous.

This fee schedule would expire 1 September 2009.

House Bill 859 would require the Department of Environment and Natural Resources (DENR) to develop and implement a plan to transition the nutrient offset program from a fee-based program to a program based on the actual costs of providing nutrient credits no later than 1 September 2009. The bill would require DENR to report on its progress in developing and implementing the new fee structure to the ERC on 1 September 2008 and 1 March 2009.

House Bill 859 would provide that nutrient offset credits may be obtained through nutrient offset projects provided by organizations that are not affiliated with DENR. The bill would also provide that nutrient offset projects must be located within the same eight digit Cataloging Unit, designated by the United States Geological Survey, in which the associated nutrient loading takes place.

EFFECTIVE DATE: This act becomes effective 1 September 2007, and applies to all nutrient offset payments.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 27, 2007

TO: Senate Finance Committee

FROM: Kristin Walker
Fiscal Research Division

RE: House Bill 859 (Second Edition)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Riparian Buffer Restoration Fund	**See Assumptions & Methodology**				
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources

EFFECTIVE DATE: September 1, 2007

BILL SUMMARY:

House Bill 859 would establish the following nutrient offset payment fees:

- For nitrogen in the Neuse River Basin, twenty-eight dollars and thirty-five cents ($28.35) per pound of nitrogen.
- For nitrogen in the Tar-Pamlico River Basin, twenty-one dollars and sixty-seven cents ($21.67) per pound of nitrogen.
- For phosphorous in the Tar-Pamlico River Basin, twenty-eight dollars and sixty-two cents ($28.62) per tenth of a pound of phosphorous.

This fee schedule would expire September 1, 2009.

House Bill 859 would require the Department of Environment and Natural Resources (DENR) to develop and implement a plan to transition the nutrient offset program from a fee-based program to a program based on the actual costs of providing nutrient credits no later than September 1, 2009. The bill would require DENR to report on its progress in developing and implementing the new fee structure to the ERC on September 1, 2008 and March 1, 2009.

House Bill 859 would provide that nutrient offset credits may be obtained through nutrient offset projects provided by organizations that are not affiliated with DENR. The bill would also provide that nutrient offset projects must be located within the same eight digit Cataloging Unit, designated by the United States Geological Survey, in which the associated nutrient loading takes place.

ASSUMPTIONS AND METHODOLOGY:

The following tables demonstrate the amount of revenue generated using the fee schedule in this bill. Thus, the totals are pro-rated for FY 2007-08, reflecting the ten months of the year these fees will be in effect. They are also pro-rated for FY 2009-10, reflecting the two months of the year these fees will be in effect. Estimates beyond September 1, 2009 are not available because the bill directs the Department to transition this program from a fee-based program to a program based on actual costs. *Fees and costs beyond September 1, 2009 are not known at this time.*

Neuse - Nitrogen					
	FY 2007-08	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
Pounds per year	5,000	5,000	5,000		
30 years of credit per pound	150,000	150,000	150,000		
Fee per pound	$28.35	$28.35	$28.35	unknown	unknown
Total	$4,252,500	$4,252,500	$4,252,500		
Prorated for Eff. Dates of the Bill	**$3,543,750**	**$4,252,500**	**$708,750**	unknown	unknown

Tar-Pam - Nitrogen	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Pounds per year	4,500	4,500	4,500		
30 years of credit per pound	135,000	135,000	135,000		
Fee per pound	$21.67	$21.67	$21.67	unknown	unknown
Total	$2,925,450	$2,925,450	$2,925,450		
Prorated for Eff. Dates of the Bill	**$2,437,875**	**$2,925,450**	**$487,575**	unknown	unknown

Tar-Pam - Phosphorous	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Pounds per year	33	33	33		
30 years of credit per pound	1,000	1,000	1,000		
Fee per tenth of pound	$28.62	$28.62	$28.62	unknown	unknown
Total	$2,862	$2,862	$2,862		
Prorated for Eff. Dates of the Bill	**$2,385**	**$2,862**	**$477**	unknown	unknown

SOURCES OF DATA: Department of Environment and Natural Resources

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 4

HOUSE BILL 628*

Committee Substitute Favorable 3/26/07
Committee Substitute #2 Favorable 4/17/07
Senate Health Care Committee Substitute Adopted 7/25/07

Short Title: Uniform Graduated Co-paymt - MH/DD/SA Svces. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A UNIFORM CO-PAYMENT SCHEDULE FOR MH/DD/SA SERVICES AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-146 reads as rewritten:

"**§ 122C-146. ~~Fee for service.~~Uniform co-payment schedule.**

(a) The ~~area authority~~LME and its contractual provider agencies shall ~~prepare fee schedules~~ implement the co-payment schedule based on family income adopted by the Secretary ~~for services and~~ under G.S. 122C-112.1(a)(34). The LME is responsible for determining the applicability of the co-payment to individuals authorized by the LME to receive services. An LME that provides services and its contractual provider agencies shall also make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party ~~payment, except that individuals~~ payments. However, no individual may be refused services because of an inability to pay.

(b) Individuals may not be charged for free services, as required in "The Amendments to the Education of the Handicapped Act", P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption from charges does not exempt insurers or other third-party payors from being charged for payment for these services, if the person who is legally responsible for any eligible infant or toddler is first advised that the person may or may not grant permission for the insurer or other payor to be billed for the free services. ~~However, no individual may be refused services because of an inability to pay.~~

(c) All funds collected from ~~fees from area authority~~co-payments for LME operated services shall be used ~~for the fiscal operation or capital improvements of the area authority's programs.~~to provide services to individuals in targeted populations.

The collection of ~~fees~~ co-payments by ~~an area authority~~ an LME that provides services may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue. All funds collected from co-payments by contractual provider agencies shall be used to provide services to individuals in targeted populations."

SECTION 2. G.S. 122C-112.1(a) is amended by adding a new subdivision to read:

"**§ 122C-112.1. Powers and duties of the Secretary.**

(a) The Secretary shall do all of the following:

...

(34) Adopt rules for the implementation of a co-payment graduated schedule to be used by LMEs and by contractual provider agencies under G.S. 122C-146. The co-payment graduated schedule shall be developed to require a co-payment for services identified by the Secretary. Families whose family income is four hundred percent (400%) or greater of the federal poverty level are eligible for services with the applicable co-payment."

SECTION 3. The Secretary of the Department of Health and Human Services shall identify all services that are funded by or through the Department's budget and that do not require income-based criteria in order for an individual to be eligible to receive the service. The Secretary shall develop a proposal for implementing income-based criteria for eligibility for those programs and shall submit the proposal to the General Assembly and the Fiscal Research Division by November 1, 2007.

SECTION 4. Section 1 of this act becomes effective July 1, 2008, and applies to services provided on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 628:
Uniform Graduated Co-paymt - MH/DD/SA Svces

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Rep. Insko	**Summary by:**	Cindy Avrette
Version:	Fourth Edition		Committee Counsel

SUMMARY: ***House Bill 628[1] would authorize the Department of Health and Human Services (Department) to create a statewide uniform sliding fee schedule for Local Management Entity (LME) authorized MH/DD/SAS services and would require funds collected from these fees by contractual provider agencies be used to provide services to individuals in targeted populations. The LMEs that may impose the fees are the ones that provide the services.***

The bill would also direct the Department to identify and develop a proposal to address services that do not have income-related eligibility. The Department must submit its proposal by November 1, 2007.

This bill is a recommendation of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services. It received a favorable report from the House Committee on Mental Health Reform.

CURRENT LAW: LMEs are responsible for the management and oversight of the public system of mental health, developmental disabilities, and substance abuse services at the community level. A LME may be an area authority, a county program, or a consolidated human services agency. A LME may provide the services or it may contract with a public or private entity for the implementation of the services. A LME or the contractual agency providing the services is required to prepare a fee schedule for the services and make reasonable efforts to collect appropriate reimbursement for costs from individuals or entities based on an ability to pay.[2]

A survey of LMEs by the Division of Mental Heath, Developmental Disabilities, and Substance Abuse Services (Division) during the fall of 2006 showed there is no uniformity across the State regarding fee schedules. LMEs may or may not use the same fee schedule for all services. Some look at gross income, others do not. Some set an income floor below which no fee is charged, others do not. All LMEs that reported on their sliding fee scale had a maximum income above which no relief was provided. However, those maximum incomes ranged from $7,200 to $99,000 for a family of one. Two LMEs charged for "no shows", but the vast majority did not. Only one LME had a maximum monthly liability limit.[3]

BILL ANALYSIS: House Bill 628 directs the Department to adopt rules that would implement a standard fee schedule and a sliding fee schedule to be used by LMEs and contractual provider agencies for locally authorized services. The Division is hiring a consultant to help determine the appropriate fee schedule. It is anticipated that it may take as long as a year for the schedule to be completed. The proposed committee substitute assumes that the standard fee schedule will be completed by July 1, 2008, and thus provides that the LMEs that provide the services and their contractual provider agencies must begin applying the standardized fees for services offered on or after July 1, 2008.

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[1] As introduced, the bill is identical to Senate Bill 1265.

[2] G.S. 122C-146

[3] Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services Report to the 2007 General Assembly

Effective July 1, 2008, the bill requires funds collected from fees by contractual provider agencies be used to provide services to individuals in targeted populations. A 'targeted population' is defined as individuals who are given service priority under the State Plan. Presently, the use of the funds collected by contractual provider agencies varies from LME to LME.

The bill further directs the Department to submit to the General Assembly and the Fiscal Research Division by November 1, 2007, a proposal to address program services that do not have income-based criteria for eligibility.

EFFECTIVE DATE: Section 1 of the bill, which directs the LMEs and contractual provider agencies to implement the standardized fee schedule, would become effective July 1, 2008, and apply to services offered on or after that date. The remainder of the bill would become effective when it becomes law.

Shawn Parker, legislative analyst for the House Committee on Mental Health Reform, substantially contributed to this summary.

H0628e4-SMTD

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 628 (Fourth Edition)

SHORT TITLE: Uniform Graduated Co-paymt - MH/DD/SA Svces.

SPONSOR(S): Representative Insko

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES					
Local Management Entities		No Estimate Available			
EXPENDITURES					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Local Management Entities

EFFECTIVE DATE: Section 1 of this act becomes effective July 1, 2008 and only applies to services provided on or after that date. The remainder of this act is effective when it becomes law.

BILL SUMMARY:

Currently, Local Management Entities (LMEs) and their contractual agencies are required to prepare fee schedules for services and make reasonable efforts to collect appropriate reimbursement for costs from individuals or entities based on ability to pay. House Bill 628 would direct LMEs and private providers to implement a standardized co-payment schedule based on family income and rules adopted by the Secretary of the Department of Health and Human Services (DHHS). The LME would be responsible for determining the co-payment for individuals who the LME authorizes to receive services. The Secretary is directed to adopt rules to implement a co-payment graduated schedule to be used by LMEs and private providers. Families whose income is 400% or greater of the Federal Poverty Level are eligible for services subject to the applicable co-pay.

ASSUMPTIONS AND METHODOLOGY:

Revenues: Currently, fees from LME-operated services collected under G.S.122C-146 are used for the fiscal operation or capital improvements of the LME. HB 628 amends G.S. 122C-146 in the following ways:

- Changes the fee to a co-payment and to specify that the LME is responsible for determining the applicability of the co-payment to individuals authorized by the LME to receive services.
- Changes the use of these funds (currently "fees" and proposed to be "co-payments") from fiscal operation or capital improvements to service provision to targeted populations.
- Modifies the non-supplant language to state that the collection of co-payments by an LME *that provides services* may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue (italics added for emphasis). Currently the collection of fees by any LME (not just one providing services) may not be used as justification for the reduction or replacement of budgeted commitment of local tax revenue.
- Adds that all funds collected from co-payments by contractual provider agency shall be used to provide services to targeted populations.

A new, statewide co-payment schedule will change the amount of receipts collected at the local level and therefore the amount of resources available for service provision. However, because the new co-payment schedule is not yet known, it is impossible to estimate the revenue to be generated by the new schedule and whether it would increase or decrease local revenue.

Expenditures: The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMHDDSAS) plans to hire a contractor to assist them in developing the standardized co-payment schedule required in HB 628. The contractor would establish the statewide co-payment schedule for mental health, developmental disability, and substance abuse services and establish standardized policies and procedures for the implementation of the standardized co-payment schedule. This work would also include a comprehensive review of fee and co-payment schedules and policies in other states for mental health, developmental disability, and substance abuse services which are administered on a statewide basis.

DMHDDSAS estimates that this contract should not exceed $70,000. DMHDDSAS expects to pay for this contract out of existing funds during FY 2007-08 from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.

In addition to establishing the co-payment schedule, policies, and procedures, the Department of Health and Human Services will also need to implement rules for this standardized co-payment schedule. There is no anticipated additional cost for this because rule implementation is within the scope of the Department's existing work.

Additionally, the LMEs and MH/DD/SA providers may need to update or change their computer systems based on the new, standardized co-payment schedule. For example, LMEs will need to implement a method for indicating to providers whether or not a family authorized for services is

subject to the co-payment schedule. However, LMEs and providers routinely change their systems to reflect payment changes for third party insurers, and any changes from this statewide co-payment schedule are likely to be within the scope of those routine changes.

SOURCES OF DATA: Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

TECHNICAL CONSIDERATIONS: .None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Andrea Poole

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 26, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 628*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H628-ATD-45 [v.1]

Date _____,2007

Comm. Sub. [YES]
Amends Title [NO]
Fourth Edition

Senator Hagan

moves to amend the bill on page 2, line 18 by substituting the word "three" for the word "four";

and on page 2, line 19 by substituting the term "(300%)" for the term "(400%)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 546*

Short Title:	Gen. Stat. Comm. Technical Corrections - Arts.	(Public)
Sponsors:	Representative Ross.	
Referred to:	Judiciary I.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO PROPERTY TAX, RETIREMENT SYSTEM, AND OTHER STATUTES RELATING TO THE NORTH CAROLINA STATE ART SOCIETY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275(41) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(41) Objects of art held by the North Carolina State Art Society, Incorporated.

...."

SECTION 2. G.S. 135-27(d) reads as rewritten:

"(d) The governing board of any association or organization listed in subsection (a), in its discretion, may elect on or before July 1, 1983, by an appropriate resolution of said board, to cause the employees of such association or organization so employed prior to July 1, 1983, to become members of the Teachers' and State Employees' Retirement System. Such Retirement System coverage shall be conditioned on such association's or organization's paying all of the employer's contributions or matching funds from funds of the association or organization and on such board's collecting from its employees the employees' contributions at such rates as may be fixed by law and by the regulations of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Retroactive coverage of the employees of any such association or organization may also be effected to the extent that such board requests; provided, the association or organization shall pay all of the employer's contributions or matching funds necessary for such purposes;

and, provided further, such association or organization shall collect from its employees all employees' contributions necessary for such purpose, computed at such rates and in such amount as the Board of Trustees of the Retirement System shall determine, all of such funds to be paid to the Retirement System, together with such interest as may be due, and placed in the appropriate funds. The provisions of this subsection shall be fully applicable to the North Carolina Symphony Society, Inc. and the North Carolina State Art Society, Inc."

SECTION 3. G.S. 135-40.2(f) reads as rewritten:

"(f) For the support of the benefits made available to any member vested at the time of retirement, their spouses or surviving spouses, and the surviving spouses of employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina State Art Society, Inc., and the North Carolina Symphony Society, Inc., each association, organization or board shall pay to the Plan the full cost of providing these benefits under this section as determined by the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. In addition, each association, organization or board shall pay to the Plan an amount equal to the cost of the benefits provided under this section to presently retired members of each association, organization or board since such benefits became available at no cost to the retired member."

SECTION 4. The title of Article 3 of Chapter 140 of the General Statutes reads as rewritten:

"Article 3.

North Carolina State Art Society."

SECTION 5. G.S. 140-5.13(d)(2) and (5) read as rewritten:

"(d) All initial appointments and elections to the Board of Trustees shall be made on July 1, 1980, or as soon as feasible thereafter except as provided in this subsection, and the terms of all except the legislative appointees shall expire on June 30, 1983, or June 30, 1986, as the case may be. In order to establish regularly overlapping terms, initial appointments and elections to the Board of Trustees shall be made as follows:

...

(2) One member shall be elected by the North Carolina State Art Society, Incorporated, for an initial term of three years and two members shall be elected by that Society for initial terms of six years.

...

(5) Three members shall be elected by the State Art Museum Building Commission to serve until the termination of that Commission or until June 30, 1983, whichever shall first occur. Upon the termination of the terms of those three members, should such termination occur prior to June 30, 1983, their successors shall be elected as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art; the terms of the successor members so elected shall expire on June 30, 1983. On

July 1, 1983, or as soon as feasible thereafter, the successors of these three members shall be elected for terms of six years, as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art.

...."

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 546*

Short Title:	Gen. Stat. Comm. Technical Corrections - Arts.	(Public)
Sponsors:	Representative Ross.	
Referred to:	Judiciary I.	

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO PROPERTY TAX, RETIREMENT SYSTEM, AND OTHER STATUTES RELATING TO THE NORTH CAROLINA STATE ART SOCIETY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275(41) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(41) Objects of art held by the North Carolina State Art Society, Incorporated.

...."

SECTION 2. G.S. 135-27(d) reads as rewritten:

"(d) The governing board of any association or organization listed in subsection (a), in its discretion, may elect on or before July 1, 1983, by an appropriate resolution of said board, to cause the employees of such association or organization so employed prior to July 1, 1983, to become members of the Teachers' and State Employees' Retirement System. Such Retirement System coverage shall be conditioned on such association's or organization's paying all of the employer's contributions or matching funds from funds of the association or organization and on such board's collecting from its employees the employees' contributions at such rates as may be fixed by law and by the regulations of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Retroactive coverage of the employees of any such association or organization may also be effected to the extent that such board requests; provided, the association or organization shall pay all of the employer's contributions or matching funds necessary for such purposes;

and, provided further, such association or organization shall collect from its employees all employees' contributions necessary for such purpose, computed at such rates and in such amount as the Board of Trustees of the Retirement System shall determine, all of such funds to be paid to the Retirement System, together with such interest as may be due, and placed in the appropriate funds. The provisions of this subsection shall be fully applicable to the North Carolina Symphony Society, Inc. and the North Carolina State Art Society, Inc."

SECTION 3. G.S. 135-40.2(f) reads as rewritten:

"(f) For the support of the benefits made available to any member vested at the time of retirement, their spouses or surviving spouses, and the surviving spouses of employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina State Art Society, Inc., and the North Carolina Symphony Society, Inc., each association, organization or board shall pay to the Plan the full cost of providing these benefits under this section as determined by the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. In addition, each association, organization or board shall pay to the Plan an amount equal to the cost of the benefits provided under this section to presently retired members of each association, organization or board since such benefits became available at no cost to the retired member."

SECTION 4. The title of Article 3 of Chapter 140 of the General Statutes reads as rewritten:

"Article 3.
North Carolina State Art Society."

SECTION 5. G.S. 140-5.13(d)(2) and (5) read as rewritten:

"(d) All initial appointments and elections to the Board of Trustees shall be made on July 1, 1980, or as soon as feasible thereafter except as provided in this subsection, and the terms of all except the legislative appointees shall expire on June 30, 1983, or June 30, 1986, as the case may be. In order to establish regularly overlapping terms, initial appointments and elections to the Board of Trustees shall be made as follows:

...

(2) One member shall be elected by the North Carolina State Art Society, Incorporated, for an initial term of three years and two members shall be elected by that Society for initial terms of six years.

...

(5) Three members shall be elected by the State Art Museum Building Commission to serve until the termination of that Commission or until June 30, 1983, whichever shall first occur. Upon the termination of the terms of those three members, should such termination occur prior to June 30, 1983, their successors shall be elected as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art; the terms of the successor members so elected shall expire on June 30, 1983. On

July 1, 1983, or as soon as feasible thereafter, the successors of these three members shall be elected for terms of six years, as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art.

...."

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1180

Short Title:	No Monetary Exaction for Development.	(Public)
Sponsors:	Senators Dalton and Swindell.	
Referred to:	Finance.	

March 22, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A LOCAL GOVERNMENT MAY NOT IMPOSE A TAX, FEE, OR MONETARY CONTRIBUTION FOR DEVELOPMENT THAT IS NOT SPECIFICALLY AUTHORIZED BY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-320 reads as rewritten:

"**§ 153A-320. Territorial ~~jurisdiction.~~jurisdiction; limitation of authority.**

(a) Jurisdiction. – Each of the powers granted to counties by this ~~Article, by Chapter 157A, and~~ Article and by Chapter 160A, Article 19 may be exercised throughout the county except as otherwise provided in G.S. 160A-360.

(b) Limitation of Authority. – A county may not impose or exact a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law. The terms 'development' and 'development permit' have the same meanings as defined in G.S. 153A-349.2."

SECTION 2. G.S. 153A-349.1(b) reads as rewritten:

"(b) Local governments and agencies may enter into development agreements with developers, subject to the procedures and requirements of this Part. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose ~~any tax or fee~~ or exact a tax, fee, or monetary contribution not authorized by otherwise applicable law."

SECTION 3. The catch line of G.S. 160A-360 reads as rewritten:

"**§ 160A-360. Territorial ~~jurisdiction.~~jurisdiction; limitation of authority.**"

SECTION 4. G.S. 160A-360 is amended by adding a new subsection to read:

"(k) A city may not impose or exact a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law. The terms 'development' and 'development permit' have the same meanings as defined in G.S. 160A-400.21."

SECTION 5. G.S. 160A-400.20(b) reads as rewritten:

"(b) Local governments and agencies may enter into development agreements with developers, subject to the procedures and requirements of this Part. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose ~~any tax or fee~~ or exact a tax, fee, or monetary contribution not authorized by otherwise applicable law."

SECTION 6. Sections 2 and 5 of this act are effective when it becomes law and apply to development agreements entered into on or after that date. The remainder of this act is effective when it becomes law.

SENATE BILL 1180:
No Monetary Exaction for Development

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	May 23, 2007
Introduced by:	Sen. Dalton	**Summary by:**	Cindy Avrette
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1180 clarifies that a local government may not impose or exact a tax, fee, or monetary contribution for development unless that authority is specifically granted by statute.

CURRENT LAW AND BACKGROUND: Local governments have the authority given to them by the State. In 2005, the General Assembly made substantial revisions to city and county planning and land-use management statutes. Part of those revisions included authorization of development agreements between a local government and a developer. In the laws concerning development agreements, the General Assembly made several findings. It recognized that large scale development often creates potential community impacts and that large-scale development requires careful integration between public capital facilities planning, financing, and construction and the phasing of the private development. The statute authorizing development agreements specifically states that a local government may not exercise any authority not authorized by general or local act and may not impose any tax or fee not otherwise authorized by law.

Between 1985 and 1991, the General Assembly gave three counties and several municipalities the authority to implement impact fees. Impact fees are charged by local governments to developers who wish to construct new properties. The revenue from the impact fees are used to pay for the construction of public facilities necessitated by the development. Since 1991, the General Assembly has not given any local government new impact fee authority.

Some local governments claim that special authority is not necessary to enable them to impose impact fees; that its imposition is a logical extension of their power to require developers to provide facilities or improvements as a condition to developing a property. However, the North Carolina Court of Appeals ruled in June 2006 in the case of *Durham Land Owners Association v. County of Durham* that it found no authority in a county's zoning and general police powers to support a county's statutory authority to impose a school impact fee.

In contract to an impact fee, local governments often use their subdivision and zoning authority to require exactions to address impacts of a proposed development.[1] The statutes specifically allow subdivision ordinances to require a developer to provide funds to enable the local government to acquire recreational land or areas to serve the development; to provide funds to be used for the development of roads to serve the development; to construct community service facilities; and to reserve school sites.[2]

Some local governments have adopted 'Adequate Public Facility' requirements based upon the zoning statute that says:

> "Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of

[1] Article 18 of Chapter 153A and Article 19 of Chapter 160A.
[2] G.S. 153A-331 and G.S. 160A-372.

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> population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate eh efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements."[3]

Under an Adequate Public Facility ordinance a development may not be approved if the facilities are inadequate to support the development. A few counties have used this authority to deny approval as an indirect way to impose school impact fees. Their ordinances provide that if there is inadequate school capacity a development cannot be approved; however, the developer has the option of voluntarily contributing a set 'fee' to advance the availability of the capacity and if that is done, the development can be approved.

BILL ANALYSIS: Senate Bill 1180 makes changes in the planning and regulation authorization statutes for both counties and cities. The bill amends the first statute in each Article to specifically prohibit a county or city from imposing or exacting a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law. The bill also specifies in the statutes that authorize counties and cities to enter into development agreements that a county or city may not, as part of that agreement, exact a monetary contribution not authorized by law. The law already prohibits the imposition of a tax or fee as part of a development agreement.

The statutes currently authorize the imposition of fees for 'over-the-counter' type services such as permits.[4] Case law has upheld the imposition of fee schedules for specific activities under these statutes; but not fees for providing general government services to the overall public, such as education.[5] Case law has also upheld cities' implicit authority to impose fees to fund capital improvements for water and sewer under the public enterprise statutes.[6] Lastly, as mentioned earlier in the summary, ordinances may require developers to provide roads, water, sewer, and recreational areas within a new subdivision. They may also require developers to construct community service facilities and to reserve school sites.

EFFECTIVE DATE: The bill is effective when it becomes law and the amendments to the statutes governing development agreements are applicable to development agreements entered into on or after that date.

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[3] G.S. 153A-341 and G.S. 160A-383.
[4] G.S. 153A-102 and G.S. 160A-4.
[5] *Durham Land Owners Association v. County of Durham.* No. COA05-736.
[6] *South Shell Investment v. Wrightsville Beach.* 703 F.Supp. 1192 (E.D.N.C. 1988). Article 16 of Chapter 160A.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1152

Short Title:	Interest on Illegally Levied Exactions.	(Public)
Sponsors:	Senator Hoyle.	
Referred to:	Finance.	

March 22, 2007

A BILL TO BE ENTITLED

AN ACT TO REQUIRE COUNTIES AND CITIES TO PAY INTEREST ON ILLEGALLY EXACTED TAXES, FEES, OR MONETARY CONTRIBUTIONS FOR DEVELOPMENT THAT ARE NOT SPECIFICALLY AUTHORIZED BY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-324 reads as rewritten:

"**§ 153A-324. Enforcement of ordinances.**

(a) In addition to the enforcement provisions of this Article and subject to the provisions of the ordinance, any ordinance adopted pursuant to this Article, to Chapter 157A, or to Chapter 160A, Article 19 may be enforced by any remedy provided by G.S. 153A-123.

(b) If the county is found to have illegally exacted a tax, fee, or monetary contribution for development or a development permit not specifically authorized by law, the county shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum."

SECTION 2. G.S. 160A-363 is amended by adding a new subdivision to read:

"(e) If the city is found to have illegally exacted a tax, fee, or monetary contribution for development or a development permit not specifically authorized by law, the city shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1352
PROPOSED COMMITTEE SUBSTITUTE S1352-CSMAxf-14 [v.6]

7/27/2007 10:52:34 AM

Short Title: Toll Violation Enforcement. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ENFORCEMENT OF TOLLS AT TOLL FACILITIES OPERATED BY THE NORTH CAROLINA TURNPIKE AUTHORITY, TO ALLOW USE OF STATE FUNDS USED TO SERVICE DEBT ON BONDS ISSUED BY THE NORTH CAROLINA TURNPIKE AUTHORITY, TO MODIFY STATUTES DEALING WITH RIGHT-OF-WAY REGISTRATION BY THE NORTH CAROLINA TURNPIKE AUTHORITY, TO MODIFY LAWS APPLICABLE TO THE NORTH CAROLINA TURNPIKE AUTHORITY, TO PROVIDE GAP FUNDING FOR PROJECTS BONDED BY THE NORTH CAROLINA TURNPIKE AUTHORITY, AND TO PROVIDE FOR AN INCREASE IN REVENUE TO HELP MAINTAIN AND PRESERVE THE INTRASTATE HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new Article to read:

"Article 18.

"Toll Violation Enforcement.

"**§ 20-400. Definitions.**

Unless the context requires otherwise, the following definitions apply to this Article to the defined words and phrases and their cognates:

(1) Authority. – The North Carolina Turnpike Authority acting directly or through its duly authorized officers or agents to collect tolls or fees for the use of any road, bridge, or tunnel.

(2) Toll facility. – Any road, bridge, or tunnel for which tolls or fees are charged for the use thereof.

(3) Processing agency. – A toll enforcement agent, designated by the Authority, responsible for the processing of the notices of toll evasions and notices of delinquent toll evasions. A processing agency may

include a public agency or private vendor that the Authority contracts with for the processing of notices of toll evasions and notices of delinquent toll evasions.

"**§ 20-401. Payment of toll on toll facilities required.**

(a) A person may not use any toll facility without payment of tolls, except as provided by statute, ordinance, or rule of the Authority.

(b) If a vehicle is found by automated devices, visual observation, or otherwise to have evaded tolls on any toll facility, the Authority, or a processing agency, shall, within 30 days of the violation, forward to the registered owner of the vehicle a notice of toll evasion violation setting forth the violation, including reference to the section violated, the approximate time, and the location of the violation. If accurate information concerning the identity and address of the registered owner of the vehicle is not available to the processing agency within 30 days of the violation, the processing agency shall have an additional 45 calendar days to obtain such information and forward the notice of toll evasion violation. Where the registered owner is a repeat violator, the processing agency shall forward the notice of toll evasion violation within 90 calendar days of the violation. "Repeat violator" means any registered owner that has had more than five violations issued pursuant to this section in any 30-day period within the preceding 12-month period. The notice of toll evasion violation shall also set forth the following:

(1) The vehicle license plate number.

(2) If practicable, the registration expiration date and the make of the vehicle.

(3) A clear and concise explanation of the procedures for contesting the violation and appealing an adverse decision.

(c) A violation of subsection (a) of this section is an infraction subject to a penalty established pursuant to G.S. 20-404(b). The collection of penalties assessed pursuant to the section shall be governed by the administrative procedures established by the Authority pursuant to G.S. 20-402.

"**§ 20-402. Administrative adjudication.**

The Authority shall establish a system of administrative adjudication to adjudicate alleged instances of a vehicle's operation on a toll facility without the required toll having been paid. The provisions of Chapter 150B of the General Statutes shall not apply to the Authority or its processing agents.

"**§ 20-403. Judicial review.**

(a) The contestant may seek judicial review of the processing agency's final decision by filing a written notice of appeal to the superior court, in the county where the alleged violation took place, within 20 days after the mailing of the final decision by the processing agency. The appeal shall be heard by a judge, with no right to a jury trial, and the standard of review shall be de novo. The contents of the processing agency's file in the case on appeal shall be received in evidence if the contents can be shown not to create an unfair prejudice toward the alleged violator. A copy of the notice of toll evasion violation shall be prima facie evidence of the facts stated therein. A copy of the

written notice of appeal shall be served upon the Authority or the processing agency in a manner consistent with Rule 4 of the North Carolina Rules of Civil Procedure.

(b) If no written notice of appeal of the processing agency's decision is filed within the period set forth in subsection (a) of this section, the decision shall be deemed final.

(c) If the toll evasion penalty has not been deposited and the decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the penalty under G.S. 20-407.

"**§ 20-404. Toll evasion penalties.**

(a) The notice of toll evasion violation shall be accompanied by a written notice of the toll evasion penalty due for that violation and the address of the person authorized to receive a deposit of the toll evasion penalty, to whom payments may be sent, and a statement, in bold print, that payments of the toll evasion penalty for the toll evasion violation may be sent through the mail.

(b) A schedule of toll evasion penalties for toll evasion violations shall be established by the Authority, but shall not exceed the amount of the unpaid toll plus one hundred dollars ($100.00) per violation.

(c) Toll evasion penalties under this Article shall be collected as civil penalties.

(d) If the toll evasion penalty is received by the person authorized to receive the deposit of the toll evasion penalty and there is no contest as to that toll evasion violation, the proceedings under this Article shall terminate.

(e) The amount of the unpaid toll shall be retained by or remitted to the Authority. The Authority shall remit all penalties assessed pursuant to this Article to the Civil Penalty and Forfeiture Fund established pursuant to G.S. 115C-457.1.

"**§ 20-405. Notice of delinquent toll evasion violation.**

(a) If the payment of the toll evasion penalty is not received by the person authorized to receive a deposit of the toll evasion penalty by the time and date fixed for appearance on the notice of toll evasion violation, the processing agency shall serve or mail to the registered owner a notice of the delinquent toll evasion violation.

(b) Delivery of a notice of delinquent toll evasion violation under this section may be made by personal service or by first-class mail addressed to the registered owner.

(c) The notice of delinquent toll evasion violation shall contain the information specified in G.S. 20-401(b) and shall also contain a notice to the registered owner that, unless the registered owner pays the toll evasion penalty or contests the notice within 15 days after the date postmarked on the mailing of the notice of delinquent toll evasion violation or completes and files an affidavit of non-liability which complies with G.S. 20-406(a) or (b), the renewal of the vehicle registration shall be blocked by the Division until all tolls, penalties, and fees assessed pursuant to this Article are paid in full. If the registered owner, by appearance or by mail, makes payment to the processing agency within 15 days of the mailing of the notice of the delinquent toll evasion violation, the toll evasion penalty shall consist of the amount of the original penalty without any additional administrative fees or charges.

(d) If the registered owner fails to pay the toll evasion penalty, as required, or fails to contest the violation, as provided in G.S. 20-401(b)(3), the registered owner shall be deemed responsible for the violation and the toll evasion penalty and any administrative fees or charges shall be due to the Authority by the registered owner.

(e) The notice of the delinquent toll evasion violation shall contain, or be accompanied with, an affidavit of non-liability and information of what constitutes non-liability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the Authority.

"**§ 20-406. Rentals and leases; evidence of sale.**

(a) If the affidavit of non-liability is returned to the agency within 30 days of the mailing of the notice of the toll evasion violation together with the proof of a written rental agreement or lease between a bona fide renting or leasing company and its customer which identifies the rentee or lessee and provides the drivers license number, name, and address of the rentee or lessee, the processing agency shall personally serve or mail, by first-class mail, to the rentee or lessee, identified in the affidavit of non-liability, a notice of the delinquent toll evasion violation. If payment is not received within 15 days of the mailing of the notice of the delinquent toll evasion violation, the processing agency may proceed against the rentee or lessee pursuant to G.S. 20-407.

(b) If the affidavit of non-liability is returned with evidence that the registered owner served has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged violation, the processing agency shall cancel the notice of the toll evasion violation with respect to the registered owner.

"**§ 20-407. Collection of unpaid toll evasion penalties.**

The processing agency shall proceed under one or more of the following options to collect an unpaid toll evasion penalty:

(a) The processing agency may file an itemization of unpaid toll evasion penalties and administrative and service fees with the Division.

(b) If more than four hundred dollars ($400.00) in unpaid penalties and fees have been accrued by any person or registered owner, the processing agency may file proof of unpaid penalties with the court that shall have the same effect as a civil judgment entered pursuant to Article 23 of Chapter 1 of the General Statutes. Execution may be levied and other measures may be taken for the collection of the judgment as are authorized for the collection of an unpaid civil judgment entered against a defendant in an action on a debtor. The court may assess costs against a judgment debtor to be paid upon satisfaction of the judgment. The processing agency shall send a notice by first-class mail to the person or registered owner indicating that a judgment shall be entered for the unpaid penalties, fees, and costs and that, after 30 days from the date of the mailing of the notice, the judgment shall have the same effect as an entry of judgment against a judgment debtor. The person or registered owner shall also be notified at that time that execution may be levied against his or her assets, liens may be placed against his or her property, his or her wages may be garnished, and other steps may be taken to satisfy the judgment. The filing fee plus any costs of collection shall be added to the judgment amount.

(c) The Authority may contract with a collection agency to collect unpaid toll evasion penalties, fees, and charges.

"**§ 20-408. Use of information.**

Any information obtained pursuant to this Article, through the use of automated devices, shall not be used for any purpose other than to identify and obtain the mailing address information of toll evasion violators and to facilitate the serving of notices of toll evasion violations and notices of delinquent toll evasion violations."

SECTION 2. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-89.188A. State funds used for debt service on bonds issued by the authority.**

Of funds appropriated to the Authority pursuant to the State Budget Act, the Authority may use the funds to:

(1) Pay capital costs of Turnpike Projects undertaken by the Authority.

(2) Pay operating and maintenance expenses with respect to such Turnpike Projects including operating and maintenance expenses associated with the operation of the Turnpike Projects as toll facilities.

(3) Pay debt service on revenue bonds issued by the Authority to finance the costs of one or more Turnpike Projects.

(4) To fund related operating reserves or debt service reserves.

The General Assembly hereby acknowledges that the undertaking by the Authority of the construction of Turnpike Projects will result in the construction and use of those transportation facilities many years in advance of when such construction and use would otherwise occur, and that the financing of the Turnpike Projects in whole or in part from bonds to be paid from user tolls will greatly reduce the amount of traditional highway funding sources necessary to construct the Turnpike Projects.

Any appropriations to the Authority shall constitute an agreement by the State to pay the funds to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending its appropriations at any time to decrease or eliminate the amount annually appropriated to the Authority."

SECTION 3. G.S. 136-89.194 reads as rewritten:

"**§ 136-89.194. Laws applicable to the Authority; exceptions.**

(a) Motor Vehicle Laws. – The Turnpike System shall be considered a "highway" as defined in G.S. 20-4.01(13) and a "public vehicular area" as defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State Highway Patrol and the Division of Motor Vehicles, shall have the same powers and duties on the Turnpike System as on any other highway or public vehicular area.

(b) Contracting. – For the purposes of implementing this Article, the Authority shall solicit competitive proposals for the construction of Turnpike Projects in accordance with the provisions of Article 2 of this Chapter. Contracts for professional engineering services and other kinds of professional or specialized services necessary in

connection with construction of Turnpike Projects shall be solicited in accordance with procedures utilized by the Department of Transportation.

(c) Alternative Contracting Methods. – Notwithstanding the provisions of subsection (b) of this section, the Authority may authorize the use of alternative contracting methods if:

(1) The authorization applies to an individual project;

(2) The Authority has concluded, and documented in writing, that the alternative contracting method is necessary because the project cannot be completed utilizing the procedures of Article 2 of this Chapter within the necessary time frame or available funding or for other reasons the Authority deems in the public interest;

(3) The Authority has provided, to the extent possible, for the solicitation of competitive proposals prior to awarding a contract; and

(4) The approved alternative contracting method provides for reasonable compliance with the disadvantaged business participation goals of G.S. 136-28.4.

(d) Entry for Surveys. – The Turnpike Authority and its employees and contractors shall have the same right of entry for surveys, borings, soundings, or examinations as granted the Department of Transportation in G.S. 136-120.

(e) Documents and Records. – The diaries kept in connection with construction or repair contracts entered into by the Turnpike Authority and any analysis generated by any bid analysis and management system, including work papers, documents and the output of automated systems associated with the analyses of bids of the Turnpike Authority, shall have the same public record status as the records of the Department of Transportation in G.S. 136-28.5.

(f) Adjustment and Resolution of Turnpike Construction Claim. The provisions of G.S. 136-29 shall apply to the Turnpike Authority except that references in G.S. 136-29 to Turnpike Authority and the "State Highway Administrator" shall be to the "Turnpike Authority" and the "Chief Engineer", respectively. References in G.S. 136-29 to a "State Highway" shall be to a "Turnpike facility"."

SECTION 4. G.S. 47-30(l) reads as rewritten:

"(l) The provisions of this section shall not apply to the registration of highway right-of-way plans provided for in ~~G.S. 136-19.4 nor to~~G.S. 136-19.4, the Turnpike Authority right-of-way plans provided for in G.S. 136-89.184A, or to the registration of roadway corridor official maps provided in Article 2E of Chapter 136."

SECTION 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-89.184A. Registration of right-of-way plans.**

(a) A copy of the cover sheet and plan and profile sheets of the final right-of-way plans for all Turnpike Authority projects, on those projects for which plans are prepared, under which right-of-way or other interest in real property is acquired or access is controlled shall be certified by the Turnpike Authority to the register of deeds of the county or counties within which the project is located. The Authority shall certify

said plan sheets to the register of deeds within two weeks from their formal approval by the Board of Directors.

(b) The copy of the plans certified to the register of deeds shall consist of a Xerox, photographic, or other permanent copy, except for plans electronically transmitted pursuant to subsection (c) of this section, and shall measure approximately 17 inches by 11 inches including no less than one and one-half inches binding space on the left-hand side.

(c) With the approval of the county in which the right-of-way plans are to be filed, the Authority may transmit the plans electronically.

(d) Notwithstanding any other provision in the law, upon receipt of said original certified copy of the right-of-way plans, the register of deeds shall record said right-of-way plans and place the same in a book maintained for that purpose, and the register of deeds shall maintain a cross-index to said right-of-way plans by number of road affected, if any, and by identification number. No probate before the clerk of the superior court shall be required.

(e) If after the approval of said final right-of-way plans the Board of Directors shall by resolution alter or amend said right-of-way or control of access, the Turnpike Authority, within two weeks from the adoption by the Board of Directors of said alteration or amendment, shall certify to the register of deeds in the county or counties within which the project is located a copy of the amended plan and profile sheets approved by the Board of Directors and the register of deeds shall remove the original plan sheets and record the amended plan sheets in lieu thereof.

(f) The register of deeds in each county shall collect a fee from the Turnpike Authority for recording right-of-way plans and profile sheets in the amount set out in G.S. 161-10."

SECTION 6. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-89.184B. Project Cost Estimates.**

All cost estimates prepared for the purpose of comparing bids shall be confidential and shall not be disclosed until after the opening of bids for a project."

SECTION 7. G.S. 20-87(15) reads as rewritten:

"(5) Private Passenger Vehicles. – There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of private passenger vehicles, fees according to the following classifications and schedules:

Private passenger vehicles of not more than fifteen passengers ..... ~~$28.00~~$38.00

Private passenger vehicles over fifteen passengers..... ~~31.00~~41.00

Provided, that a fee of only one dollar ($1.00) shall be charged for any vehicle given by the federal government to any veteran on account of any disability suffered during war so long as such vehicle is owned by the original donee or other veteran entitled to receive such gift under Title 38, section 252, United States Code Annotated. Of the registration fees collected pursuant to this subdivision, five dollars

($5.00) shall be credited by the Division to the Highway Fund for the maintenance and preservation of the Intrastate System as defined in G.S. 136-175(1) and five dollars ($5.00) shall be credited by the Division to the North Carolina Turnpike Authority to be used to provide debt service on bonds issued for Authority Projects."

SECTION 8. G.S. 20-88(b)(1) reads as rewritten:

"(1) The minimum fee for a vehicle licensed under this subsection is ~~twenty-four dollars ($24.00)~~thirty-four ($34.00) at the farmer rate and ~~twenty-eight dollars ($28.00)~~thirty-eight ($38.00) at the general rate. Of the registration fees collected pursuant to this subdivision, five dollars ($5.00) shall be credited by the Division to the Highway Fund for the maintenance and preservation of the Intrastate System as defined in G.S. 136-175(1) and five dollars ($5.00) shall be credited by the Division to the North Carolina Turnpike Authority to be used to provide debt service on bonds issued for Authority Projects."

SECTION 9. Sections 7 and 8 become effective October 1, 2007. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 27, 2007

FROM: Bob Weiss and Bryce Ball
Fiscal Research Division

RE: **Senate Bill 1352 PCS to First Edition S1352-CSMAf**

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Sections 1-6:					
REVENUES:					
Civil Penalty and Forfeiture Fund			**No Estimate Available**		
EXPENDITURES:					
NCTA				**$ 1,800,000**	**$ 2,000,000**
Highway Fund- DMV			**$ 754,800**		
Judicial Branch				**$ 155,000**	**$ 155,000**
SECTIONS 7-8:	**Increase Registration Fee**				
REVENUES:					
Highway Fund Registration Fee Increase ($10 per vehicle)	**$49,000,000**	**$65,000,000**	**$65,000,000**	**$65,000,000**	**$65,000,000**
EXPENDITURES:					
North Carolina Turnpike Authority	**$24,500,000**	**$32,500,000**	**$32,500,000**	**$32,500,000**	**$32,500,000**
Maintenance of Intrastate System	**$24,500,000**	**$32,500,000**	**$32,500,000**	**$32,500,000**	**$32,500,000**
TOTAL EXPENDITURES	**$49,000,000**	**$65,000,000**	**$65,000,000**	**$65,000,000**	**$65,000,000**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Turnpike Authority (NCTA); Division of Motor Vehicles (DMV); Civil Penalty and Forfeiture Fund; Judicial Branch; DOT

EFFECTIVE DATE: Sections 7 and 8 become effective October1, 2007; remainder effective when the bill becomes law.

BILL SUMMARY: The PCS for Senate Bill 1352 provides for enforcement at toll facilities operated by the North Carolina Turnpike Authority (NCTA), allows funds to be used to service debt on bonds issued by the NCTA, modifies statutes dealing with right-of-way registration by the NCTA, and modifies laws applicable to the NCTA. (Source: Legislative Drafting Division, *Bill Analysis, July 26, 2007.*)
Sections 7 and 8 increase the registration fees for most passenger vehicles from $28 to $38. Of the registration fees collected under these sections $5 would be credited to the Highway Fund for the maintenance and preservation of the Intrastate System and $5 would be credited to the North Carolina Turnpike Authority (NCTA) to pay debt service on bonds issued by the NCTA.

The current annual registration fee for most passenger vehicles is $28. The bill would increase annual registration fees by $10 to $38 for private passenger vehicles of not more than fifteen passengers and to $41 for private passenger vehicles over fifteen passengers. The bill would also increase the minimum annual registration fee for a vehicle licensed under G.S. 20-88 Property-hauling vehicles by $10 to $34 at the farmer rate and to $38 at the general rate.

ASSUMPTIONS AND METHODOLOGY:
Sections 1-6:
The actual start of toll operations for the North Carolina Turnpike Authority is expected to be late in calendar year 2010. For the purpose of this fiscal note it is assumed that FY10-11 is a full year of operations. However, actual first year costs and revenues for the Turnpike Authority are likely to be lower than shown.
A fiscal impact is expected for the following agencies:

North Carolina Turnpike Authority (NCTA)
The NCTA estimates that its cost for processing violations will be as follows:

FY10-11	$1.8 million
FY11-12	$2.0

The source of these funds will be toll revenues. The NCTA notes that it has not yet determined the computer systems, data formats, or communications systems that will be used to enforce the tolls.

Division of Motor Vehicles (DMV)
The exact division of responsibility between DMV and NCTA has not been established. DMV indicates that extensive and complex modifications to the State Titling and Registration System (STARS) and the International Registration Plan (IRP) will be required. DMV estimates the total cost of these modifications as $754,800. Discussion between NCTA and DMV could lead to changes in this estimate. Also, the timing of the need for the modifications will depend on the actual NCTA start of operations and could be later than shown above.

SENATE BILL 1180:
No Monetary Exaction for Development

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 27, 2007
Introduced by:	Sen. Dalton	**Summary by:**	Cindy Avrette
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1180 clarifies that a local government may not impose or exact a tax, fee, or monetary contribution for development unless that authority is specifically granted by statute.

CURRENT LAW AND BACKGROUND: Local governments have the authority given to them by the State. In 2005, the General Assembly made substantial revisions to city and county planning and land-use management statutes. Part of those revisions included authorization of development agreements between a local government and a developer. In the laws concerning development agreements, the General Assembly made several findings. It recognized that large scale development often creates potential community impacts and that large-scale development requires careful integration between public capital facilities planning, financing, and construction and the phasing of the private development. The statute authorizing development agreements specifically states that a local government may not exercise any authority not authorized by general or local act and may not impose any tax or fee not otherwise authorized by law.

Between 1985 and 1991, the General Assembly gave three counties and several municipalities the authority to implement impact fees. Impact fees are charged by local governments to developers who wish to construct new properties. The revenue from the impact fees are used to pay for the construction of public facilities necessitated by the development. Since 1991, the General Assembly has not given any local government new impact fee authority.

Some local governments claim that special authority is not necessary to enable them to impose impact fees; that its imposition is a logical extension of their power to require developers to provide facilities or improvements as a condition to developing a property. However, the North Carolina Court of Appeals ruled in June 2006 in the case of *Durham Land Owners Association v. County of Durham* that it found no authority in a county's zoning and general police powers to support a county's statutory authority to impose a school impact fee.

In contract to an impact fee, local governments often use their subdivision and zoning authority to require exactions to address impacts of a proposed development.[1] The statutes specifically allow subdivision ordinances to require a developer to provide funds to enable the local government to acquire recreational land or areas to serve the development; to provide funds to be used for the development of roads to serve the development; to construct community service facilities; and to reserve school sites.[2]

Some local governments have adopted 'Adequate Public Facility' requirements based upon the zoning statute that says:

> "Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of

[1] Article 18 of Chapter 153A and Article 19 of Chapter 160A.
[2] G.S. 153A-331 and G.S. 160A-372.

> population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate eh efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements."[3]

Under an Adequate Public Facility ordinance a development may not be approved if the facilities are inadequate to support the development. A few counties have used this authority to deny approval as an indirect way to impose school impact fees. Their ordinances provide that if there is inadequate school capacity a development cannot be approved; however, the developer has the option of voluntarily contributing a set 'fee' to advance the availability of the capacity and if that is done, the development can be approved.

BILL ANALYSIS: Senate Bill 1180 makes changes in the planning and regulation authorization statutes for both counties and cities. The bill amends the first statute in each Article to specifically prohibit a county or city from imposing or exacting a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law. The bill also specifies in the statutes that authorize counties and cities to enter into development agreements that a county or city may not, as part of that agreement, exact a monetary contribution not authorized by law. The law already prohibits the imposition of a tax or fee as part of a development agreement.

The statutes currently authorize the imposition of fees for 'over-the-counter' type services such as permits.[4] Case law has upheld the imposition of fee schedules for specific activities under these statutes; but not fees for providing general government services to the overall public, such as education.[5] Case law has also upheld cities' implicit authority to impose fees to fund capital improvements for water and sewer under the public enterprise statutes.[6] Lastly, as mentioned earlier in the summary, ordinances may require developers to provide roads, water, sewer, and recreational areas within a new subdivision. They may also require developers to construct community service facilities and to reserve school sites.

EFFECTIVE DATE: The bill is effective when it becomes law and the amendments to the statutes governing development agreements are applicable to development agreements entered into on or after that date.

S1180e1-SMRB

[3] G.S. 153A-341 and G.S. 160A-383.
[4] G.S. 153A-102 and G.S. 160A-4.
[5] *Durham Land Owners Association v. County of Durham.* No. COA05-736.
[6] *South Shell Investment v. Wrightsville Beach.* 703 F.Supp. 1192 (E.D.N.C. 1988). Article 16 of Chapter 160A.

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Judicial System

The NCTA estimates that toll violations/infractions will constitute roughly 3 percent of annual transactions, with most cases disposed via payment of the imposed penalty or through the NCTA's administrative adjudication process. However, a small percentage of defendants are expected to seek judicial review in Superior Court – an estimated 306 cases in CY 2011 and 378 cases in CY 2012.

Based on the NCTA's five-year judicial review estimates, the Administrative Office of the Courts estimates that 345 cases (5 yr. avg.) will be heard in Superior Court annually, and will require approximately two additional hours of court-time per case. These 690 additional hours of court-time are estimated to cost $155,000 annually (based on a 6-hour court day in superior court at a cost of $1,344 per day for a civil, non-jury proceeding). Although lower first-year costs will be incurred due to the operational date for the first toll facility (late 2010), this analysis assumes that FY 2010-11 will be a full year of operation.

Civil Penalty and Forfeiture Fund

The NCTA is required by the bill to establish a schedule of toll evasion penalties not to exceed the unpaid toll plus $100 per violation. The penalties collected will be remitted to the Civil Penalty and Forfeiture Fund. The amount will depend on the penalties set and is not currently known.

Sections 7-8:

Annual registration fees would be increased by $10 for approximately 6.5 million vehicles under this bill, increasing annual revenues by approximately $65 million ($49 million in the first partial year).

The funds collected ($10 of the registration fee collected for each vehicle) would be used for two purposes ($5 for each):

- North Carolina Turnpike Authority (NCTA) gap funding –
  Gap funding is the difference between the amount of funding needed to pay the debt service on a turnpike project and the revenues available for debt service from tolls.

- Maintenance and preservation of the Intrastate System, which is defined in G.S. 136-175(1) as "the network of major, multilane arterial highways composed of those routes, segments, or corridors listed in G.S. 136-178, and any other route added by the Department of Transportation under G.S. 136-178."

SOURCES OF DATA: North Carolina Turnpike Authority; Division of Motor Vehicles; Administrative Office of the Courts.

TECHNICAL CONSIDERATIONS: None

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/27/07

S. B. No. 1352 - CSMAxf-14 Amendment No. _____

COMMITTEE SUBSTITUTE ✓ as amended (to be filled in by Principal Clerk)

(Rep.) (Sen.) Hoyle

moves to amend the bill on page 1, line S 2-8

(✓) WHICH CHANGES THE TITLE

by rewriting the lines to read:

" AN ACT TO " ;

and on p. 1, line 14 through p. 7, line 30

by deleting the lines; and

renumbering sections accordingly.

SIGNED _____

ADOPTED X FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

Senate Bill 1352
Proposed Committee Substitute

- **Toll violation enforcement legislation:**
  - Bill required by credit rating agencies, bond underwriters, and investment bankers in order to award "investment grade rating" to N.C. Turnpike Authority Bonds.
  - N.C. Turnpike Authority will not be able to get a federal TIFIA loan without "investment grade" rating from the rating agencies.
  - Bill language is standard language used for enforcement in other states.

- **Section 5, Right of Way Plans:**
  - Mirrors exact language of N.C. DOT
  - Allows NCTA to register and record right of way plans in bulk; can record as set of right away plans instead of parcel by parcel.

- **Increase in Vehicle Registration Fees:**
  - $8 increase in registration fee will provide for:
    - $50 million/year for N.C. Turnpike Authority Gap Funds

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 1435

Short Title:	Amend Funeral Serv. Prac./Other Related Laws.	(Public)
Sponsors:	Senator Atwater.	
Referred to:	Commerce, Small Business and Entrepreneurship.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS PERTAINING TO THE PRACTICE OF FUNERAL SERVICE, MUTUAL BURIAL ASSOCIATIONS, PRENEED FUNERAL FUNDS, AND CREMATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.18A reads as rewritten:

"**§ 90-210.18A. Board of Funeral Service created; qualifications; vacancies; removal.**

(a) The General Assembly declares that the practice of funeral service affects the public health, safety, and welfare and is subject to regulation and control in the public interest. The public interest requires that only qualified persons be permitted to practice funeral service in North Carolina and that the profession merit the confidence of the public. This Article shall be liberally construed to accomplish these ends.

(b) The North Carolina Board of Funeral Service is created and shall regulate the practice of funeral service in this State. The Board shall have nine members as follows:

(1) Four members appointed by the Governor from nominees recommended by the North Carolina Funeral Directors Association, Inc. These members shall be persons licensed under this Article.

(2) Two members appointed by the Governor from nominees recommended by the Funeral Directors & Morticians Association of North Carolina, Inc. These members shall be persons licensed under this Article.

(3) One member appointed by the Governor who is licensed under this Article and who is not affiliated with any funeral service trade association.

(4) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.

(5) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.

Members of the Board shall serve staggered three-year terms, ending on ~~June 30~~December 1 of the last year of the term or when a successor has been duly appointed, whichever is later. No member may serve more than two complete consecutive terms.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms of Board members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved."

SECTION 2. G.S. 90-210.20 reads as rewritten:

"**§ 90-210.20. Definitions.**

(a) "Advertisement" means the publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public, any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any radio, television station, or electronic medium.

(b) "Board" means the North Carolina Board of Funeral Service.

(c) "Burial" includes interment in any form, cremation and the transportation of the dead human body as necessary therefor.

(c1) "Dead human bodies", as used in this Article includes fetuses beyond the second trimester and the ashes from cremated bodies.

(d) "Embalmer" means any person engaged in the practice of embalming.

(e) "Embalming" means the preservation and disinfection or attempted preservation and disinfection of dead human bodies by application of chemicals externally or internally or both and the practice of restorative art including the restoration or attempted restoration of the appearance of a dead human body. Embalming shall not include the washing or use of soap and water to cleanse or prepare a dead human body for disposition by the authorized agents, family, or friends of the deceased who do so privately without pay or as part of the ritual washing and preparation of dead human bodies prescribed by religious practices; provided, that no dead human body shall be handled in a manner inconsistent with G.S. 130A-395.

(e1) ~~"Funeral chapel"~~ "Chapel" means a chapel or other facility separate from the funeral establishment premises for the primary purpose of reposing of dead human bodies, visitation or funeral ceremony that is owned, operated, or maintained by a funeral establishment ~~or other licensee~~ under this Article, and that does not use the word "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in

which or on the premises of which there is not displayed any caskets or other funeral merchandise; in which or on the premises of which there is not located any preparation room; and which no owner, operator, employee, or agent thereof represents the chapel to be a funeral establishment.

(f) "Funeral directing" means engaging in the practice of funeral service except embalming.

(g) "Funeral director" means any person engaged in the practice of funeral directing.

(h) "Funeral establishment" means every place or premises devoted to or used in the care, arrangement and preparation for the funeral and final disposition of dead human bodies and maintained for the convenience of the public in connection with dead human bodies or as the place for carrying on the ~~profession~~ practice of funeral service.

(i) "Funeral service licensee" means a person who is duly licensed and engaged in the practice of funeral service.

(j) "Funeral service" means the aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as an organized, purposeful, time-limited, flexible, group-centered response to death.

(k) "Practice of funeral service" means engaging in the care or disposition of dead human bodies or in the practice of disinfecting and preparing by embalming or otherwise dead human bodies for the funeral service, transportation, burial or cremation, or in the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. "Practice of funeral service" also means engaging in making arrangements for funeral ~~service,~~service or cremation, selling funeral supplies to the public or making financial arrangements for the rendering of such services or the sale of such supplies.

(l) "Resident trainee" means a person who is engaged in preparing to become licensed for the practice of funeral directing, embalming or funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral directing, embalming or funeral service in the State of North Carolina under the provisions of this Chapter, and who is duly registered as a resident trainee with the Board."

SECTION 3. G.S. 90-210.23 reads as rewritten:

"**§ 90-210.23. Powers and duties of the Board.**

(a) The Board is authorized to adopt and promulgate such rules and regulations for transaction of its business and for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States.

(b) The Board shall elect from its members a president, a vice-president and a secretary, no two offices to be held by the same person. The president and vice-president and secretary shall serve for one year and until their successors shall be elected and qualified. The Board shall have authority to engage adequate staff as deemed necessary to perform its duties.

(c) The members of the Board shall serve without compensation provided that such members shall be reimbursed for their necessary traveling expenses and the

necessary expenses incident to their attendance upon the business of the Board, and in addition thereto they shall receive per diem and expense reimbursement as provided in G.S. 93B-5 for every day actually spent by such member upon the business of the Board. All expenses, salaries and per diem provided for in this Article shall be paid from funds received under the provisions of this Article and shall in no manner be an expense to the State.

(d) Every person licensed by the Board and every resident trainee shall furnish all information required by the Board reasonably relevant to the practice of the profession or business for which the person is a licensee or resident trainee. Every funeral service establishment and its records and every place of business where the practice of funeral service or embalming is carried on and its records shall be subject to inspection by the Board during normal hours of operation and periods shortly before or after normal hours of operation and shall furnish all information required by the Board reasonably relevant to the business therein conducted. Every licensee, resident trainee, embalming facility, and funeral service establishment shall provide the Board with a current post-office address which shall be placed on the appropriate register and all notices required by law or by any rule or regulation of the Board to be mailed to any licensee, resident trainee, embalming facility, or funeral service establishment shall be validly given when mailed to the address so provided.

(d1) The Board is empowered to hold hearings in accordance with the provisions of this Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive the affirmation of witnesses before the Board.

In any show cause hearing before the Board held under the authority of Chapter 150B of the General Statutes where the Board imposes discipline against a licensee, the Board may recover the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to exceed five thousand dollars ($5,000).

(e) The Board is empowered to regulate and inspect, according to law, funeral service establishments and embalming facilities, their operation, and the licenses under which they are operated, and to enforce as provided by law the rules, regulations, and requirements of the Division of Health Services and of the city, town, or county in which the funeral service establishment or embalming facility is maintained and operated. Any funeral establishment or embalming facility that, upon inspection, is found not to meet all of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain that the deficiency or other violation has been corrected. The Board is also empowered to enforce compliance with the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

(f) The Board may establish, supervise, regulate and control programs for the resident trainee. It may approve schools of mortuary science or funeral service, graduation from which is required by this Article as a qualification for the granting of any license, and may establish essential requirements and standards for such approval of mortuary science or funeral service schools.

(g) Schools for teaching mortuary science which are approved by the Board shall have extended to them the same privileges as to the use of bodies for dissecting while

teaching as those granted in this State to medical colleges, but such bodies shall be obtained through the same agencies which provide bodies for medical colleges.

(h) The Board shall adopt a common seal.

(h1) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(h2) The Board may employ legal counsel and clerical and technical assistance, and fix the compensation therefor, and incur such other expenses as may be deemed necessary in the performance of its duties and the enforcement of the provisions of this Article or as otherwise required by law and as may be necessary to carry out the powers herein conferred.

(i) The Board may perform such other acts and exercise such other powers and duties as may be provided elsewhere in this Article or otherwise by law and as may be necessary to carry out the powers herein conferred."

SECTION 4. G.S. 90-210.25 reads as rewritten:

"**§ 90-210.25. Licensing.**

(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

(1) To be licensed for the practice of funeral directing under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of a Funeral Director Program at a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.

d. Have completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.

e. Have passed an oral or written funeral director examination on the following subjects:

1. Psychology, sociology, pathology, funeral directing, business law, funeral law, funeral management, and accounting.

2. Repealed by Session Laws 1997-399, s. 5.

3. Laws of North Carolina and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

(2) To be licensed for the practice of embalming under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of a mortuary science college approved by the Board.

d. Have completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.

e. Have passed an oral or written embalmer examination on the following subjects:

1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.

2. Repealed by Session Laws 1997-399, s. 6.

3. Laws of North Carolina and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

(3) To be licensed for the practice of funeral service under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of and receive an associate degree from a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 60 semester hours or 90 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.

d. Have completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivison c. of this subdivision.

e. Have passed an oral or written funeral service examination on the following subjects:

1. Psychology, sociology, funeral directing, business law, funeral law, funeral management, and accounting.

2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
3. Repealed by Session Laws 1997-399, s. 7.
4. Laws of North Carolina and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

(4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.

b. ~~When~~ Within 30 days of a resident trainee ~~leaves~~ leaving the proctorship of the licensee under whom the trainee has worked, the licensee shall file with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.

c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears on the original certificate may reapply to the Board for approval.

d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than two times. The Board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the certificate will be canceled. A late fee, in addition to the renewal fee, shall be charged for a late renewal, but the renewal of the registration of any resident trainee who is engaged in the active military service of the United States at the time renewal is due may, at the discretion of the Board, be held in abeyance for the duration of that service without penalties. No credit shall be allowed for the

12-month period of resident traineeship that shall have been completed more than five years preceding the examination for a license.

e. All registered resident trainees shall report to the Board at least once every month during traineeship upon forms provided by the Board listing the work which has been completed during the preceding month of resident traineeship. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:
   1. For funeral director trainees, the conduct of any funerals during the relevant time period,
   2. For embalming trainees, the embalming of any bodies during the relevant time period,
   3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.

f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:
   1. That the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
   2. That the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
   3. That the funeral service trainee has, under supervision, assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.

g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.

h. Each sponsor for a registered resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.

i. Only one resident trainee may register and serve at any one time under any one person licensed under this Article.

j., k. Repealed by Session Laws 1991, c. 528, s. 4.

l. The Board shall register no more than one resident trainee at a funeral establishment that served 100 or fewer families during the 12 months immediately preceding the date of the

application, and shall register no more than one resident trainee for each additional 100 families served at the funeral establishment during the 12 months immediately preceding the date of the application.

(5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own.

a. All licenses shall be signed by the president and secretary of the Board and the seal of the Board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year upon payment of the renewal fee, and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the date of their issue unless sooner revoked and canceled; provided, that the date of expiration may be changed by unanimous consent of the Board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.

b. The holder of any license issued by the Board who shall fail to renew the same on or before February 1 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which his North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during his service in the armed forces of the United States provided he applies within six months following severance therefrom.

c. All licensees now or hereafter licensed in North Carolina shall take continuing education courses in subjects relating to the practice of the profession for which they are licensed, to the end that the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.

d. As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, of which the Board may require licensees to take up to two hours specified by the Board. All continuing education courses must be approved by the Board prior to enrollment. A licensee who completes more than five hours in a year may carry over a maximum of five hours as a credit to the following year's requirement. A licensee who is issued an initial license on or after July 1 does not have to satisfy the continuing education requirement for that year.

e. The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who were licensed on or before December 31, 2003, and have been licensed in North Carolina for a continuous period of 25 years or more, for all licensees who are licensed on or after January 1, 2004, who have been licensed for a continuous period of 25 years or more and have attained the age of 60 years, and for all licensees who are, at the time of renewal, members of the General Assembly.

f. The Board shall cause to be established and offered to the licensees, each calendar year, at least eight hours of continuing education courses. The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article.

g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.

h. The Department of Justice may provide a criminal record check to the Board for a person who has applied for a new or renewal license, or certification through the Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subdivision.

(a1) Inactive Licenses. – Any person holding a license issued by the Board for funeral directing, for embalming, or for the practice of funeral service may apply for an inactive license in the same category as the active license held. The inactive license is renewable annually. Continuing education is not required for the renewal of an inactive license. The ~~only activity that a~~ holder of an inactive license may not engage in ~~is to vote pursuant to G.S. 90-210.18(c)(2).~~any activity requiring an active license. The holder of an inactive license may apply for an active license in the same category, and the Board shall issue an active license if the applicant has completed ~~in North Carolina a~~ total number of hours of accredited continuing education equal to five times the number of years the applicant held the inactive license. No application fee is required for the reinstatement of an active license pursuant to this subsection. The holder of an inactive license who returns to active status shall surrender the inactive license to the Board.

(a2) In order to engage in the practice of funeral directing or funeral service, such a licensee must own, be employed by, or otherwise be an agent of a licensed funeral establishment; except that such a licensee may practice funeral directing or funeral service if:

(1) Employed by a college of mortuary science; or

(2) The licensee:

a. Maintains all of his or her business records at a location made known to the Board and available for inspection by the Board under the same terms and conditions as the business records of a licensed funeral establishment;

b. Complies with rules and regulations imposed on funeral establishments and the funeral profession that are designed to protect consumers, to include, but not be limited to, the Federal Trade Commission's laws and rules requiring General Price Lists and Statements of Goods and Services; and

c. Pays to the Board the funeral establishment license fee required by law and set by the Board.

Nothing in this subdivision shall preclude a licensee from arranging cremations and cremating human remains while employed by a crematory.

(b) Persons Licensed under the Laws of Other Jurisdictions. –

(1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other states, territories, the District of Columbia, and foreign countries, when it is shown that the applicant holds a valid license as a funeral director, embalmer or funeral service licensee issued by the other jurisdiction, has demonstrated knowledge of the laws and rules governing the profession in North Carolina and has submitted proof of his good moral character; and either that the applicant has continuously practiced the profession in the other jurisdiction for at least three years immediately preceding his application, or the Board has determined that the licensing requirements for the other jurisdiction are substantially similar to those of North Carolina.

(2) The Board shall periodically review the mortuary science licensing requirements of other jurisdictions and shall determine which licensing requirements are substantially similar to the requirements of North Carolina.

(3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State. Except for special permits issued by the Board for teaching continuing education programs and for work in connection with disasters, no special permits may be issued to nonresident funeral directors, embalmers, and funeral service licensees from states that do not issue similar courtesy cards to persons licensed in North Carolina pursuant to this Article.

(c) Registration, Filing and Transportation. –

(1) The holder of any license granted by this State for those within the funeral service profession or renewal thereof provided for in this Article shall cause registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if

there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a conspicuous place in the funeral establishment where the holder renders service.

(2) It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless the body is accompanied by a burial-transit permit.

(3) The "transportation or removal of a dead human body" shall mean the removal of a dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, funeral establishment or facility, crematory or related holding facility, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.

(4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a permit from the Board before engaging in the transportation or removal of a dead human body in this State. Unless otherwise exempt from this subsection, no corporation or other business entity shall engage in the transportation or removal of a dead human body unless it has in its employ at least one individual who holds a permit issued under this section. No individual permit holder shall engage in the transportation or removal of a dead human body for more than one person, firm, or corporation without first providing the Board with written notification of the name and physical address of each such employer.

(5) The following persons shall be exempt from the permit requirements of this section but shall otherwise be subject to subdivision (9) of this subsection and any rules relating to the proper handling, care, removal, or transportation of a dead human body:

a. Licensees under this Article and their employees.

b. Employees of common carriers.

c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.

d. Funeral directors licensed in another state and their employees.

(6) The following persons shall be exempt from this section:

a. Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement ~~officers.~~officers while acting within the scope of their employment.

b. Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.
c. State and county medical examiners and their investigators.
d. Any individual transporting cremated remains.
e. Any individual transporting or removing a dead human body of their immediate family or next of kin.
f. Any individual who has exhibited special care and concern for the decedent.

(7) Individuals eligible to receive a permit under this section for the transportation or removal of a dead human body for a fee, shall:
a. Be at least 18 years of age.
b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to engage in the business of the removal or transportation of a dead human body.
c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.
d. Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.
e. Be of good moral character.

(8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed one hundred twenty-five dollars ($125.00). A fee, not to exceed one hundred dollars ($100.00), in addition to the renewal fee not to exceed seventy-five dollars ($75.00), shall be charged for any application for renewal received by the Board after February 1 of each year.

(9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall fail to treat a dead human body with respect at all times. No person shall take a photograph or video recording of a dead human body without the

consent of a member of the deceased's immediate family or next of kin or other authorizing agent.

(10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section. Any violation of this section or rules adopted under this section may be punished by the Board by a suspension or revocation of the permit to transport or remove dead human bodies or by a term of probation. The Board may, in lieu of any disciplinary measure, accept a penalty not to exceed five thousand dollars ($5,000) per violation.

(11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of any vehicle in which a dead human body is transported. A permittee shall provide written notification to the Board of any change in the information required to be provided to the Board by this section or by the application for a permit within 30 days after such change takes place.

(12) If any person shall engage in or hold himself out as engaging in the business of transportation or removal of a dead human body without first having received a permit under this section, the person shall be guilty of a Class 2 misdemeanor.

(13) The Board shall have the authority to inspect any place or premises that the business of removing or transporting a dead human body is carried out and shall also have the right of inspection of any vehicle and equipment used by a permittee for the removal or transportation of a dead human body.

(d) Establishment Permit. –

(1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article.

(2) A permit shall be issued when:

a. It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment. The manager shall be charged with overseeing the daily operation of the funeral establishment. If the manager leaves the employment of the funeral establishment and is the only licensee employed who is eligible to serve as manager, the funeral establishment may operate without a manager for a period not to exceed 30 days so long as: (i) the funeral establishment retains one or more licensees to perform all services requiring a license under this Article; (ii) the licensees are not practicing under the exception authorized by G.S. 90-210.25(a2) and would otherwise be eligible to serve as manager; and (iii) the funeral establishment registers the name of the licensees with the Board.

b. The Board receives a list of the names of all part-time and full-time licensees employed by the establishment.

c. It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.

d. The Board receives payment of the permit fee.

(3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. If the renewal application and renewal fee are not received in the Board's office on or before February 1, a late renewal fee, in addition to the regular renewal fee, shall be charged.

(4) The Board may place on probation, refuse to issue or renew, ~~suspend~~ suspend, or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations. In any case in which the Board is entitled to place a funeral establishment permittee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with the probation. In any case in which the Board is entitled to suspend, revoke, or refuse to renew a permit, the Board may accept from the funeral establishment permittee an offer to pay a penalty of not more than five thousand dollars ($5,000). The Board may either accept a

penalty or revoke or refuse to renew a license, but not both. Any penalty under this subdivision may be in addition to any penalty assessed against one or more licensed individuals employed by the funeral establishment.

(5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment.

(d1) Embalming Outside Establishment. – An embalmer who engages in embalming in a facility other than a funeral establishment or in the residence of the deceased person shall, no later than January 1 of each year, register the facility with the Board on forms provided by the Board.

(e) Revocation; Suspension; Compromise; Disclosure. –

(1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter 150B of the General Statutes:

a. Conviction of a felony or a crime involving fraud or moral turpitude.

a1. Denial, suspension, or revocation of an occupational or business license by another jurisdiction.

b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service.

c. False or misleading advertising as the holder of a license.

d. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee.

e. Employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.

f. The payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business except as authorized by Article 13D of this Chapter.

g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral service.

h. Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.

i. Failing to treat a dead human body with respect at all times.

j. Violating or cooperating with others to violate any of the provisions of this ~~Article,~~Article or Articles 13D, 13E, or 13F of Chapter 90 of the General Statutes, any rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.

l. Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof.

m. Knowingly making any false statement on a certificate of ~~death.~~death or violating or cooperating with others to violate any provision of Article 4 or 16 of Chapter 130A of the General Statutes or any rules or regulations promulgated under those Articles as amended from time to time.

n. Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.

In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer to pay a penalty of not more than five thousand dollars ($5,000). The Board may either accept a penalty or revoke or refuse to renew a license, but not both.

(2) Where the Board finds that a licensee is guilty of one or more of the acts or omissions listed in subdivision (e)(1) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with the probation. The Board may also require satisfactory completion of remedial or educational training as a prerequisite to license reinstatement or for completing the term of probation.

No person licensed under this Article shall remove or cause to be embalmed a dead human body when he or she has information indicating crime or violence of any sort in connection with the cause of death, nor shall a dead human body be cremated, until permission of the State or county medical examiner has first been obtained. However, nothing in this Article shall be construed to alter the duties and authority now vested in the office of the coroner.

No funeral service establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made

due inquiry as to the desires of the persons who have the legal authority to direct the disposition of the decedent's body. If any persons are found, their authority and directions shall govern the disposal of the remains of the decedent. Any funeral service establishment receiving the remains in violation of this subsection shall make no charge for any service in connection with the remains prior to delivery of the remains as stipulated by the persons having legal authority to direct the disposition of the body. This section shall not prevent any funeral service establishment from charging and being reimbursed for services rendered in connection with the removal of the remains of any deceased person in case of accidental or violent death, and rendering necessary professional services required until the persons having legal authority to direct the disposition of the body have been notified.

When and where a licensee presents a selection of funeral merchandise to the public to be used in connection with the service to be provided by the licensee or an establishment as licensed under this Article, a card or brochure shall be directly associated with each item of merchandise setting forth the price of the service using said merchandise and listing the services and other merchandise included in the price, if any. When there are separate prices for the merchandise and services, such cards or brochures shall indicate the price of the merchandise and of the items separately priced.

At the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time. If fees charged by a finance company for expediting payment of life insurance proceeds to the establishment will be passed on to the person or persons responsible for payment of the funeral expenses, information regarding the fees, including the total dollar amount of the fee, shall be disclosed on the written statement. The statement shall have printed, typed or stamped on the face thereof: "This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)." The Board may prescribe other disclosures that a licensee shall give to consumers upon finding that the disclosure is necessary to protect public health, safety, and welfare.

(e1) Except as otherwise authorized by law, no licensee under this Article, nor any of the licensee's agents, assistants, or employees, shall accept, solicit, or offer to accept any payment, gratuity, commission, or compensation of any kind in exchange for soliciting or taking human tissue from a dead human body for any person or entity engaging in the recovery of human tissue.

(f) Unlawful Practices. – If any person shall practice or hold himself or herself out as practicing the profession or art of embalming, funeral directing or practice of funeral service or operating a funeral establishment without having complied with the

~~licensing~~ provisions of this Article, ~~he~~ the person shall be guilty of a Class 2 misdemeanor.

(g) Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

SECTION 5. G.S. 90-210.27A reads as rewritten:

"§ 90-210.27A. Funeral establishments.

(a) Every funeral establishment shall contain a preparation room which is strictly private, of suitable size for the embalming of dead bodies. Each preparation room shall:

(1) Contain one standard type operating table.
(2) Contain facilities for adequate drainage.
(3) Contain a sanitary waste receptacle.
(4) Contain an instrument sterilizer.
(5) Have wall-to-wall floor covering of tile, concrete, or other material which can be easily cleaned.
(6) Be kept in sanitary condition and subject to inspection by the Board or its agents at all times.
(7) Have a placard or sign on the door indicating that the preparation room is private.
(8) Have a proper ventilation or purification system to maintain a nonhazardous level of airborne contamination.

(b) No one is allowed in the preparation room while a dead human body is being prepared except licensees, resident trainees, public officials in the discharge of their duties, members of the medical profession, officials of the funeral home, next of kin, or other legally authorized persons.

(c) Every funeral establishment shall contain a reposing room for dead human bodies, of suitable size to accommodate a casket and visitors.

(d) Repealed by Session Laws 1997-399, s. 14.

(e) If a funeral establishment is solely owned by a natural person, that person must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a partnership, at least one partner must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a corporation, the president, vice-president, or the chairman of the board of directors must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a limited liability company, at least one member must be licensed by the Board as a funeral director or a funeral service licensee. The licensee required by this subsection must be actively engaged in the operation of the funeral establishment.

(f) If a funeral establishment uses the name of a living person in the name under which it does business, that person must be licensed by the Board as a funeral director or a funeral service licensee.

(g) No funeral establishment ~~or other licensee under this Article~~ shall own, operate, or maintain a ~~funeral~~ chapel without first having registered the name, location, and ownership thereof with the Board; own or maintain more than two ~~funeral~~ chapels, or own or maintain a ~~funeral~~ chapel outside of a radius of 50 miles from the funeral establishment. A duly licensed person may use a ~~funeral~~ chapel for making arrangements for funeral ~~service,~~services, selling funeral ~~supplies~~ merchandise to the ~~public,~~public by photograph, video, or computer based presentation, or making financial arrangements for the rendering of ~~such~~ the service or sale of supplies, provided that ~~such~~ the uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony.

(h) All public health laws and rules apply to funeral establishments. In addition, all funeral establishments must comply with all of the standards established by the rules adopted by the Board.

(i) No funeral establishment shall use an unregistered or misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral ~~establishment~~ establishment, the use of names of deceased individuals, unless the establishment is licensed using the name at the time the new application is made, the use of names of individuals not associated with the establishment, and the use of the word "crematory" or "crematorium" in the name of a funeral establishment that does not own a crematory. If an owner of a funeral establishment owns more than one funeral establishment, the owner may not use the word "crematory" or "crematorium" in the name of more than one of its funeral establishments; except that each funeral home having a crematory on the premises may contain the term "crematory" or "crematorium" in its name.

(j) A funeral establishment will not use any name other than the name by which it is properly registered with the Board."

SECTION 6. G.S. 90-210.28 reads as rewritten:

"**§ 90-210.28. Fees.**

The Board may set and collect fees, not to exceed the following amounts:

Establishment permit	
Application	~~$250.00~~$400.00
Annual renewal	~~150.00~~ 250.00
Late renewal	~~100.00~~ 150.00
Establishment and embalming facility ~~inspection~~ re-inspection fee	100.00
Courtesy card	
Application	~~75.00~~ 100.00
Annual renewal	~~50.00~~ 75.00
Out-of-state licensee	
Application	~~200.00~~ 250.00
Embalmer, funeral director, funeral service	
Application-North	

Carolina-Resident	~~150.00~~	200.00
-Non-Resident	~~200.00~~	250.00
Annual Renewal-embalmer or		
funeral director	~~40.00~~	75.00
Total fee, embalmer and funeral director		
when both are held by the same person	~~60.00~~	100.00
-funeral service	~~60.00~~	100.00
Inactive Status		50.00
Reinstatement fee		50.00
Resident trainee permit		
Application		50.00
Voluntary change in supervisor		50.00
Annual renewal		35.00
Late renewal		25.00
Duplicate license certificate		25.00
Chapel registration		
Application		150.00
Annual renewal		100.00
Late renewal		75.00

The Board shall provide, without charge, one copy of the current statutes and regulations relating to ~~Mortuary Science~~Funeral Service to every person applying for and paying the appropriate fees for licensing pursuant to this Article. The Board may charge all others requesting copies of the current statutes and regulations, and the licensees or applicants requesting additional copies, a fee equal to the costs of production and distribution of the requested documents."

SECTION 7. Article 13A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-210.29A-1. Examination scores not public record.**

The examination scores of applicants for licensure shall not be subject to the provisions of Chapter 132 of the General Statutes. The Board shall release examination scores to any person requesting examination scores whether or not the applicant has obtained a passing score at the time of the request."

SECTION 8. G.S. 90-210.62 reads as rewritten:

"**§ 90-210.62. Types of preneed funeral contracts; forms.**

(a) A preneed licensee may offer standard preneed funeral contracts and inflation-proof preneed funeral contracts. A standard preneed funeral contract applies the trust funds or insurance proceeds to the purchase price of funeral services and merchandise at the time of death of the contract beneficiary without ~~a guarantee~~protection against potential future price increases. An inflation-proof contract establishes ~~a fixed price~~an agreement between the preneed licensee and the purchaser for funeral services and merchandise without regard to potential future price increases. Upon written disclosure to the purchaser of a preneed funeral contract, inflation-proof contracts may permit the preneed licensee to retain all of the preneed funeral contract trust funds on deposit, and all insurance proceeds, even those in excess of the retail cost

of goods and services provided, when the preneed licensee has fully performed the preneed funeral contract. Preneed funeral contracts may be revocable or irrevocable, at the option of the preneed funeral contract purchaser.

(b) The Board ~~shall approve all~~may prescribe forms for preneed funeral ~~contracts.~~contracts consistent with this Article. All contracts must be in ~~writing, and no form shall be used without prior approval of the Board.~~writing on forms prescribed by the Board. Any use or attempted use of any oral preneed funeral contract or any written contract in a form not ~~approved~~ prescribed by the Board shall be deemed a violation of this Article."

SECTION 9. Article 13D of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-210.63A. Amendment of preneed funeral contracts.**

(a) Unless otherwise provided by this Article, preneed funeral contracts may be modified by mutual consent of the contracting preneed funeral establishment and the preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative.

(b) When the preneed contract purchaser and preneed contract beneficiary are the same, the preneed contract purchaser may designate one or more individuals to change the arrangements or performing funeral establishment, or may designate that the arrangements or performing funeral establishment may not be changed without an order from the clerk of superior court in the county where probate proceedings are instituted upon a finding that the change is in the best interest of the estate.

(c) If the preneed purchaser, or after his or her death, the preneed contract beneficiary or his or her legal representative, and the contracting preneed funeral establishment agree to modify any goods or services selected under an inflation-proof contract, the preneed licensee shall not be required to guarantee the price of the modified goods and services at the time of death and all other funeral goods and service selected shall remain guaranteed. If the modifications increase the purchase price, the provisions of G.S. 90-210.64(b) shall apply as if the modified contract had been executed on the original date. If the modifications decrease the purchase price, the preneed licensee shall refund all monies according to the provisions of G.S. 90-210.64(d)."

SECTION 10. G.S. 90-210.64 reads as rewritten:

"**§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

(a) After the death of a preneed funeral contract beneficiary and full performance of the preneed funeral contract by the preneed licensee, the preneed licensee shall promptly complete a certificate of performance and present it to the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the insurance company that issued a preneed insurance policy pursuant to G.S. 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the financial institution shall pay the trust funds to the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. Within 10 days after receiving payment, the preneed licensee shall ~~mail~~ file a copy of the certificate of performance or other claim form to the Board.

(b) Unless otherwise specified in the preneed funeral contract, the preneed licensee shall have no obligation to deliver merchandise or perform any services for which payment in full has not yet been deposited with a financial institution or that will not be provided by the proceeds of a prearrangement insurance policy. Any such amounts received which do not constitute payment in full shall be refunded to the estate of the deceased preneed funeral contract beneficiary or credited against the cost of merchandise or services contracted for by a representative of the deceased. Any balance remaining after payment for the merchandise and services as set forth in the preneed funeral contract shall be paid to the estate of the preneed funeral contract beneficiary or the prearrangement insurance policy beneficiary named to receive any such balance. Provided, however, unless the parties agree to the contrary, there shall be no refund to the estate of the preneed funeral contract beneficiary of an inflation-proof preneed funeral ~~contract.~~contract except as required by G.S. 90-210.63A(c).

(c) In the event that any person other than the contracting preneed licensee performs any funeral service or provides any merchandise as a result of the death of the preneed funeral contract beneficiary, the financial institution shall pay the trust funds to the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. The preneed licensee shall, subject to the provisions of G.S. 90-210.65(d), immediately pay the monies so received to the other provider.

(d) When the balance of a preneed funeral fund is one hundred dollars ($100.00) or less and is payable to the estate of a deceased preneed funeral contract beneficiary and there has been no representative of the estate appointed, the balance due may be paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a preneed funeral fund exceeds one hundred dollars ($100.00) or is not payable to the estate, the balance must be paid into the office of the clerk of superior court in the county where probate proceedings could be filed for the deceased preneed funeral contract beneficiary.

(e) Upon the fulfillment of a preneed contract, all of the following items shall be completed within 30 days:

(1) The contracting preneed licensee must submit a certificate of performance or similar claim form to the financial institution holding the preneed trust funds and close the preneed account.

(2) The proceeds of this trust account shall be distributed according to the terms of the preneed contract.

(3) A completed copy of the certificate of performance or similar claim form evidencing the final disposition of any financial institution preneed trust account funds must be filed with the Board by the contracting licensee."

SECTION 11. G.S. 90-210.65(e) reads as rewritten:

"(e) This section shall not apply to irrevocable preneed funeral contracts. Irrevocable preneed funeral contracts may ~~not~~ only be revoked ~~nor~~ or any proceeds refunded ~~except by~~by the order of a court of competent ~~jurisdiction.~~jurisdiction, except as follows:

(1) The Board may order an irrevocable contract revoked when the preneed contract beneficiary is no longer domiciled in this State and has submitted a written copy to the Board of a new preneed funeral contract executed under the laws of state where the preneed contract beneficiary is domiciled. Upon receipt of the Board's order, the original contracting preneed licensee shall immediately follow the provisions of G.S. 90-210.63 to transfer the funds to the successor firm.

(2) ~~Notwithstanding the previous sentence, irrevocable~~Irrevocable preneed funeral contracts purchased pursuant to G.S. 90-210.61(a)(3) shall also be revocable when the underlying insurance policy lapses or is otherwise cancelled and the lapsed or cancelled policy no longer provides any funding for the preneed funeral contract."

SECTION 12. G.S. 90-210.67(b) reads as rewritten:

"(b) An application for a preneed funeral establishment license shall be accompanied by a nonrefundable application fee of not more than ~~one hundred fifty dollars ($150.00).~~four hundred dollars ($400.00). The Board shall set the amounts of the application fees and renewal fees by rule, but the fees shall not exceed ~~one hundred fifty dollars ($150.00).~~four hundred dollars ($400.00). A funeral establishment receiving a permit after January 1, 2008, or whose license has lapsed or was terminated for any reason after January 1, 2008, shall obtain a surety bond in an amount not less than fifty thousand dollars ($50,000) for five years, or upon demonstrating that it is solvent, no less than one year from the date the original license is issued. The Board may extend the bonding requirement in the event there is a claim paid from the bond.

If the license is granted, the application fee shall be applied to the annual license fee for the first year or part thereof. Upon receipt of the application and payment of the application fee, the Board shall issue a renewable preneed funeral establishment license unless it determines that the applicant has violated any provision of G.S. 90-210.69(c) or has made false statements or representations in the application, or is insolvent, or has conducted or is about to conduct, its business in a fraudulent manner, or is not duly authorized to transact business in this State. The license shall expire on December 31 and each preneed funeral establishment licensee shall pay annually to the Board on or before that date a license renewal fee of not more than ~~one hundred fifty dollars ($150.00).~~four hundred dollars ($400.00). On or before the first day of February immediately following expiration, a license may be renewed without paying a late fee. After that date, a license may be renewed by paying a late fee of not more than one hundred dollars ($100.00) in addition to the annual renewal fee."

SECTION 13. G.S. 90-210.68(d) reads as rewritten:

"(d) Financial institutions that accept preneed funeral trust funds and insurance companies that issue prearrangement insurance policies shall, upon request by the Board or its inspectors or examiners, disclose any information regarding preneed funeral trust accounts held or prearrangement insurance policies issued by it for a preneed licensee.

Financial institutions that accept preneed funeral trust funds and insurance companies that assign policy proceeds or designate a preneed funeral establishment as

beneficiary shall also forward an account balance to the contracting preneed funeral establishment at the end of each calendar year."

SECTION 14. G.S. 90-210.68(e) reads as rewritten:

"(e) In the event that any preneed licensee is unable or unwilling or is for any reason relieved of its responsibility to perform as trustee or to perform any preneed funeral contract, the ~~Board, with the written consent of the purchaser of the preneed funeral contract, or after the purchaser's death or incapacity, the preneed funeral contract beneficiary~~ Board shall order the contract and any amounts retained pursuant to G.S. 90-210.61(a)(2) to be assigned to a substitute preneed licensee provided that ~~the substitute licensee agrees to accept such assignment.~~neither the substitute preneed licensee or preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative, shall be obligated to perform the agreement without executing a new preneed funeral contract. Any lapse or transfer of a preneed contract pursuant to this section shall not be grounds to revoke an irrevocable preneed funeral contract."

SECTION 15. G.S. 90-210.69(c) reads as rewritten:

"(c) In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

(1) Offering to engage or engaging in activities for which a license is required under this Article but without having obtained such a license.
(2) Aiding or abetting an unlicensed person, firm, partnership, association, corporation or other entity to offer to engage or engage in such activities.
(3) A crime involving fraud or moral turpitude by conviction thereof.
(4) Fraud or misrepresentation in obtaining or receiving a license or in preneed funeral planning.
(5) False or misleading advertising.
(6) Violating or cooperating with others to violate any provision of this Article, the rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
(7) Denial, suspension, or revocation of an occupational or business license by another jurisdiction.

In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than five thousand dollars ($5,000). In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with such probation."

SECTION 16. G.S. 90-210.102 reads as rewritten:

"§ 90-210.102. Hearing by Board of dispute over liability for funeral benefits; appeal.

In case of a disagreement between the representative of a deceased member of any burial association and such deceased member's burial association a hearing may be held by the Board of Funeral Service, on request of either party, to determine whether the association is liable for the benefits set forth in the policy issued to the said deceased member of said burial association. The Board of Funeral Service shall render a decision which shall have the same force and effect as judgments rendered by courts of competent jurisdiction in North Carolina. Either party may appeal from the decision of the Board of Funeral Service. Appeal shall be to the district court division of the General Court of Justice in the county in which the burial association is located. The procedure for appeal shall be the same as the appeal procedure set forth in Article 19 of Chapter 7A of the General Statutes of North Carolina regulating appeals from the magistrate to the district court. ~~Upon appeal trial shall be de novo.~~"

SECTION 17. G.S. 90-210.107 reads as rewritten:

"§ 90-210.107. Acquisition, merger, dissolution, and liquidation of mutual burial associations.

(a) Any insurance company which desires to purchase the assets of or to merge with a burial association as provided in G.S. 90-210.106 shall submit to the Board of Funeral Service and to the secretary of the association a written proposal containing the terms and conditions of the proposed purchase or merger. A proposal may be conditioned upon an increase in the assessments of an association in the manner set out in subsection (g) of this section. In such a case, the issues of purchase or merger and an increase in assessments may be considered at the same meeting of the association.

(b) Upon receipt of a written proposal:

(1) The Board shall issue an order directing the association to hold a meeting of the membership within 30 days following receipt of the order for the purpose of voting on the proposal.

(2) Within 10 days of receiving the order from the Board, the association shall give at least 10 days' written notice of the meeting to each of its members. The notice shall:

a. State the date, time, and place of the meeting.

b. State the purpose of the meeting.

c. Contain or have attached the proposal submitted by the insurance company.

d. Contain a statement limiting the time that each member will be permitted to speak to the proposal, if the association deems it advisable.

e. Contain a written proxy form and instructions concerning the proxy prescribed by the Board.

(c) A representative of the insurance company shall be permitted to attend the meeting held by the association for the purposes of explaining the proposal and answering any questions from the members. The officers of the association may present their views concerning the proposal. Any member of the association who wishes to

speak to the proposal shall be permitted to do so subject to any time limitation stated in the notice of the meeting.

(d) The secretary of the association shall record the name of every member who is present at the meeting or has issued a written proxy pursuant to G.S. 55A-7-24 and shall determine whether there is a quorum. The presence of 15 members or ten percent (10%) of the membership, whichever is greater, shall constitute a quorum. Acceptance or rejection of the proposal shall be by majority vote of the members ~~present and~~ voting. Any member who is at least 18 years of age shall be permitted to vote. A parent or guardian of any member who is under 18 years of age may vote on behalf of his or her child or ward, but only one vote may be cast on behalf of that member.

(e) The secretary of the association shall certify the result of the vote and the presence of a quorum to the Board within five days following the meeting and shall include with the certification a copy of the notice of the meeting that was sent to the members of the association.

(f) The Board shall immediately review the certification, the notice, and any other records that may be necessary to determine the adequacy of notice, the presence of a quorum, and the validity of the vote. Upon determining that the meeting and vote were regular and held following proper notice and that a majority of a quorum of the members voted in favor of the proposal, the Board shall issue an order approving the purchase or merger and directing that the purchase or merger proceed in accordance with the proposal.

(g) Any burial association whose current assessments are not, or are unlikely to be within the next three years, adequate to reach or maintain a reserve of at least twenty-one dollars ($21.00) per member or are inadequate to meet the requirements of a proposal from an insurance company to acquire the assets of or to merge with the association may increase its assessments by an amount necessary to reach and maintain the reserve or to meet the proposal. The increase shall be approved by a vote of the members of the association at a regular meeting of the association or at a special meeting called for the purpose of increasing assessments.

(1) Any officer or director of the association may call a special meeting for the purpose of increasing assessments, and the secretary shall call a special meeting for such purpose upon the request of at least ten percent (10%) of the members or upon receipt of a proposal from an insurance company that is conditioned upon an increase in assessments.

(2) Written notice setting out the date, time, place, and the purpose of the meeting shall be hand delivered or sent by first-class mail, postage prepaid, to the last known address of each member of the association at least 10 days in advance of the meeting.

(3) No vote may be had on the question of an increase in assessments unless a quorum of the members of the association is present at the meeting. A quorum shall be conclusively presumed if 15 members or ten percent (10%) of the membership of the association, whichever is greater, is present at the meeting.

(4) The proposal to increase the assessments shall be approved by an affirmative vote of a majority of the members present and voting.

(5) The secretary of the association within five days following the meeting shall certify the result of the vote and the presence of a quorum to the Board in the manner and for the purposes set out in subsections (e) and (f) of this section.

(h) Upon a written request from an association that has held a valid meeting and voted for voluntary dissolution in accordance with G.S. 90-210.81, the Board shall issue an order of liquidation for that association.

(i) Upon receipt of a request for voluntary dissolution under subsection ~~(h),~~(h) of this section or if the sponsoring funeral establishment has its permit revoked or ceases operation for any reason, the Board shall issue an order of liquidation. The Board's order may direct that the agreements for members' benefits be transferred to a financially sound mutual burial association, as well as all records, property, and unexpended balances of funds of the association to be liquidated, if the financially sound mutual burial association agrees in writing to accept the transfer. The Board's order shall direct the burial association to complete the liquidation and to file a final report with the Board no later than December 31 of the year of the liquidation. Upon receipt of the order of liquidation, the burial association shall:

(1) Cease accepting new members.

(2) Collect all debts owed to the association and pay all debts owed by the association from monies on hand, including the reserve.

(3) Distribute pro rata any remaining monies on hand and in the reserve among those who were members of the association and whose transfer could not be accomplished on the date that the liquidation order was issued by the Board. Each member's distributive share shall be determined by dividing the amount of the member's benefit by the aggregate benefits of all members of the association and then multiplying the total amount of money available for distribution by the percentage so derived. Assessments owed by the members to the association at the time of distribution shall be taken into account and shall be offset against the members' distributive shares.

(4) Issue a certificate to members in an amount that equals the difference between the distributive share issued in subdivision (3) of this subsection and the full amount of the member's association benefit. Any certificate issued shall supersede and supplant any other certificate already issued by the association. The certificate shall be on a form prescribed by the Board and shall be prepared and distributed by the association at its expense.

(5) File a final report with the Board on or before December 31 in the year in which the order of liquidation was issued. This report shall show all receipts and disbursements, including the amount distributed to each member, since the last annual report of the association was filed with the Board.

(j) A certificate issued under subsection (i) of this section may be used as a credit toward the cost of funeral services, facilities, and merchandise at any funeral establishment that agrees on forms prescribed by the Board to accept such certificates. A funeral establishment that agrees to accept certificates shall do so until the agreement with the Board expires. The Board shall maintain and distribute to the public a list of funeral establishments that will accept certificates.

(k) Upon receipt of the final report of dissolution by the association, which is required by subsection (i) of this section, the Board shall immediately review the final report and shall notify the association whether the report is complete and has been accepted. Upon acceptance of the final report by the Board, all licenses issued to soliciting agents of the association pursuant to G.S. 90-210.84 are automatically cancelled."

SECTION 18. G.S. 90-210.121(22) is repealed.

SECTION 19. G.S. 90-210.121 is amended by adding the following new subdivisions to read:

"§ 90-210.121. Definitions.

As used in this Article, unless the context requires otherwise:

...

(13a) "Cremation society" means any person, firm, corporation, or organization that is affiliated with a crematory licensed under this Article and provides cremation information to consumers.

...

(17a) "Initial container" means a receptacle for cremated remains, for which the intended use and design is to hold cremated remains, usually composed of cardboard, plastic, or similar material that can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and is a single container of sufficient size to hold the cremated remains.

...."

SECTION 20. G.S. 90-210.122(c) reads as rewritten:

"(c) The initial terms of the members of the Crematory Authority shall be staggered by the appointing authorities so that the terms of three members (two of which shall be appointees of the Governor) expire December 31, 1991, the terms of two members (both of which shall be appointees of the Governor) expire December 31, 1992, and the terms of the remaining two members (one of which shall be an appointee of the Governor) expire December 31, 1993.

As the terms of the members appointed by the Governor expire, their successors shall be elected from among a list of nominees in an election conducted by the Board in which all licensed crematory operators are eligible to vote. The Board ~~may~~ shall conduct the election for members of the Crematory Authority ~~simultaneously with the election for members of the Board or at any other time. The Board~~ and shall prescribe the procedures and establish the time and date for nominations and elections to the Crematory Authority. A nominee who receives a majority of the votes cast shall be

declared elected. The Board shall appoint the successors to the two positions for which it makes initial appointments pursuant to this section.

The terms of the elected members of the Crematory Authority shall be three years. The terms of the members appointed by the Board, including the members initially appointed pursuant to this subsection, shall be coterminous with their terms on the Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term by majority vote of the remaining members of the Crematory Authority. Any vacancy occurring in a seat appointed by the Governor shall be filled by the Governor. Any vacancy occurring in a seat appointed by the Board shall be filled by the Board."

SECTION 21. G.S. 90-210.123(g) is amended by adding a new subdivision to read:

"(g) Whenever the Board finds that an owner, partner, crematory manager, member, officer, or any crematory technician of a crematory licensee or any applicant to become a crematory licensee, or that any authorized employee, agent, or representative has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with Chapter 150B of the General Statutes:

...

(1a) Denial, suspension, or revocation of an occupational or business license by another jurisdiction.

...."

SECTION 22. G.S. 90-210.123(i) reads as rewritten:

"(i) The Board may hold hearings in accordance with the provisions of this Article and Chapter 150B of the General Statutes. The Board shall conduct any such hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected. The Board may obtain preliminary and final injunctions whenever a violation of this Article has occurred or threatens to occur.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor."

SECTION 23. G.S. 90-210.124(a) reads as rewritten:

"**§ 90-210.124. Authorizing agent.**

(a) The following person, in the priority list below, shall have the right to serve as an "authorizing agent":

(1) ~~An individual at least 18 years of age may authorize the cremation and disposition of the individual's own dead body in a written will, pursuant to health care power of attorney to the extent provided in Article 3 of Chapter 32 of the General Statues, pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form executed pursuant to Article 13F of Chapter 90 of the General Statutes, or in a written statement signed by the individual and witnessed by two persons who are at least 18 years old.~~An individual at least 18 years of age may authorize the type, place, and method of disposition of the individual's own dead body by methods in the following order:

a. Pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes.

b. Pursuant to a written will.

c. Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.

d. Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes.

When an individual has authorized his or her own cremation and disposition in accordance with this subsection, the individual or institution designated by that individual shall act as the authorizing agent for that individual.

(2) If a decedent has left no written authorization for the cremation and disposition of the decedent's body as permitted under subdivision (1) of this subsection, the following competent persons in the order listed may authorize the type, method, place, cremation, and disposition of the decedent's body:

a. The surviving spouse.

b. A majority of the surviving children who are at least 18 years of age and can be located after reasonable efforts.

c. The surviving parents.

d. A majority of the surviving siblings who are at least 18 years of age and can be located after reasonable efforts.

e. A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.

f. A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the cremation and disposition.

g. In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent may serve as the authorizing agent.

h. In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of such institution may serve as the authorizing agent in the absence of any of the above.

i. In the absence of any of the above, any person willing to assume responsibility as authorizing agent, as specified in this act.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to cause or prohibit the substitution of a preneed licensee as authorized under G.S. ~~90-210.63.~~90-210.63 or permit modification of preneed contracts under G.S. 90-210.63A. If a person under this subsection is incompetent at the time of the decedent's death, the person shall be treated as if he or she predeceased the decedent. An attending physician may certify the incompetence of a person and the certification shall apply to the rights under this subsection only. Any person under this subsection may waive his or her rights under this subsection by any written statement notarized by a notary public or signed by two witnesses."

SECTION 24. G.S. 90-210.129 is amended by adding the following new subsections to read:

"(o) Unless the death falls under the jurisdiction of the Medical Examiner, before the cremation of fetal remains of less than 20 weeks gestation, the crematory licensee shall receive a written statement, on a form prescribed by the Board and signed by the attending physician, acknowledging the circumstances, date, and time of the delivery of the fetal remains from the mother.

(p) Before the cremation of fetal remains of 20 completed weeks gestation or greater, the crematory licensee shall receive a fetal report of death as prescribed in G.S.130A-114.

(q) Before the cremation of amputated body parts, the crematory licensee shall receive a written statement, on a form prescribed by the Board and signed by the attending physician acknowledging, the circumstances of the amputation. This section does not apply to the disposition of body parts cremated pursuant to Part 3 of Article 16 of Chapter 130A of the General Statutes."

SECTION 25. G.S. 90-210.130(b) reads as rewritten:

"(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or the agent's representative has not specified the final disposition or claimed the cremated remains, the crematory licensee or the person in possession of the cremated remains may release the cremated remains to another family member upon written notification to the authorizing agent delivered by certified mail or dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory licensee for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition. Upon disposing of cremated remains in accordance with this section, the crematory licensee or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains."

SECTION 26. Article 13F of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-210.135. Cremation Societies.**

(a) No person, firm , or corporation licensed as a crematory under the provisions of this Article may operate a cremation society without first registering the name of the cremation society with the Board."

SECTION 27. G.S. 130A-420 reads as rewritten:

"**§ 130A-420. Authority to dispose of body or body parts.**

(a) An individual at least 18 years of age may authorize the type, place, and method of disposition of the individual's own dead body ~~in a written will, pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes, pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes, or in a written statement signed by the individual and witnessed by two persons who are at least 18 years old.~~ by methods in the following order:

(1) Pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes.

(2) Pursuant to a written will.

(3) Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.

(4) Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes.

An individual may also delegate his or her right to dispose of his or her own dead human body to any person by any means authorized in subdivisions (1) through (3) of this subsection.

(b) If a decedent has left no written authorization for the disposal of the decedent's body as permitted under subsection (a) of this section, the following

competent persons in the order listed may authorize the type, method, place, and disposition of the decedent's body:

(1) The surviving spouse.

(2) A majority of the surviving ~~children.~~children over 18 years of age, who can be located after reasonable efforts.

(3) The surviving parents.

(4) A majority of the surviving ~~siblings.~~siblings over 18 years of age, who can be located after reasonable efforts.

(5) A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died ~~intestate.~~intestate who are at least 18 years of age and can be located after reasonable efforts.

(6) A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the disposition.

(7) In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent.

(8) In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of the institution.

(9) In the absence of any of the persons described in subdivisions (1) through (8) of this subsection, any person willing to assume responsibility for the disposition of the body.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General ~~Statutes or~~ Statutes, to prohibit the substitution of a preneed licensee as authorized under G.S. ~~90-210.63.~~90-210.63, or to permit modification of preneed contracts under G.S. 90-210.63A. If an individual is incompetent at the time of the decedent's death, the individual shall be treated as if he or she predeceased the decedent. An attending physician may certify the incompetence of an individual and the certification shall apply to the rights under this section only. Any individual under this section may waive his or her rights under this subsection by any written statement notarized by a notary public or signed by two witnesses.

(b1) A person who does not exercise his or her right to dispose of the decedent's body under subsection (b) of this section within five days of notification or 10 days from the date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or contest disposition in accordance with this section.

(c) An individual at least 18 years of age may, in a writing signed by the individual, authorize the disposition of one or more of the individual's body parts that has been or will be removed. If the individual does not authorize the disposition, a

person listed in subsection (b) of this section may authorize the disposition as if the individual was deceased.

(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes."

SECTION 28. This act is effective when it becomes law.

SENATE BILL 1435:
Amend Funeral Serv. Prac./Other Related Laws

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 27, 2007
Introduced by:	Sen. Atwater	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1435 makes various changes to laws regarding the practice of funeral service, mutual burial associations, preneed funeral funds, and cremations. It also increases several of the fees collected by the Board of Funeral Service. The act is effective when it becomes law. What follows is a summary of the bill provided by the Board (with section numbers added and arranged in the order they appear in the bill):

The Board has received written and oral public comment on the proposed changes and incorporated several changes based on comments received. The following is a summary of the proposed legislation:

Chapter 90
Article 13A

Section 1. G.S. 90-210.18A. This amendment changes the ending date of terms of service from June 30 to December 31. The terms of current members would be extended.

Section 2. G.S. 90-210.20(e). This amendment excludes this practice from the definition of embalming to allow individuals to wash a dead human body if part of a religious practice or if done by immediately family members without pay.

G.S. 90-210.20(e1). This is a technical change.

G.S. 90-210.20(h). This is a technical change.

Section 3. G.S. 90-210.23(d1). This allows the Board to assess administrative costs up to $5,000.00 if a Board disciplines a licensee during any show cause hearing. At least nine other North Carolina licensing Boards have statute authority to recover the costs of any administrative hearings. (Barbers, Cosmetic Art, Pharmacy, Insurance, Contractors, Nursing, Chiropractic, Veterinary Medicine and Psychology.) Board staff has conducted research with funeral regulatory boards in other jurisdictions. Georgia, South Carolina & Tennessee have statutory provisions allowing recovery of the investigative and hearing costs that lead to disciplinary action. The Board of Funeral Service is only seeking authority to recover costs of show cause proceedings when there is a finding against the licensee.

Section 4. G.S. 90-210.25(a)(4)b. This amendment requires a trainee to file an affidavit within 30 days of completing a traineeship.
G.S. 90-210.25(a1). This amendment allows inactive licensees to receive credit for continuing education courses taken in another jurisdiction. This amendment also contains a technical change due to the repeal of G.S. 90-210.18.

G.S. 90-210.25(c)(6)a. This amendment clarifies that emergency personnel acting outside the scope of their employment must receive a permit from the Board to transport human remains.

G.S. 90-210.25(d)(2)a. Current law prohibits a funeral establishment from operating without a manager at all times. This amendment creates an exception to permit funeral establishments who lose their only licensee eligible to serve as manager to operate without a manager for 30 days provided a licensed funeral director works at the establishment.

G.S. 90-210.25(d)(4). This amendment is a technical change to include sanctions less than suspension or revocation of funeral establishment permits for violations of law.

G.S. 90-210.25(e)(1)a1. This addition gives the Board the authority to deny an individual license if they have been denied an occupational license by another jurisdiction on fitness grounds.

G.S. 90-210.25(e)(1)j. This amendment clarifies the Board's authority to discipline licensees for violating laws governing the filing of death certificates.

G.S. 90-210.25(e)(1)*l*. This amendment requires a funeral director to surrender cremated remains promptly upon request.

G.S. 90-210.25(e)(1)m. This amendment clarifies the Board's authority to discipline licensees for violating vital records laws.

G.S. 90-210.25(e)(2). This amendment gives the Board the authority to require continuing education prior to license reinstatement.

G.S. 90-210.25(e). This amendment requires a funeral home to give a written disclosure that charges for assigning insurance policies to finance companies are passed on to the consumer. This amendment also allows the Board to prescribe other disclosures to protect consumers through rulemaking.

G.S. 90-210.25(f). Current law levies no penalty for operating a funeral establishment without a permit other than injunctive relief. This amendment makes this offense a Class 2 misdemeanor.

Section 5. G.S. 90-210.27A(g). This amendment prohibits the display of merchandise in a chapel and makes a conforming change.

G.S. 90-210.27A(i). This amendment prohibits a licensee from using the name of any person, living or deceased, if they have never been associated with the business.

Section 6. G.S. 90-210.28. This section raises fee ceilings to permit the Board to increase its auditing and enforcement activities to protect consumers. The Board's research suggests the last fee increase for individual licenses and funeral establishments was in 1989. This also contains a technical change.

Section 7. G.S. 90-210.29A-1. Current public records laws subject examination scores to public inspection, which differs from procedures of other licensing boards. This section excludes examination scores from the inspection provisions of public records laws but allows anyone making a public records

request to learn if the individual has obtained a passing score. At least three licensing Boards exclude exanimation scores from public record: Geologists, Soil Scientists, and Real Estate.

Article 13D

Section 8. G.S. 90-210.62. This change clarifies the definition of inflation-proof contract and the Board's authority to prescribe a uniform preneed contract form. Consumers are sometimes confused by the terms "guarantee" and "fixed price" by believing the price paid for funeral merchandise and services at the time of contract execution will remain the same price at a future date of death which could be years away. While the price may not increase in very short term, funeral homes are subject to inflationary pressures like any business, so it is likely the prices will increase over a long term. The accurate description of the legal requirements is that the funeral home is entitled to the interest or policy value growth which they use to offset the price increases. Conversely the funeral establishment has the legal obligation to absorb losses on funeral merchandise and services that may occur with a fully funded inflation-proof contract. This change will not effect the funeral establishment's legal obligations under the terms of a fully funded inflation-proof preneed contract.

Section 9. G.S. 90-210.63A. This section establishes when a preneed contract may be modified by the parties. This section also gives a person who elects to prepay his own funeral the right to make the arrangements irrevocable except by court order or to designate the parties who may modify them. This section also governs how funeral funds are allocated when a preneed contract is modified to increase or decrease the total cost of services under an inflation-proof contract.

Section 10. 90-210.64. These are technical and conforming changes.

Section 11. G.S. 90-210.65(e). Current law requires a court order from the General Court of Justice to revoke a preneed contract. Because many preneed contracts are created by individuals who receive Medicaid, this section gives the Board the authority to order a contract revoked for individuals who wish to transfer a contract to a funeral home in another state.

Section 12. G.S. 90-210.67(b). This section raises fees for a preneed establishment license. The Board's research suggests that these fee ceilings have not been raised since 1992. This section also requires all funeral homes who receive a new preneed license or whose preneed license lapses or is revoked after the legislation is signed into law to be covered by a surety bond for five years or until it demonstrates to the satisfaction of the Board that it is solvent. The Board would have the authority to extend the bond if a claim is paid while in force. This provision would apply to all newly licensed preneed firms after January 1, 2008.

Section 13. G.S. 90-210.68(d). Current law limits the ability of preneed trustees to receive information from insurance companies for statutory reporting purposes. This amendment requires insurance companies to provide this information to the preneed trustee. In order to execute and fund a preneed contract, the policy owner or their legal representative would also execute an assignment or beneficiary designation naming the preneed funeral establishment. It is the Board's position that this authorizes the insurance companies to release the information necessary to comply with the Board's annual reporting requirements.

Section 14. G.S. 90-210.68(e). Current law limits the Board's authority to substitute a trustee if a funeral home closes or has its licensed revoked. This amendment gives the Board the authority to substitute a trustee but does not bind either the funeral home or consumer to a contract without their consent.

Section 15. G.S. 90-210.69(c)(7). This provision adds to the Board's authority to deny a license for revocation, suspension, or denial of another occupational license.

Article 13E

Section 16. G.S. 210.102. This change requires appeals from orders against mutual burial associations to follow the same procedure for all other administrative appeals.

Section 17. G.S. 90-210.107. Current law requires an in-person meeting of members to dissolve a burial association. Most association members are elderly and are often unable to attend such meetings easily. The proposed change allows members to vote by written proxy to dissolve similar to other corporations. The amendment also gives the Board authority to dissolve associations by administrative action when funeral homes close or have their licenses revoked.

Article 13F

Section 18. G.S. 90-210.121(22). This change eliminates the use of certain containers, such as coffee cans, to return cremated remains to families. There are also conforming changes throughout the Article.

Section 19. G.S. 90-210.122(c). This is a technical change to conform to the passage of G.S. 90-210.18A.

Section 20. G.S. 90-210.123(g). This section gives the Board the authority to deny a license if the applicant has had a similar license denied or revoked by another jurisdiction.

Section 21. G.S. 90-210.123(i). This contains technical changes to conform to other laws.

Section 22. G.S. 90-210.124. The changes to this section are to harmonize the proposed changes to G.S. 130A-420.

Section 23. G.S. 90-210.129. Current law requires the same documentation for fetal deaths that are required for other deaths, but vital records requirements do not require such information to be filed. This section defines what documentation is required to cremate fetuses and other human body parts. This does not impose a new reporting requirement for vital records.

Section 24. G.S. 90-210.130(b). This section allows other family members to possess unclaimed cremated remains after thirty days if notice is provided to the authorizing agent.

Section 25. G.S. 90-210.135. This change requires crematories that run cremation societies to register the name with the Board. No fees or other regulations are associated with this requirement.

Chapter 130

Section 26. G.S. 130A-420. Current law provides a hierarchy to dispose of human remains. This section clarifies many of the problems encountered by the Board in authorizing disposition. First, a hierarchy is established for the types of disposition documents, and the deceased is given the right to delegate the right to make funeral arrangements to any other person in these documents. Second, current law provides no mechanism to pass over individuals' rights to make funeral arrangements in cases of simultaneous accident or other medical hardship. This change allows a physician to certify an individual's incapacity and bypass him instead of seeking a temporary guardianship to act on their behalf. This is consistent with provisions of current NC law for health care agents. This section also makes technical changes to harmonize differences between cremation authorization laws and other forms of disposition to promote uniform interpretation. Board staff continues to work with the NC Bar Association on this provision.

Wendy Ray, counsel to Senate Commerce, substantially contributed to this summary.

S1435e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1517

Commerce, Small Business and Entrepreneurship Committee Substitute Adopted 5/23/07

PROPOSED COMMITTEE SUBSTITUTE S1517-CSMC-51 [v.1]

7/27/2007 11:40:44 AM

Short Title: Prohibit Gift Card Maintenance Fees. (Public)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE CONSPICUOUS DISCLOSURE OF ANY MAINTENANCE FEES CHARGED FOR GIFT CARDS AND TO PROHIBIT ISSUERS OF GIFT CARDS FROM CHARGING MAINTENANCE FEES FOR ONE YEAR AFTER THE DATE OF PURCHASE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 66 of the General Statutes is amended by adding a new section to read:

"**§ 66-67.4. Requirements for maintenance fees for gift cards.**

(a) Disclosure. – The seller or issuer of a gift card must conspicuously disclose any maintenance fee charges at the time of purchase. The disclosure must be visible on the gift card itself. No person, firm, or corporation engaged in commerce shall charge any maintenance fee on a gift card for one calendar year following the date of the purchase of the gift card.

(b) Penalty. – A seller or issuer of a gift card who violates this section commits an unfair trade practice under G.S. 75-1.1 and is subject to a civil penalty in accordance with G.S. 75-15.2.

(c) Definitions. – As used in this section, the following terms mean:

(1) Gift card. – A record evidencing a promise, made for monetary consideration, by a seller or issuer that goods or services will be provided to the owner of the record to the value shown in the record. A gift card includes a record that contains a microprocessor chip, magnetic strip, or other storage medium that is pre-funded and for which the value is adjusted upon each use, a gift certificate, a stored-value card or certificate, a store card, or a prepaid long-distance telephone service that is activated by a prepaid card that required

dialing an access number or an access code in addition to dialing the phone number to which the user of the prepaid card seeks to connect.

(2) Maintenance fee. – Any fee that the owner of the gift card is subject to when the gift card is redeemed, including a service or inactivity fee.

(d) Limitation. – The provisions of this section shall not apply to gift cards that are issued by a financial institution or its operating subsidiary and that are usable at multiple unaffiliated sellers of goods or services."

SECTION 2. This act becomes effective December 1, 2007, and applies to gift cards as defined in G.S. 66-67.4, as enacted by Section 1 of this act, that are sold on or after that date.

SENATE BILL 1517:
Prohibit Gift Card Maintenance Fees

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 26, 2007
Introduced by:	Sen. Atwater	**Summary by:**	Heather Fennell and Trina Griffin Committee Counsel
Version:	PCS for Second Edition S1517-CSMC-51		

SUMMARY: ***Senate Bill 1517 would prohibit a person who sells a gift card from charging a maintenance fee for the use of the card during the first year after the card is issued. The bill would also require maintenance fees to be clearly disclosed at the time of sale and on the gift card itself.***

~~***The Proposed Committee Substitute would exempt from these requirements gift cards issued by financial institutions that are usable at multiple unaffiliated sellers of goods or services.***~~

CURRENT LAW: Fees on gift cards are not regulated in this State.

BILL ANALYSIS: Senate Bill 1517 would require that all gift cards must clearly disclose at the time of purchase, and on the card itself, any maintenance fees charged for the gift card. The bill prohibits charging any maintenance fee during the first year after the card is sold. A violation of this law is an unfair and deceptive trade practice under Chapter 75 of the General Statutes and is subject to a civil fine of up to $5000 in an action brought by the Attorney General under that statute. A violation of Chapter 75 is subject to treble damages and attorneys fees.

The bill defines a "gift card' as a record evidencing a promise, made for monetary consideration, by a seller that goods or services will be provided to the owner of the card up to the value shown on the record. Included in the definition of a gift care is a prefunded card, a gift certificate, a stored-value card, a store card, or a prepaid long distance telephone service. "Maintenance fee" is defined as any fee the owner (holder) of the gift care is subject to when the gift card is redeemed, including a service or inactivity fee. Nothing in this bill restricts the charging of any fees in connection with the issuance of the gift card.

EFFECTIVE DATE: The bill becomes effective December 1, 2007 and applies to gift cards sold on or after that date.

S1517e2-SMTD

SENATE FINANCE COMMITTEE
Saturday, July 28, 2007 at 11:25 a.m.
Senate Floor, Legislative Building

MINUTES

The Senate Finance Committee met on the Senate Floor on Saturday, July 28, 2007, on the Senate floor. Approximately twenty-six members of the committee were present. Senator David Hoyle presided.

H.B. 842 – Mt. Pleasant Deannexation.

Senator Hartsell was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Stevens moved for a favorable report and the motion carried. A copy of the proposed committee substitute is attached.

H.B. 1027 – Yadkin County Occupancy Tax.

Senator Hartsell was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Hoyle moved for a favorable report and the motion carried. A copy of the proposed committee substitute is attached.

The meeting adjourned at 11:25 a.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Saturday, July 28, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **842** Mt. Pleasant Deannexation.

Draft Number:	50764
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1027** Yadkin County Occupancy Tax.

Draft Number:	70609
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1027

Committee Substitute Favorable 6/26/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1027-CSSVx-55 [v.6]

7/28/2007 10:50:02 AM

Short Title: Yadkin County/Jonesville/Yadkinville Occ. Tax. (Local)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE OCCUPANCY TAX FOR THE TOWN OF JONESVILLE, TO AUTHORIZE YADKIN COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY, AND TO AUTHORIZE THE TOWN OF YADKINVILLE TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

INCREASE JONESVILLE OCCUPANCY TAX

SECTION 1. Section 1 of S.L. 2002-95 is amended by adding a new subsection to read:

"(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Jonesville Town Council may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Town of Jonesville may not levy a tax under this subsection unless it also levies the maximum tax authorized under subsection (a) of this section."

YADKIN COUNTY DISTRICT Y OCCUPANCY TAX

SECTION 2. Yadkin County District Y Created. – Yadkin County District Y is created as a taxing district. Its jurisdiction consists of that part of Yadkin County that is located outside of incorporated areas within the county. Yadkin County District Y is a body politic and corporate and has the power to carry out the provisions of this act. The Yadkin County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body

constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 3. Authorization and Scope. – The governing body of Yadkin County District Y may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 4. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Yadkin County District Y were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 5. Distribution and Use of Tax Revenue. – Yadkin County District Y shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Yadkin County District Y Tourism Development Authority created pursuant to Section 6 of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Yadkin County District Y. None of the proceeds may be used to promote travel or tourism in areas within Yadkin County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 6.(a) Yadkin County District Y Tourism Development Authority. – Appointment and Membership. – The Yadkin County Board of Commissioners shall adopt a resolution creating the Yadkin County District Y Tourism Development

Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Yadkin County shall be the ex officio finance officer of the Authority.

SECTION 6.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 5 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 6.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Yadkin County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

YADKINVILLE OCCUPANCY TAX

SECTION 7. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners for the Town of Yadkinville may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place other than a bed and breakfast within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 7.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 7.(c) Distribution and Use of Tax Revenue. – The Town of Yadkinville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Yadkinville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the Town of Yadkinville and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of Yadkinville Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 8. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Yadkinville Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Yadkinville shall be the ex officio finance officer of the Authority.

SECTION 8.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under Section 7 of this act for the purposes provided in Section 7 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 8.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Yadkinville Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

ADMINISTRATIVE PROVISIONS

SECTION 9. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, to Yadkin County District Y, and to the Township of Averasboro in Harnett County."

SECTION 10. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Mooresville, North Topsail Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, ~~and~~ Wrightsville Beach, and Yadkinville, and to the municipalities in Avery and Brunswick Counties."

SECTION 11. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 842*
PROPOSED SENATE COMMITTEE SUBSTITUTE H842-CSSVx-59 [v.1]

7/28/2007 10:57:36 AM

Short Title: Kannapolis Satellite Annexations. (Local)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN RESTRICTIONS ON SATELLITE ANNEXATIONS FOR THE CITY OF KANNAPOLIS.

The General Assembly of North Carolina enacts:

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

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

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

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

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury,

Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

SECTION 2. This act applies to the City of Kannapolis only.

SECTION 3. This act applies only to annexations in the area of Cabarrus County bound by the existing City of Kannapolis corporate limits to the east, the Mecklenburg County/Cabarrus County line to the west, the Cabarrus County/Rowan County/Iredell County lines to the north, and N.C. Highway 73 to the south.

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

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Monday	July 30, 2007	Fifteen minutes after session	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 63	Property Tax - School Capital Leases.	Representative Yongue Representative Jones Representative Johnson Representative Lucas
HB 849	Regulation of Golf Carts in Morrisville.	Representative Harrell
HB 1013	Haywood County Occupancy Tax.	Representative Rapp Representative Haire
HB 1381	Raise Ceiling/Resp. Care Bd. Fees.	Representative Tolson
HB 1460	Quarterly Escrow Deposits.	Representative Cole
HB 1499	Increase Homestead Income Limit to 25K.	Representative Martin Representative Holliman Representative Braxton Representative Warren
HB 1652	Special Plate for E-911 Telecommunicators.	Representative Justice
SB 91	Endangered Manufacturing and Jobs Act.	Senator Jacumin
SB 915	Assisted Living Facility Amendments.	Senator Nesbitt, Jr.
SB 1051	Equitable Residential Property Tax Relief.	Senator Goss

SB 1081	Expunge Nonviolent Crimes.	Senator Weinstein
SB 1305	Present-Use Value Easement Tax Credit.	Senator Queen
SB 1309	Property Tax Reform Act Of 2007.	Senator Clodfelter
SB 1442	Circuit Breaker Property Tax Benefit.	Senator Snow

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

SENATE FINANCE COMMITTEE
Monday, July 30, 2007
Fifteen minutes after session adjournment
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met in room 544 of the Legislative Office Building, on Monday, July 30, at 5:15 p.m. Thirty-one members of the committee were present. Senator David Hoyle, Senator John Kerr and Senator Dan Clodfelter presided.

H.B. 849 – Regulation of Golf Carts in Morrisville.

Representative Cowell was recognized to explain the bill. Senator Stevens moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1013 – Haywood County Occupancy Tax.

Senator Albertson moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

H.B. 1652 – Special Plate for E-911 Telecommunicators.

Martha Walston, Fiscal Research Division staff attorney, was recognized to explain the bill. Senator Brown moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 1081 – Expunge Nonviolent Crimes.

Senator Weinstein was recognized to explain the bill. Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Soles moved for a favorable report. The motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 1381 – Raise Ceiling/Resp. Care Bd. Fees.

Senator Clodfelter was recognized to explain the bill. Senator Clodfelter moved to adopt the proposed committee substitute for discussion and the motion carried. Senator Purcell moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 63 – Property Tax – School Capital Leases.

Senator Clodfelter was recognized to explain the bill. David Baker, Property Tax Director with the Department of Revenue, was recognized to answer questions. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 91 – Endangered Manufacturing and Jobs Act.

Senator Jacumin was recognized to explain the bill. Senator Clodfelter offered an amendment. Sabra Faires, Senate Tax Counsel, was recognized to explain the amendment. Pete Rodda, Forsyth County Revenue Director, was recognized to speak in opposition to the bill. Senators Weinstein and Allran moved for a favorable report as amended with a referral to the Appropriations Committee. The motion carried. A copy of the bill, the summary, a handout and the amendment is attached.

S.B. 1442 – Circuit Breaker Property Tax Benefit.

Senator Snow was recognized to explain the bill. Senator Kerr moved to adopt the proposed committee substitute for discussion and the motion carried. Pete Rodda was recognized to request moving the effective date. Andy Romanet, NC League of Municipalities, spoke in favor of the bill. Senator Kerr moved for a favorable report and the motion carried. A copy of the proposed committee substitute, the summary, and the fiscal note is attached.

H.B. 1499 – Increase Homestead Income Limit to 25K.

Dan Ettefagh, Bill Drafting Division attorney, was recognized to explain the bill. Senator Hoyle moved to adopt the proposed committee substitute for discussion and the motion carried. Pete Rodda spoke in favor of the bill except for section 3. Delay Circuit Breaker. Lou Wilson, AARP, was recognized to speak in favor of the bill. Senators Dannelly and Queen moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

S.B. 915 – Assisted Living Facility Amendments.

Senator Nesbitt was recognized to explain the bill. Senator Dannelly moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 1309 – Property Tax Reform Act of 2007.

Senator Clodfelter was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Albertson moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

The meeting adjourned at 6:40 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Senate Finance Committee
Monday, July 30, 2007, Fifteen minutes after session
544 LOB

AGENDA

Welcome and Opening Remarks

Bills

HB 63	Property Tax - School Capital Leases.	Rep. Yongue Rep. Jones Rep. Johnson Rep. Lucas
HB 849	Regulation of Golf Carts in Morrisville.	Rep. Harrell
HB 1013	Haywood County Occupancy Tax.	Rep. Rapp Rep. Haire
HB 1381	Raise Ceiling/Resp. Care Bd. Fees.	Rep. Tolson
HB 1460	Quarterly Escrow Deposits.	Rep. Cole
HB 1499	Increase Homestead Income Limit to 25K.	Rep. Martin Rep. Holliman Rep. Braxton Rep. Warren
HB 1652	Special Plate for E-911 Telecommunicators.	Rep. Justice
SB 91	Endangered Manufacturing and Jobs Act.	Sen. Jacumin
SB 915	Assisted Living Facility Amendments.	Sen. Nesbitt
SB 1051	Equitable Residential Property Tax Relief.	Sen. Goss
SB 1081	Expunge Nonviolent Crimes.	Sen. Weinstein
SB 1305	Present-Use Value Easement Tax Credit.	Sen. Queen
SB 1309	Property Tax Reform Act Of 2007.	Sen. Clodfelter
SB 1442	Circuit Breaker Property Tax Benefit.	Sen. Snow

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Monday, July 30, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1309** Property Tax Reform Act Of 2007.

Draft Number:	PCS 15139
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B.(CS #1) **1081** Expunge Nonviolent Crimes.

Draft Number:	PCS 75454
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1460** Quarterly Escrow Deposits.

Draft Number:	PCS 80495
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #2) **1499** Increase Homestead Income Limit to 25K.

Draft Number:	PCS 70611
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 4

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Monday, July 30, 2007

Senator CLODFELTER,
submits the following with recommendations as to passage:

FAVORABLE

S.B.(CS #1) **915** Assisted Living Facility Amendments.
Sequential Referral: None
Recommended Referral: None

H.B. **63** Property Tax - School Capital Leases.
Sequential Referral: None
Recommended Referral: None

H.B.(SCS #1) **849** Regulation of Golf Carts in Morrisville.
Sequential Referral: None
Recommended Referral: None

H.B. **1013** Haywood County Occupancy Tax.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1652** Special Plate for E-911 Telecommunicators.
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

S.B. **91** Endangered Manufacturing and Jobs Act.
Sequential Referral: None
Recommended Referral: Appropriations/Base Budget
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1442** Circuit Breaker Property Tax Benefit.
Draft Number: 35429
Sequential Referral: None

Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1381** Raise Ceiling/Resp. Care Bd. Fees.
Draft Number: 50767
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 8

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 30, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	WCPSS
[signature]	NCASA
[signature]	Poyner + Spruill
Bill O'Donnell	NCSBA
DAVID BARNES	Poyner+Spruill
V L McBride	NCTA
Andy Lomont	NCLN
Art Pratt	NCDOL
Jennifer Haigwood	NCDOL
Gene Ainsworth	A & A
Butch Gunnells	NCBA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 30, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jamal Jones	NCHA
Tom Miller	NCREC
ELLIS HANKINS	NCLM
BILL RUSTON	ACP
Patricia Roesler	NCACC
Jon. Gr	DHHS

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 30, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Goodman	NC Chamber
Ron Ryndak	Dodgen
Sandy Kinyon	NL-LAD
Barbara Carlton	NCBC
John McMillan	NFIS
Rita Harris	NC State Ports-
[illegible]	NC FB
Frank Gray	NCRLA
Suzanne Stutts	"
Gary Harris	NCPMA
Roger Bone	Bone + Assoc
[illegible]	NFIB/RAL

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 30, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alastair Macaulay	NCHBA
Elizabeth Dalton	NCRMA
Joe Stewart	
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
R. Paul Williams	NCHBA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 30, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Judy McConnell	IDG
Bill Wilson	AARP
Will McDow	Env. D.F.
John Long	LUB
Dan Arnett	SG
Ann Lore	OVLE
Thom Mansfield	NC Medical Board
Ben Comstock	WCSR
Pete Rodda	NCACC
Pat Holland	NCTCA
Randy Fraser	TWC
Mary Bethea	AARP-NC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 849

Senate State & Local Government Committee Substitute Adopted 7/27/07

Short Title: Regulation of Golf Carts in Morrisville. (Local)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MORRISVILLE TO REGULATE GOLF CARTS ON PUBLIC STREETS OR HIGHWAYS WITHIN THE TOWN OR ON PROPERTY OWNED OR LEASED BY THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2006-27, as amended by S.L. 2007-72, reads as rewritten:

"**SECTION 1.** This act applies to the City of Saluda and the Towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Morrisville, Shelby and Wrightsville Beach only."

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

HOUSE BILL 849:
Regulation of Golf Carts in Morrisville

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Rep. T. Harrell	**Summary by:**	Judy Collier
Version:	Second Edition		Research Assistant

SUMMARY: House Bill 849[1] authorizes the Town of Morrisville to regulate the operation of golf carts on public streets or highways within the Town, as well as on any property owned or leased by the Town, and it allows the Town to charge a fee for registration. The bill becomes effective when it becomes law.

CURRENT LAW: Under current law, vehicles intended to be operated on the streets and highways of the State must be registered (G.S. 20-50). Golf carts may not be registered (G.S. 20-54), and therefore may not operate on the streets and highways.

G.S. 20-4.01.(12a) defines a golf cart as a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

BILL ANALYSIS: House Bill 849 amends S.L. 2006-27, which was amended by S.L. 2007-72, to allow the Town of Morrisville to enact an ordinance to regulate the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the town. With regard to golf carts, by ordinance, the town may:

- require registration,
- charge a fee for the registration,
- specify the persons authorized to operate,
- specify required equipment,
- specify load limits, and
- specify hours and methods of operation.

BACKGROUND:

- The General Assembly has enacted legislation for golf carts in the following locations: Lake Waccamaw (S.L. 2001-356), Cary (S.L. 2001-485), Whispering Pines (S.L. 2002-82), Seven Lakes (S.L. 2002-82).
- The General Assembly has enacted legislation for golf carts and utility vehicles in: Beech Mountain (S.L. 2003-124) and Seven Devils (S.L. 2004-58).
- The General Assembly has enacted golf cart legislation allowing fees to be charged in: the Town of Lake Waccamaw (S.L. 2001-356); the Village of Bald Head Island (S.L. 2002-129); and the Towns of Elizabethtown, Rose Hill, and Bladenboro (S.L. 2005-11); Benson, Chadbourn and Tabor City (S.L. 2006-149); and Clarkton (S.L. 2006-152).
- The General Assembly has enacted legislation to allow the Town of Caswell Beach to regulate golf carts on any street or road within the confines of the municipal limits (S.L. 2006-149).
- The General Assembly has enacted legislation to allow the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the town in: the City of Saluda and the Town of Faison (S.L. 2006-27) and Badin, Carolina Beach, Emerald Isle, Fremont, Indian Beach, Kings Mountain, Kure Beach, Shelby, and Wrightsville Beach (S.L. 2007-72).

H0849e2-SMRE – Theresa Matula, Staff to Senate State & Local Government Committee substantially contributed to this summary.

[1] As introduced, HB 849 is identical to SB 531, which received a favorable report from Senate Finance on May 16, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1013

Short Title:	Haywood County Occupancy Tax.	(Local)
Sponsors:	Representatives Rapp and Haire (Primary Sponsors).	
Referred to:	Finance.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE HAYWOOD COUNTY TO LEVY AN ADDITIONAL ONE PERCENT OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 16.1 of Part V of Chapter 908 of the 1983 Session Laws, as enacted by Chapter 942 of the 1985 Session Laws (Regular Session 1986), is recodified as Section 10.1 of Part V of Chapter 908 of the 1983 Session Laws, as amended.

SECTION 2. Part V of Chapter 908 of the 1983 Session Laws, as amended by Chapter 942 of the 1985 Session Laws (Regular Session 1986), Chapter 48 of the 1987 Session Laws, Chapter 540 of the 1995 Session Laws, and Section 1 of this act, reads as rewritten:

"Part V. Haywood Occupancy Tax.

"Sec. 10. ~~Levy of Tax.~~Occupancy Tax. (a) Authorization and Scope. – The Haywood County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development ~~tax.~~

~~(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Haywood County Board of Commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

~~"Sec. 11. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be~~ tax of two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county ~~now subject to the three percent (3%)~~ that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax.

This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations.

"Sec. 10.1. Additional One Percent (1%) Occupancy Tax. – In addition to the tax authorized by ~~Sections 10 and 11~~ Section 10 of this Part, the Haywood County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under ~~those sections.~~ that section. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with ~~Sections 10 through 16 of~~ this Part. Haywood County may not levy a tax under this section unless it also levies a tax under ~~Sections 10 and 11~~ Section 10 of this Part.

"Sec. 10.2. Additional One Percent (1%) Occupancy Tax. – In addition to the tax authorized by Sections 10 and 10.1 of this Part, the Haywood County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under Sections 10 and 10.1 of this Part. The levy, collection, administration, and repeal of the tax authorized by this section and the use of tax revenue from a tax levied under this section shall be in accordance with this Part. Haywood County may not levy a tax under this section unless it also levies the tax authorized under Sections 10 and 10.1 of this Part.

"Sec. 12. Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this Part. ~~Administration of Tax. (a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission.~~

~~(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.~~

~~(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment not to exceed six months, or both.~~

~~"Sec. 13. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax.~~

~~This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Haywood County. It is the intent of this Part that the room occupancy tax levied by Haywood County shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

"Sec. 14. ~~Disposition of Taxes Collected.~~Distribution and Use of the First Three Percent Occupancy Tax. – Haywood County ~~shall~~ shall, on a monthly basis, remit the net proceeds of ~~all revenues received from~~ the room occupancy and tourism development tax levied under Sections 10 and 10.1 of this Part to the ~~county~~ Haywood County Tourism Development Authority. ~~Authority appointed pursuant to this Part. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may expend these funds only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may use no more than fifteen percent (15%) of these funds for administrative expenses of the Authority.~~The Authority shall use at least two-thirds of the funds remitted to it under this Part to promote travel and tourism in the county and shall use the remainder for tourism-related expenditures.

The following definitions apply in this Part:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

"Sec. 14.1. Distribution and Use of the Additional One Percent Occupancy Tax. – Haywood County shall, on a monthly basis, remit the net proceeds of the room occupancy and tourism development tax levied under Section 10.2 of this Part to the Haywood County Tourism Development Authority. The Authority must segregate the

net proceeds received under this section into five separate accounts based on the collection area from which the proceeds were collected. Net proceeds collected under this section from accommodations located in the 28716 zip code area must be credited to the Canton Area Account. Net proceeds collected under this section from accommodations located in the 28721 zip code area must be credited to the Clyde Area Account. Net proceeds collected under this section from accommodations located in 28745 zip code area must be credited to the Lake Junaluska Area Account. Net proceeds collected under this section from accommodations located in the 28751 zip code area must be credited to the Maggie Valley Area Account. Net proceeds collected under this section from accommodations located in the 28785 and the 28786 zip code areas must be credited to the Waynesville Area Account. Based on recommendations from and in consultation with each of the five collection areas, the Authority shall use at least two-thirds of the funds in each account to promote travel and tourism and the remainder for tourist-related expenditures in each of the collection areas.

"Sec. 15. ~~Appointments, Duties of~~ Tourism Development Authority. – (a) Appointment and Membership. – When the Haywood County Board of Commissioners adopts a resolution levying a room occupancy and tourism development tax pursuant to this Part, it shall also adopt a resolution creating ~~a~~ the Haywood County Tourism Development ~~Authority~~ Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide that the Authority is composed of ~~nine voting members appointed as follows:~~ the following 15 members:

(1) Three members who own or operate hotels, motels, or other accommodations with more than 20 rental units.

(2) Three members who own or operate hotels, motels, or other accommodations with 20 or fewer rental units.

(3) ~~Three tourist-oriented business members at large.~~ Two members who own or operate a tourism-related business, including, but not limited to, county attractions, resorts, restaurants, gift shops, and concert venues.

(4) Four at-large members who are recommended to the Board of Commissioners by the four municipal governments. Each governing body must submit two names to the Board, and the Board must select from the names submitted.

(5) Three ex officio, nonvoting members as follows:

a. A member of the Haywood County Board of Commissioners.

b. The Haywood County finance officer.

c. The Executive Director of the Haywood County Economic Development Commission.

All members of the Authority shall be appointed by the Haywood County Board of Commissioners. At least one-third of the members must be individuals affiliated with businesses that collect the tax in the county, and at least one-half of the members must be individuals currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate ~~three~~ four of its initial appointees to serve a

one-year term, ~~three~~ four to serve a two-year term, and ~~three~~ four to serve a three-year term. Thereafter, all members shall serve three-year terms. All members of the Authority serve at the pleasure of the Board of Commissioners and may be removed by the Board at any time. All members of the Authority shall serve without compensation. Vacancies shall be filled by the Board of Commissioners subject to the qualifications established above for the vacating member. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

~~(b)~~ The members of the Tourism Development Authority shall elect from its membership a chair. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The chair shall only vote to break a tie vote. The finance officer of Haywood County shall serve ex officio as accountant for the Authority.

(b1) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. – The ~~Tourism Development~~ Authority shall report quarterly and at the close of the fiscal year to the Board of Commissioners on its receipts and disbursements for the preceding quarter and for the year in such detail as the Board may require.

~~"Sec. 16. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Haywood County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.~~

~~(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.~~"

SECTION 3. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Haywood, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

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

HOUSE BILL 1013:
Haywood County Occupancy Tax

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Reps. Rapp, Haire	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 1013 authorizes Haywood County to levy an additional 1% room occupancy tax and makes other administrative changes.

HB 1013 received a favorable report from the House Finance Subcommittee on Occupancy Tax on July 24, 2007.

CURRENT LAW: In 1983, the General Assembly authorized Haywood County to levy a two percent (2%) room occupancy tax. The net proceeds are remitted to a county Tourism Development Authority and must be used to further the development of travel, tourism, and conventions in the county through State, national and international advertising and promotion. In 1985, the General Assembly authorized an additional one percent (1%), for a total occupancy tax rate of three percent (3%).

BILL ANALYSIS: House Bill 1013 does the following:

- It authorizes Haywood County to levy an additional 1% room occupancy tax, for a total county rate of 4%.
- It directs the TDA to use the first 3% as follows: At least two-thirds must be used to promote travel and tourism and the remainder must be used for tourism-related expenditures.
- It directs the TDA to segregate the net proceeds of the remaining 1% into five accounts based on the collection area from which the proceeds are collected. Funds in these accounts must be spent in accordance with the guidelines. That is, at least two-thirds must be used to promote travel and tourism and the remainder must be used for tourism-related expenditures. The collection areas are as follows:
  - Canton
  - Clyde
  - Lake Junaluska
  - Maggie Valley
  - Waynesville
- It conforms the current administrative provisions relating to the levy, collection, administration, repeal, and penalties associated with the tax to the uniform provisions in G.S. 153A-155.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993 and are detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

H1013e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 1013 (First Edition)

SHORT TITLE: Haywood County Occupancy Tax.

SPONSOR(S): Representatives Rapp and Haire

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
Haywood County	**$229,144**	**$257,475**	**$265,199**	**$273,155**	**$281,350**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Haywood County

EFFECTIVE DATE: Becomes effective when law.

BILL SUMMARY:
House Bill 1013 authorizes Haywood County to levy an additional 1% room occupancy tax and makes other administrative changes.

ASSUMPTIONS AND METHODOLOGY:
The revenue generated by the additional 1% occupancy tax is calculated by dividing the current revenue from the existing 3% occupancy tax by 3 and assuming 3% growth for future years. The additional tax would bring the total occupancy tax rate to 4%. The bill directs the Tourism Development Authority (TDA) to use the first 3% as follows: At least two-thirds must be used to promote travel and tourism and the remainder must be used for tourism-related expenditures.

It directs the TDA to segregate the net proceeds of the remaining 1% into five accounts based on the collection area from which the proceeds are collected. Funds in these accounts must be spent in accordance with the guidelines. That is, at least two-thirds must be used to promote travel and tourism and the remainder must be used for tourism-related expenditures. The collection areas are as follows:

- Canton
- Clyde
- Lake Junaluska
- Maggie Valley
- Waynesville

SOURCES OF DATA: NC Department of State Treasurer

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Rodney Bizzell

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 30, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1652

Committee Substitute Favorable 7/24/07

Short Title: Special Plate for E-911 Telecommunicators. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE AN E-911 TELECOMMUNICATOR SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4 is amended by adding a new subdivision to read:

"(40a) E-911 Telecommunicator. – Issuable to an active E-911 Telecommunicator. An active E-911 Telecommunicator is an individual employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency and nonemergency calls for police, fire, emergency medical, and other public safety services via telephone and other communication devices. The plate shall bear the phrase "E-911 Telecommunicator." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

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

HOUSE BILL 1652:
Special Plate for E-911 Telecommunicators

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Rep. Justice	**Summary by:**	Martha Walston
Version:	Second Edition		Committee Counsel

SUMMARY: House Bill 1652 would authorize the Division of Motor Vehicles to develop a new special registration plate for E-911 Telecommunicators. The bill also defines "E-911 Telecommunicators".

CURRENT LAW: The Division of Motor Vehicles is authorized to issue more than 164 special license plates. As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The Division may issue one free registration plate to a recipient of the Legion of Valor[2] award, a 100% disabled veteran, or an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee of $28 and the additional special registration plate fee of $10.

The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $1,000,000 is annually appropriated to provide operating assistance for ten Visitor Centers.[3] The Centers are located in Brunswick, Camden, Carteret, Caswell, Columbus, Macon, McDowell, Transylvania, Tyrell, and Watauga Counties.[4] The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

The cost of some special plates includes a fee in addition to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: House Bill 1652 would authorize the Division of Motor Vehicles to issue a new special registration plate issuable to active E-911 Telecommunicators and bearing the phrase "E-911 Telecommunicator". The Division would have to receive at least 300 applications for the plate before it could be developed. The plate would require the $10 special registration plate fee that is credited to the Special Registration Plate Account.

An "E-911 Telecommunicator" is an individual employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency and non-emergency calls for police, fire, emergency medical, and other public safety services vial telephone and other communication devices.

EFFECTIVE DATE: The act would be effective when it becomes law.

H1652e2-SMLA

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[1] Aside from the three plates available free of charge, three special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Purple Heart Recipient, and the Silver Star Recipient.

[2] The Legion of Valor plate is issuable to a recipient of one of the following: Congressional Medal of Honor, Distinguished Service Cross, Navy Cross, or Air Force Cross.

[3] There are 12 Visitors' Centers. The two centers that do not receive State funding are located in Dare County.

[4] Each Visitor's Center receives $100,000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1081

Judiciary I (Civil) Committee Substitute Adopted 7/18/07
PROPOSED COMMITTEE SUBSTITUTE S1081-CSST-99 [v.1]

7/30/2007 11:02:27 AM

Short Title: Expunge Nonviolent Crimes. (Public)

Sponsors:

Referred to:

March 22, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE EXPUNCTION OF CONVICTIONS FOR CERTAIN NONVIOLENT CRIMINAL OFFENSES UPON APPLICATION AND A FEE, TO ALLOW DISCLOSURE OF EXPUNGED INFORMATION TO LAW ENFORCEMENT AGENCIES AND OTHER SPECIFIED AGENCIES FOR EMPLOYMENT AND LICENSING PURPOSES AND TO REQUIRE THOSE AGENCIES TO MAINTAIN THE CONFIDENTIALITY OF THE EXPUNGED INFORMATION, AND TO MAKE CONFORMING CHANGES TO EXISTING EXPUNCTION STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-150. Expunction of records for conviction of certain nonviolent criminal offenses.**

(a) A person may file a petition in the court where the person was convicted for expunction of a felony conviction from the person's criminal record if all of the following criteria are met:

(1) The person, at the time of the felony offense, had not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States, the laws of this State, or any other state.

(2) The conviction is for a felony violation of any of the following:

a. G.S. 14-54.

b. G.S. 14-56.

c. G.S. 14-71.1.

d. G.S. 14-100 where the thing of value is less than one hundred thousand dollars ($100,000).

e. G.S. 90-95(d)(4).

(3) The person, at the time of the petition, has no convictions other than the conviction to be expunged and traffic violations under the laws of the United States, the laws of this State, or any other state.

(b) The petition may not be filed earlier than 10 years after the date of the felony conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later. The petition shall contain all of the following:

(1) An affidavit by the petitioner stating all of the following:

a. That the petitioner has been of good moral character for the 10-year period since the date of the felony conviction in question.

b. That the petitioner had not been convicted of any other felony or any misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.

c. That the petition has no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner outstanding.

(2) Verified affidavits of two persons, who are not related to the petitioner or to each other by blood or marriage and were not involved in the actions giving rise to the felony conviction in question, that:

a. The person knows the character and reputation of the petitioner in the community in which the petitioner lives.

b. The petitioner's character and reputation are good.

c. The petitioner is and has been of good moral character for the 10-year period since the date of the felony conviction in question.

(3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.

(4) An application on a form approved by the Administrative Office of the Courts requesting and authorizing all of the following:

a. A State and national criminal record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual.

b. A search by the Department of Justice for any outstanding warrants or pending criminal cases.

c. A search of the confidential record of expunctions maintained by the Administrative Office of the Courts.

(c) The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file any objection to the petition and shall be duly notified as to the date of the hearing on the petition. The district attorney shall make his or her best efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the date of the hearing. The application required by subsection (b)(4) of this section shall be

forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.

(d) The court in which the petition was filed may take any of the following steps and may consider at least the following issues in rendering a decision upon a petition for expunction of records of a felony conviction under this section:

(1) Call upon a probation officer for additional investigation or verification of the petitioner's conduct during the 10-year period since the date of conviction of the felony conviction in question.

(2) Review the results of the State and national criminal record check by the Department of Justice and Administrative Office of the Courts.

(3) Review the amount of restitution, if any, made by the petitioner to the victim of the felony conviction to be expunged and give consideration to whether or not restitution was paid in full.

(4) Review any other information the court deems relevant, including affidavits or other testimony provided by law enforcement officers, district attorneys, and victims of the felony committed by the petitioner.

(e) The court may order that the petitioner be restored, in the contemplation of the law, to the status the petitioner occupied before the arrest or indictment or information if the court finds all of the following after a hearing:

(1) The petitioner has remained of good moral character 10 ten years from the date of conviction of the felony in question or any active sentence, period of probation, or post-release supervision has been served, whichever is later.

(2) The petitioner has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States, the laws of this State, or any other state.

(3) The petitioner has no outstanding warrants or pending criminal cases.

(4) The petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner.

(5) The search of the confidential records of expunctions conducted by the Administrative Office of the Courts shows that the petitioner has not been previously granted an expunction.

(f) No person as to whom an order has been entered pursuant to subsection (e) of this section shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of that person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the provisions of Chapters 17C or 17E of the General Statutes shall disclose any and all felony convictions to the certifying commission regardless of whether or not the felony convictions were expunged under this section.

(g) The court shall also order that the felony conviction be expunged from the records of the court and direct all law enforcement agencies bearing record of the same to expunge that agency's records of the felony conviction. The clerk shall forward a

certified copy of the order to the sheriff, chief of police, or other arresting law enforcement agency. The sheriff, chief of police, or head of any other arresting law enforcement agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation.

(h) A person as to whom an order has been entered pursuant to subsection (e) of this section may notify any other applicable State or local government agency of the order, and that State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section. The person may also request that the State or local government agency reverse any administrative actions taken against that person as a result of the charges or convictions expunged, and the State or local government agency shall use its discretion in deciding whether or not to reverse, in whole or part, any action taken against that person. This subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank.

(i) The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in the clerk's county, file with the Administrative Office of the Courts the names of those persons granted expunctions under this section, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons granted expunctions. The information contained in the file shall be disclosed only as follows:

(1) To judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense has been previously granted a discharge.

(2) To federal, State, and local law enforcement agencies for employment purposes only.

(3) To the North Carolina Criminal Justice Education and Training Standards Commission for certification purposes only.

(4) To the North Carolina Sheriffs' Education and Training Standards Commission for certification purposes only.

(5) To federally insured depository institutions for employment purposes only.

(6) To the North Carolina State Bar and the Board of Law Examiners for licensing purposes only.

(7) To the North Carolina State Board of Certified Public Accountant Examiners for licensing purposes only.

(8) To local boards of education for employment purposes only.

(9) To the Department of Health and Human Services for licensing purposes, employment purposes, and placement purposes if a criminal history check is mandated for the license or placement.

(10) To the North Carolina Medical Board for licensing purposes only.

(11) To the North Carolina Real Estate Commission for licensing purposes only.

(12) To the North Carolina Appraisal Board for licensing purposes only.

(j) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of two hundred dollars ($200.00) at the time the petition is filed. One hundred dollars ($100.00) of the fee collected under this subsection shall be remitted to the North Carolina Department of Justice to pay the costs of the State Bureau of Investigation purging records pursuant to receipt of an order of expunction. The remaining one hundred dollars ($100.00) of the fee shall be remitted to the Administrative Office of the Courts to pay the costs associated with implementation of the provisions of this section. This subsection does not apply to petitions filed by an indigent."

SECTION 2. G.S. 17C-13 reads as rewritten:

"**§ 17C-13. Pardons.**

(a) When a person presents competent evidence that he has been granted an unconditional pardon for a crime in this State, any other state, or the United States, the Commission may not deny, suspend, or revoke that person's certification based solely on the commission of that crime or for an alleged lack of good moral character due to the commission of that crime.

(b) Notwithstanding G.S. 15A-150, the Commission may gain access to a person's felony conviction records, including those maintained by the Administrative Office of the Courts in its confidential files containing the names of persons granted expunctions. The Commission may deny, suspend, or revoke a person's certification based solely on that person's felony conviction, whether or not the felony conviction was expunged."

SECTION 3. G.S. 17E-12 reads as rewritten:

"**§ 17E-12. Pardons.**

(a) When a person presents competent evidence that the person has been granted an unconditional pardon of innocence for a crime in this State, any other state, or the United States, the Commission may not deny, suspend, or revoke that person's certification based solely on the commission of that crime or for alleged lack of good moral character due to the commission of that crime.

(b) Notwithstanding G.S. 15A-150, the Commission may gain access to a person's felony conviction records, including those maintained by the Administrative Office of the Courts in its confidential files containing the names of persons granted expunctions. The Commission may deny, suspend, or revoke a person's certification based solely on that person's felony conviction, whether or not the felony conviction was expunged."

SECTION 4. This act becomes effective December 1, 2007, and applies to applications for expunction of records made on or after that date.

SENATE BILL 1081:
Expunge Nonviolent Crimes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Sen. Weinstein	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition S1081-CSST-99		Committee Counsel

SUMMARY: Senate Bill 1081 would create a procedure for one time expunction of certain, limited nonviolent criminal offenses, and set fees for that expunction.

CURRENT LAW:

- ***G.S. 7B-3200*** provides for expunction of adjudications of undisciplined and delinquent.
- ***G.S. 15A-145*** provides for expunction of records of first offenders under the age of 18 at the time of conviction for misdemeanors.
- ***G.S. 15A-149*** provides for expunction of records when a pardon of innocence is granted.
- ***G.S. 90-96(b)*** provides for expunction of certain offenses related to controlled substances for first time offenders under the age of 21 placed on probation under G.S. 90-96(a), following the dismissal of the person and discharge of the proceedings.
- ***G.S. 90-113.14(b)*** provides for expunction of certain offenses related to the Toxic Vapors Act for first time offenders under the age of 21 placed on probation under G.S. 90-113.14(a), following the dismissal of the person and discharge of the proceedings.

BILL ANALYSIS:

Section 1. The proposed committee substitute would create a new statute section to set forth the procedure to follow to expunge certain non-violent crimes from a person's criminal record.

Under this procedure, only persons convicted of the following crimes may petition the court for an expunction:

- G.S. 14-54 - Breaking or entering buildings generally.
- G.S. 14-56 - Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.
- G.S. 14-71.1 - Possessing stolen goods.
- G.S. 14-100 - Obtaining property by false pretenses -- if the property is less than $100,000.
- G.S. 90-95(d)(4) - Possession of a Schedule VI controlled substance.

The petitioner must meet all of the following criteria:

1. Have no convictions other than traffic violations and the conviction giving rise to the petition for expunction.
2. Wait 10 years from the latest of the following dates before filing the petition:
   - Date of conviction.
   - Date of completion of any active sentence, period of probation and post-release supervision.
3. Have been of good moral character since the date of conviction.
4. Have no outstanding restitutions orders or civil judgments for restitution.
5. Have paid the fee of $200.

Upon the filing of the petition, the district attorney of the court wherein the case resulting in the conviction was tried is to be notified and given 30 days to file an objection to the expunction. The district attorney is to use best efforts to contact the victim and notify the victim of the request for expunction.

The order of expunction may be ordered by the court if all of the following are found by the court:

1. The petitioner is of good moral character for 10 years.
2. The petitioner has no other criminal convictions other than traffic violations.
3. The petitioner has no outstanding warrants or pending criminal cases.
4. The petitioner has no outstanding restitutions orders or civil judgments for restitution.
5. The petitioner has not previously been granted an expunction.

If the court grants the expunction, the court is to notify all law enforcement agencies bearing record of the conviction to expunge that agency's records of the conviction. The petitioner may notify other applicable State or local government agencies of the court order, and that State or local agency must then expunge that agency's records of the conviction. The petitioner could also ask that State or local agency to reverse any adverse actions taken against the petitioner as a result of the felony conviction, and that State or local agency would have the ability to decide whether to reverse the adverse action in whole or part.

The Administrative Office of the Courts is to maintain a confidential file of the names of person's granted an expunction under this procedure. That information shall be available to all of the following:

- Judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense has been previously granted a discharge.
- Federal, State and local law enforcement agencies for employment purposes only.
- The North Carolina Criminal Justice Education and Training Standards Commission for certification purposes only.
- The North Carolina Sheriffs' Education and Training Standards Commission for certification purposes only.
- Federally insured depository institutions for employment purposes only.
- The North Carolina State Bar and the Board of Law Examiners for licensing purposes only.
- The North Carolina State Board of Certified Public Accountant Examiners for licensing purposes only.
- Local boards of education for employment purposes only.
- The Department of Health and Human Services for licensing purposes, employment purposes, and placement purposes if a criminal history check is mandated for the license or placement.
- The North Carolina Medical Board for licensing purposes only.
- The North Carolina Real Estate Commission for licensing purposes only.
- The North Carolina Appraisable Board for licensing purposes only.

Sections 2-3. The pcs makes conforming changes to the Criminal Justice Education and Training Standards Commission and Sheriffs' Education and Training Standards Commission to reflect that those Commissions may access the AOC file of the expunction.

EFFECTIVE DATE: December 1, 2007, and applies to applications for expunction on or after that date.

S1081e2-SMST-CSST-99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1381

Committee Substitute Favorable 7/24/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1381-PCS50767-SQf-68

Short Title: Resp. Care Bd./Bd. of Med. License Fees. (Public)

Sponsors:

Referred to:

April 11, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO RAISE THE CEILING ON CERTAIN LICENSURE FEES AND AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD TO ESTABLISH AND INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed ~~twenty-five dollars ($25.00).~~fifty dollars ($50.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).

(3) For issuance of any license, a fee not to exceed ~~one hundred dollars ($100.00).~~one hundred fifty dollars ($150.00).

(4) For the renewal of any license, a fee not to exceed ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00).

(5) For the late renewal of any license, an additional late fee not to exceed ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00).

(6) For a license with a provisional or temporary endorsement, a fee not to exceed ~~thirty-five dollars ($35.00).~~fifty dollars ($50.00).

(7) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing.

(8) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).

(9) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00)."

SECTION 2. G.S. 90-9, 90-10, and 90-13 are repealed.

SECTION 3. If House Bill 818, 2007 Regular Session, becomes law, then G.S. 90-8.2 reads as rewritten:

"§ 90-8.2. Appointment of subcommittees.

(a) The North Carolina Medical Board shall appoint and maintain a subcommittee to work jointly with a subcommittee of the Board of Nursing to develop rules to govern the performance of medical acts by registered nurses, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). ~~The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00).~~ Rules developed by this subcommittee from time to time shall govern the performance of medical acts by registered nurses and shall become effective when adopted by both the North Carolina Medical Board and the Board of Nursing. The North Carolina Medical Board shall have responsibility for securing compliance with these rules.

(b) The North Carolina Medical Board shall appoint and maintain a subcommittee of four licensed physicians to work jointly with a subcommittee of the North Carolina Board of Pharmacy to develop rules to govern the performance of medical acts by clinical pharmacist practitioners, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). ~~The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00).~~ Rules recommended by the subcommittee shall be adopted in accordance with Chapter 150B of the General Statutes by both the North Carolina Medical Board and the North Carolina Board of Pharmacy and shall not become effective until adopted by both Boards. The North Carolina Medical Board shall have responsibility for ensuring compliance with these rules."

SECTION 4. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-12A. Limited license to practice in a medical education and training program.

(a) As provided in rules adopted by the Board, the Board may issue a limited license known as a 'resident's training license' to a physician not otherwise licensed by the Board who is participating in a graduate medical education training program.

(b) A resident's training license shall become inactive at the time its holder ceases to be a resident in a training program or obtains any other license to practice medicine issued by the Board. The Board shall retain jurisdiction over the holder of the inactive license."

SECTION 5. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-12.1A. Limited volunteer license.

(a) The Board may issue a 'military limited volunteer license' to an applicant who:

(1) Has a license to practice medicine and surgery in another state;

(2) Produces a letter from the state of licensure indicating the applicant is in good standing; and

(3) Is authorized to treat personnel enlisted in a branch of the United States armed services or veterans.

(b) The Board may issue a 'retired limited volunteer license' to an applicant who is a retired physician and has allowed his or her license to practice medicine and surgery in this State or another state to become inactive.

(c) A physician holding a limited license under this section shall comply with the continuing medical education requirements pursuant to rules adopted by the Board.

(d) The Board shall issue a limited license under this section within 30 days after an applicant provides the Board with information satisfying the requirements of this section.

(e) The holder of a limited license under this section may practice medicine and surgery only at clinics that specialize in the treatment of indigent patients. The holder of the limited license may not receive compensation for services rendered at clinics specializing in the care of indigent patients.

(f) The holder of a limited license issued pursuant to this section who practices medicine or surgery at places other than clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. The Board, in its discretion, may revoke the limited license after due notice is given to the holder of the limited license.

(g) The Board may, by rule, require an applicant for a limited license under this section to comply with other requirements or submit additional information the Board deems appropriate."

SECTION 6. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-12.2A. Special purpose license.

(a) The Board may issue a special purpose license to practice medicine to an applicant who:

(1) Holds a full and unrestricted license to practice in at least one other jurisdiction; and

(2) Does not have any current or pending disciplinary or other action against him or her by any medical licensing agency in any state or other jurisdiction.

(b) The holder of the special purpose license practicing medicine or surgery beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. The Board, at its discretion, may revoke the special license after due notice is given to the holder of the special purpose license.

(c) The Board may adopt rules and set fees as appropriate to implement the provisions of this section."

SECTION 7. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-12.3. Medical school faculty license.**

(a) The Board may issue a medical school faculty license to practice medicine and surgery to a physician who:

(1) Holds a full-time appointment as either a lecturer, assistant professor, associate professor, or full professor at one of the following medical schools:

a. Duke University School of Medicine;

b. The University of North Carolina at Chapel Hill School of Medicine;

c. Wake Forest University School of Medicine; or

d. East Carolina University School of Medicine; and

(2) Is not subject to disciplinary order or other action by any medical licensing agency in any state or other jurisdiction.

(b) The holder of the medical school faculty license issued under this section shall not practice medicine or surgery outside the confines of the medical school or an affiliate of the medical school. The holder of the medical school faculty license practicing medicine or surgery beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. The Board, at its discretion, may revoke the special license after due notice is given to the holder of the medical school faculty license.

(c) The Board may adopt rules and set fees related to issuing medical school faculty licenses. The Board may, by rule, set a time limit for the term of a medical school faculty license."

SECTION 8. If House Bill 818, 2007 Regular Session, becomes law, then G.S. 90-13.1 reads as rewritten:

"**§ 90-13.1. License fees.**

(a) Each applicant for a license to practice medicine and surgery in this State under either G.S. ~~90-9, 90-10, or 90-13~~90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application fee of three hundred fifty dollars ($350.00).

(b) ~~Whenever~~ Each applicant for a limited license ~~is granted as provided in~~to practice in a medical education and training program under G.S. ~~90-12, the applicant~~90-12A shall pay to the Board a fee ~~not to exceed~~of one hundred ~~fifty~~ dollars ($100.00). ~~($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of one hundred dollars ($100.00), and~~

(c) ~~where~~ An applicant for a limited volunteer license ~~to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant~~under G.S. 90-12.1A shall not pay a fee.

(d) A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license.

(e) All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board."

SECTION 9. If House Bill 818, 2007 Regular Session, becomes law, then G.S. 90-13.2 reads as rewritten:

"**§ 90-13.2. Registration every year with Board.**

(a) Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday.

(b) A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay ~~a~~ an annual registration fee of one hundred seventy-five dollars ($175.00), except those who have a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training shall pay a registration fee of one hundred twenty-five dollars ($125.00) and those who have a limited volunteer license shall pay an annual registration fee of twenty-five dollars ($25.00). However, licensees who have a limited license to practice for the purpose of education and training under G.S. 90-12A shall not be required to pay more than one annual registration fee for each year of training.

(c) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.

(d) For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board.

(e) A physician who fails to register as required by this section shall pay an additional fee of fifty dollars ($50.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. The Board shall retain jurisdiction over the holder of the inactive license.

(f) Except as provided in G.S. ~~90-12(d),~~90-12.1A, a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee.

(g) Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. ~~90-13.~~90-13.1."

SECTION 10. Section 1 and Section 10 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2007.

HOUSE BILL 1381:
Raise Ceiling/Resp. Care Bd. License Fees

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Rep. Tolson	**Summary by:**	Cindy Avrette
Version:	PCS to Second Edition H1381-CSRB		Committee Counsel

SUMMARY: ***House Bill 1381 authorizes the NC Respiratory Board to increase its licensure and application fees. The proposed Senate committee substitute authorizes the NC Medical Board to establish and increase certain fees.***

BILL ANALYSIS: **Section 1** authorizes the North Carolina Respiratory Board to raise its licensure and application fees as follows:

Type of Fee	Old Maximum	New Maximum
Initial application	$25	$50
Issuance of any license	$100	$150
Renewal of any license	$50	$75
Additional fee for a late renewal	$50	$75
License with a provisional or temporary endorsement	$35	$50

This section is effective when it becomes law.

Section 2 repeals G.S. 90-9 and G.S. 90-10 concerning examination for licensure under Article 1 of Chapter 90 and G.S. 90-13 (When license without examination allowed). This section becomes effective October 1, 2007.

Section 3 amends a recodified G.S. 90-8.2 (per HB 818) to repeal the current $5 fee for reactivation of an inactive incomplete application for registered nurses and clinical pharmacist practitioners. This section becomes effective October 1, 2007.

Section 4 enacts a new provision governing issuance of a limited license to practice in a medical education and training program. This section becomes effective October 1, 2007.

Section 5 enacts a new provision governing issuance of a limited volunteer license. This section becomes effective October 1, 2007.

Section 6 enacts a new provision governing issuance of a special purpose license (a new category of licensure for which the Board is authorized to set a fee). This section becomes effective October 1, 2007.

Section 7 enacts a new provision governing issuance of a medical school faculty license (Board is authorized to set a fee). This section becomes effective October 1, 2007.

Section 8 amends a recodified G.S. 90-13.1 (per HB 818) governing license fees and setting the limited license to practice in a medical education and training program at $100. This section becomes effective October 1, 2007.

Section 9 amends a recodified G.S. 90-13.2 (per HB 818) governing registration every year with the Board, to provide that: licensees who have a limited license to practice for the purpose of education and training shall not be required to pay more than one annual registration fee for each year of training; and that the Board shall retain jurisdiction over the holder of an inactive license. This section becomes effective October 1, 2007.

Shawn Parker substantially contributed to this summary.

H1381e2-SMRB-CSRB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 63

Short Title:	Property Tax - School Capital Leases.	(Public)
Sponsors:	Representatives Yongue, Johnson, Jones, Lucas (Primary Sponsors); Alexander, Barnhart, Bell, Carney, Coleman, England, Folwell, Goforth, Hall, Howard, Pierce, Wainwright, West, Wilkins, Williams, Wray, Adams, Blackwood, Faison, Fisher, Glazier, Harrison, Killian, Lewis, McGee, McLawhorn, Mobley, Neumann, Rapp, Saunders, Walend, E. Warren, and Womble.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 6, 2007

A BILL TO BE ENTITLED

AN ACT TO EXCLUDE FROM PROPERTY TAX REAL AND PERSONAL PROPERTY THAT IS SUBJECT TO A CAPITAL LEASE WITH A LOCAL SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275 is amended by adding a new subdivision to read:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(43) Real or tangible personal property that is subject to a capital lease pursuant to G.S. 115C-531."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

HOUSE BILL 63:
Property Tax - School Capital Leases

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Reps. Yongue, Johnson, Jones, Lucas	**Summary by:**	Cindy Avrette
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 63 would exclude from property tax real or tangible personal property that is subject to a capital lease and is used as a public school facility. The bill is a recommendation of the House Select Committee on Public School Construction. The bill is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

CURRENT LAW: In 2006, the General Assembly authorized local school administrative units to enter into capital leases to provide for school facilities. Capital leases differ from operating leases in several respects. In general, a capital lease is one that is considered to have the economic characteristics of ownership. To determine whether a lease is a capital lease or an operating lease, one must look at a number of different provisions in the lease. Under generally accepted accounting principles, a capital lease is a non-cancelable contract satisfying one or more of the following conditions:

- Legal title to the property is transferred to the lessee.
- The lease contains bargain or nominal purchase options.
- The lease term equals or exceeds 75% of the asset's useful life.
- The present value of the minimum lease payments equals or exceeds 90% of the asset's fair market value.

Generally, property owned by a unit of local government is not subject to property tax.

BILL ANALYSIS: House Bill would exclude from the property tax real and tangible personal property[1] that is subject to a capital lease and is used as a public school facility. This change does not affect the current practice of counties. Counties treat the lessee in a capital lease as the property owner for property tax purposes because a capital lease is typically a type of financing agreement in which the lessee purchases the property over the term of the lease.

EFFECTIVE DATE: This bill would be effective when it became law.

H0063e1-SMRB
Canaan Huie, [former] counsel to House Select Committee on Public School Construction, substantially contributed to this summary.

[1] The most common type of tangible personal property that is subject to a capital lease by a school facility is its stadium lighting systems.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 63 (First Edition)

SHORT TITLE: Property Tax - School Capital Leases.

SPONSOR(S): Representatives Yongue, Johnson, Jones, and Lucas

FISCAL IMPACT

Yes ( ) **No (x)** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	***No fiscal impact – see assumptions and methodology***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, County Tax Assessors and Local School Administrative Units

EFFECTIVE DATE: Effective for taxes imposed for taxable years beginning July 1, 2007.

BILL SUMMARY: House Bill 63 would exempt school facilities subject to a capital lease from property tax. To qualify for the exemption, the property must be subject to a capital lease and be used as a public school facility. The bill is a recommendation of the House Select Committee on Public School Construction.

BACKGROUND: In 2006, General Assembly adopted Senate Bill 2009, which allows local school administrative units to enter into capital leases for school facilities. Prior to the enactment of this law, school boards were allowed to enter into operating leases for school facilities, but the property on which the facilities were located had to be owned in fee simple by the local unit. In addition, all construction and repairs were required to be under the direction and control of the local board of education. Senate Bill 2009 provides that when the building is the subject of a capital lease, the board is not required to own the property and the lease may provide that the lessor is responsible for repairs and renovations.

ASSUMPTIONS AND METHODOLOGY: Under generally accepted accounting principles a capital lease is a non-cancelable contract in which legal title to the property is transferred to the lessee. Capital leases also contain bargain or nominal purchase options and the lease term equals or exceeds 75% of the asset's useful life. Moreover, a capital lease is generally considered to have the economic characteristics of ownership. As a result, the NC Department of Revenue indicates that the current practice of counties is to treat the lessee in a capital lease as the responsible party for

the payment of property taxes. Therefore, in the case of a school capital lease, the local school administrative unit would currently be considered the owner for tax purposes and the property would be exempt from property tax. House Bill 63 clarifies that property subject to a school capital lease is excluded from property tax and is expected to have no significant fiscal impact.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Rodney Bizzell

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: April 23, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 1

SENATE BILL 91*

Short Title:	Endangered Manufacturing and Jobs Act..	(Public)
Sponsors:	Senators Jacumin, Bingham; Allran, Apodaca, Berger of Rockingham, Blake, Brock, Brown, Brunstetter, Cowell, Dalton, East, Forrester, Garrou, Hagan, Hunt, Jones, Preston, Queen, Snow, Stevens, Tillman, and Weinstein.	
Referred to:	Finance.	

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ENHANCED ECONOMIC DEVELOPMENT INCENTIVES TO ENDANGERED MANUFACTURERS, TO PROVIDE PROPERTY TAX EXCLUSIONS FOR ENDANGERED MANUFACTURERS, TO CLARIFY THAT A LOW-PROFIT LIMITED LIABILITY COMPANY IS A LIMITED LIABILITY COMPANY UNDER STATE LAW, TO ESTABLISH THE NORTH CAROLINA FURNITURE FUND TO RECEIVE STATE AND FEDERAL FUNDING FOR THE FURNITURE INDUSTRY, TO ESTABLISH THE NORTH CAROLINA FURNITURE COUNCIL TO ADMINISTER THE FUND, AND TO APPROPRIATE FUNDS FOR THAT PURPOSE, TO APPROPRIATE FUNDS TO ESTABLISH THE FURNITURE TECHNOLOGY CENTER, TO PROVIDE FOR ADDITIONAL PENALTIES FOR THE UNAUTHORIZED DISCLOSURE OF TRADE SECRETS, AND TO CLARIFY THAT INDUSTRIAL MACHINERY IS NOT SUBJECT TO REGULATION UNDER THE BUILDING CODE.

Whereas, the State of North Carolina is and should be actively engaged in economic development efforts to attract and stimulate private sector job creation and capital investors; and

Whereas, the furniture industry in North Carolina has been damaged by overseas competition and has now become an endangered industry in North Carolina; and

Whereas, economically distressed areas could utilize grant funds to revitalize the furniture industry and furniture manufacturing, in particular, to provide jobs to the unemployed; and

Whereas, economic development grant funds could enable North Carolina to be more nationally or internationally competitive in developing the furniture industry; and

Whereas, additional furniture industry jobs would strengthen the economy of North Carolina as a whole; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. ECONOMIC DEVELOPMENT INCENTIVES

SECTION 1.1. G.S. 105-129.83 is amended by adding a new subsection to read:

"(m) Endangered Manufacturer Enhancements. – Any establishment whose primary activity is in one of the following subsectors shall be treated as if it were located in a development tier one area for all purposes under this Article:

(1) Apparel manufacturing subsector 315 as defined by NAICS.

(2) Furniture and related product manufacturing subsector 337 as defined by NAICS.

(3) Textile mills subsector 313 as defined by NAICS.

(4) Textile product mills subsector 314 as defined by NAICS."

SECTION 1.2. G.S. 105-164.14(h) reads as rewritten:

"(h) Low Enterprise or Development Tier Machinery. – Eligible taxpayers are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) Refunds. – An eligible person is allowed an annual refund of sales and use taxes paid by it under this Article at the general rate of tax on eligible machinery and equipment it purchases for use in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3 or a development tier one area, as defined in G.S. ~~143B-437.08.~~143B-437.08 or in an industry listed in G.S. 105-129.83(m) regardless of where the machinery and equipment is located in this State. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. – A person is eligible for the refund provided in this subsection if it is engaged primarily in one of the businesses listed in G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier two area, as defined in G.S. ~~105-129.3 or~~105-129.3, if it is engaged primarily in one of the businesses listed in G.S. 105-129.83(a) in a development tier one area, as defined in G.S. ~~143B-437.08.~~143B-437.08, or if it is engaged primarily in one of the businesses listed in G.S. 105-129.83(m) anywhere in the State.

(3) Machinery and equipment. – For the purpose of this subsection, the term "machinery and equipment" means engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.4(a) or G.S. 105-129.83(a). Machinery and equipment are eligible for the refund provided in this

subsection if the taxpayer places them in service in an ~~enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3, or a development tier one area, as defined in G.S. 143B-437.08,~~applicable area, capitalizes them for tax purposes under the Code, and does not lease them to another party."

SECTION 1.3. G.S. 143B-437.53(a) reads as rewritten:

"(a) Minimum Number of Eligible Positions. – A business may apply to the Committee for a grant for any project that creates the minimum number of eligible positions as set out in the table below. If the project will be located in more than one development tier area, the location with the highest development tier area designation determines the minimum number of eligible positions that must be created. If the primary activity of the project is in an industry listed in G.S. 105-129.83(m), the minimum job creation number applicable to development tier one applies regardless of the tier designation of the location of the project.

Development Tier Area	Number of Eligible Positions
Tier One	10
Tier Two	20
Tier Three	20"

SECTION 1.4. G.S. 143B-437.56(d) reads as rewritten:

"(d) For any eligible position that is located in a development tier three area, seventy-five percent (75%) of the annual grant approved for disbursement shall be payable to the business, and twenty-five percent (25%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is located in a development tier two area, eighty-five percent (85%) of the annual grant approved for disbursement shall be payable to the business, and fifteen percent (15%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. For a project that is primarily engaged in one of the industries listed in G.S. 105-129.83(m), one hundred percent (100%) of the annual grant approved for disbursement shall be payable to the business regardless of the development tier designation of the location. A position is located in the development tier area that has been assigned to the county in which the project is located at the time the application is filed with the Committee."

SECTION 1.5. Section 1.1 of this part is effective for taxable years beginning on or after January 1, 2007. Section 1.2 of this part becomes effective January 1, 2007, and applies to purchases made on or after that date. The remainder of this part is effective when it becomes law.

PART II. PROPERTY TAX EXCLUSION

SECTION 2.1. G.S. 105-275 is amended by adding a new subdivision to read:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(43) Real and personal property that is located at an establishment whose primary activity is in one of the subsectors listed in this subdivision. For the purposes of this subdivision, the terms 'establishment' and 'NAICS' have the same meaning as in G.S. 105-129.81.

a. Apparel manufacturing subsector 315 as defined by NAICS.

b. Furniture and related product manufacturing subsector 337 as defined by NAICS

c. Textile mills subsector 313 as defined by NAICS.

d. Textile product mills subsector 314 as defined by NAICS."

SECTION 2.2. This part is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

PART III. LOW-PROFIT LIMITED LIABILITY COMPANIES

SECTION 3.1. G.S. 57C-1-03 reads as rewritten:

"**§ 57C-1-03. Definitions.**

The following definitions apply in this Chapter, unless otherwise specifically provided:

...

(11) Limited liability company or domestic limited liability company. – An entity formed and existing under this Chapter. The term "limited liability company" or "domestic limited liability company" includes low-profit limited liability companies and companies designated as "L3C."

(12) Limited partnership or domestic limited partnership. – Has the same meaning as in G.S. 59-102(8).

(12a) Low-profit limited liability company or "L3C." – An entity formed and existing under this Chapter that is organized for a business purpose that satisfies and is at all times operated to satisfy each of the following requirements:

a. The entity (i) significantly furthers the accomplishment of one or more charitable or educational purposes within the meaning of section 170(c)(2)(B) of the Internal Revenue Code of 1986, as amended, and (ii) would not have been formed but for the entity's relationship to the accomplishment of charitable or educational purposes;

b. No significant purpose of the entity is the production of income or the appreciation of property; provided, however, that the fact that an entity produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property; and

c. No purpose of the entity is to accomplish one or more political or legislative purposes within the meaning of section 170(c)(2)(D) of the Code, as amended.

If an entity that met this definition at its formation at any time ceases to satisfy any one of the foregoing requirements, it shall immediately cease to be a low-profit limited liability company but will continue to exist as a limited liability company.

All references in this subdivision to sections of the Code shall be to sections of the Internal Revenue Code of 1986, as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States.

~~(12a)~~(12b) Management of the affairs. – In respect of an entity, unless the context indicates otherwise, the authority to direct and participate in the management of the entity.

...."

SECTION 3.2. G.S. 55D-20(a) is amended by adding the following subdivision to read:

"(6) The name of a low-profit limited liability company, as defined in G.S. 57C-1-03(12a), must contain the abbreviation "L3C" or "l3c.""

SECTION 3.3 This part is effective when it becomes law.

PART IV. NORTH CAROLINA FURNITURE FUND AND COUNCIL

SECTION 4.1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2K. North Carolina Furniture Council.

"**§ 143B-437.95. North Carolina Furniture Council. – creation; powers; duties.**

There is established the North Carolina Furniture Council of the Department of Commerce. The North Carolina Furniture Council shall have the following powers and duties:

(1) To identify and implement methods for improving North Carolina's furniture industry.

(2) To assure orderly growth and development of North Carolina's furniture industry.

(3) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the furniture industry.

(4) To receive and disburse funds.

(5) To establish criteria for recipients of grants from the North Carolina Furniture Fund and to make grants from the Fund.

(6) To enter into contracts for the purpose of developing new or improved markets for and technological advances in the furniture industry.

(7) To enter into agreements with any local, state, or national organizations or agencies engaged in education for the purpose of disseminating information on furniture industry projects.

(8) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs

designed to promote the orderly growth of the North Carolina furniture industry.

(9) To acquire any licenses or permits necessary for performance of the duties of the Council.

"**§ 143B-437.96. North Carolina Furniture Council. — composition; terms; reimbursement.**

(a) The Council shall consist of 13 members. The following members or their designees shall serve as ex officio members:

(1) The Secretary of the Department of Commerce.

(2) The President of the Community College System.

(3) The Chancellor of North Carolina State University.

The remaining members shall be appointed as follows:

(1) Three persons appointed by General Assembly, upon the recommendation of the Speaker of the House of Representatives, one of whom shall be a representative of the furniture manufacturing industry.

(2) Three persons appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be a representative of the furniture upholstery industry.

(3) One representative of the furniture manufacturing industry, appointed by the Governor.

(4) One representative of the furniture upholstery industry, appointed by the Governor.

(5) One retailer of North Carolina furniture products, appointed by the Governor.

(6) One member of the general public, appointed by the Governor.

(b) Other than the initial members of the Council and members of the Council serving ex officio, members of the Council shall serve three-year terms. Initial members of the Council shall serve staggered terms as follows:

(1) The following initial members shall serve terms of three years:

a. The representative of the furniture manufacturing industry appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

b. The representative of the furniture manufacturing industry appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives.

c. The retailer of North Carolina furniture products appointed by the Governor.

d. The member of the general public appointed by the Governor.

(2) The remaining members shall serve terms of two years.

(c) The Secretary of the Department of Commerce shall serve as chair of the Council and shall call all meetings of the Council.

(d) The Governor may remove any member of the Council appointed by the Governor for misconduct, incompetence, or neglect of duty. The General Assembly may

remove any member appointed by it for the same reasons. The appointing authority making the original appointment shall appoint successors.

(e) All vacancies occurring on the Council shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(f) The Department of Commerce shall furnish the Council with meeting space and clerical and other services required by the Council to conduct its business.

(g) The members of the Council shall not receive compensation or per diem for their service on the Council.

(h) A majority of the Council shall constitute a quorum for the transaction of business.

"**§ 143B-437.97. North Carolina Furniture Fund.**

The North Carolina Furniture Fund is hereby created as a special, interest-bearing, and nonreverting fund in the Department of Commerce. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be eligible to receive State and federal funding.

The purpose of the North Carolina Furniture Fund is to develop and support the furniture industry in North Carolina, thereby creating jobs for the citizens of the State, encouraging the investment of private funds in North Carolina companies, and promoting the economy of the State in general. Moneys from the Fund may be used for the public purposes of developing the furniture industry workforce and promoting economic development in the furniture industry through the awarding of grants to organizations that support the furniture industry.

The North Carolina Furniture Council of the Department of Commerce shall administer the Fund and shall make grants from the Fund based on criteria adopted by the Council."

SECTION 4.2. There is appropriated from the General Fund to the North Carolina Furniture Fund the sum of five million dollars ($5,000,000) for the 2007-2009 fiscal biennium to be used to provide grants to promote the furniture industry in North Carolina.

SECTION 4.3. This part becomes effective July 1, 2007.

PART V. FURNITURE TECHNOLOGY CENTER

SECTION 5.1. There is appropriated from the General Fund to the Community Colleges System Office the sum of one million dollars ($1,000,000) for the 2007-2008 fiscal year and the sum of one million dollars ($1,000,000) for the 2008-2009 fiscal year to establish the Furniture Technology Center. The Furniture Technology Center shall be merged administratively with the Hosiery Technology Center at Catawba Valley Community College. It shall be a collaborative effort by Catawba Valley Community College, Western Piedmont Community College, Caldwell Community College and Technical Institute, and Lenoir-Rhyne College.

SECTION 5.2. This part becomes effective July 1, 2007.

PART VI. ADDITIONAL PENALTY FOR MISAPPROPRIATION OF TRADE SECRETS

SECTION 6.1. G.S. 66-154 is amended by adding a new subsection to read:

"(e) Willful and malicious misappropriation of a trade secret is a Class 1 misdemeanor."

SECTION 6.2. This part becomes effective December 1, 2007, and applies to acts committed on or after that date.

PART VII. BUILDING CODE INDUSTRIAL MACHINERY

SECTION 7.1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices:

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Health Services which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. For the purposes of this paragraph, 'industrial machinery' means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to, or a component part of, a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 7.2. This part is effective when it becomes law.

PART VIII. EFFECTIVE DATE

SECTION 8.1. Except as otherwise provided, this act is effective when it becomes law.

SB91 – CSRB – 24 (v.2)

Endangered Manufacturing Study Committee

House	Senate	Business
Maggie Jeffus	David Hoyle	F. Jay Reardon–Pres. Hickory Chair
Jim Harrell	Stan Bingham	Erick Schenk–V.P. Century Furniture
Walt Church	Jim Jacumin	Tom Tilley-CEO-Thomasville
		Dave Groom-Furniture Ind.-China

Higher Education

Dr. Rusty King – North Carolina State University

Dr. Ken Boham – Caldwell County Community College

NORTH CAROLINA v. CHINA - $600 WHOLESALE PIECE OF FURNITURE

	China	North Carolina	North Carolina with SB 91
1. Raw Materials	$282	$225	$215
2. Labor	30	105	100
3. Freight	138	0	0
4. Overhead	60	210	165
Profit	$ 90	$ 60	$120

NORMAL FINANCING v. L3C (LOW PROFIT LIMITED LIABILITY CO.)

Plant & Equipment	**Plant & Equipment**	**Savings/yr.**
$6,000,000	$6,000,000	$720,000
x .12	x .03	$180,000
$720,000/yr	$180,000/yr	$540,000

CAPITOL LOCATED IN FOUNDATIONS

1975 - $30 Billion

2004 - $510 Billion (In 1975 dollars)

Compound Annual Growth Rate of Nearly %10

RUSKIN INDUSTRIES

781-1579 CELL

P.O. Box 9350, Hickory, N.C. 28603 • 828-324-6500 • Fax 828-324-6161

February 5, 2007

Dear Senator Jacumin,

I am writing this letter to encourage you to continue to pursue the passage of the endangered industry and jobs act.

We are a small manufacturing company located in Hickory, NC. We have felt the intense pressure of the overseas markets that are being used to produce what used to be produced here in the United States. We have set up a business model that changes the way furniture is made here and we believe that once it is at full size, will be able to compete directly with the overseas manufacturers and bring some of the manufacturing jobs back to North Carolina. At our current size, we are struggling to make it, but the boost that your bill would give us, if enacted, we would allow us to become profitable enough to attract investment dollars to grow and create more jobs. We have a plan in place that would use the help provided by your bill to not only create jobs within my company, but also bring together other furniture related companies together to gain even more efficiency to become even more competitive. While I do not really want to think about this part, the reality is that without your bill enacted into law, I am not sure that we will be around much longer. We would then, not only, not create the jobs I mentioned above, but would lose the ones we already have.

I have provided a document that details how your bill would work for us, but the basic numbers are listed below.

I wish you the best in your efforts to help us bring back jobs to North Carolina. Please let me know if there is anything I can do to help you. We are counting on you.

Sincerely,

Jay Rubino
President

Current jobs without Bill	23
Current profitability without Bill	4.37%
Jobs with bill enacted into law	60 with Ruskin Industries, 150 total
Profitability with bill enacted into law	27.00% plus 2 to 5% with tax breaks

SENATE BILL 91:
Endangered Manufacturing and Jobs Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Sen. Jacumin	**Summary by:**	Cindy Avrette
Version:	First Edition		Committee Counsel

SUMMARY: ***This bill makes numerous changes to existing law to provide for greater incentives for the growth and protection of North Carolina's furniture industry. Different parts of the bill have different effective dates.***

[As introduced, this bill was identical to H39, as introduced by Reps. Church, Jeffus, which is currently in House Commerce, Small Business and Entrepreneurship .]

BILL ANALYSIS:

Part I. Economic Development Incentives

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

In 2006, the General Assembly acted to replace the Bill Lee Act with a new, more narrowly-focused set of tax incentives. While the new legislation (Article 3J) retained many of the features of the Bill Lee Act, the new legislation was streamlined by eliminating some of the more technical provisions of the Bill Lee Act and some of the credits that had not been used frequently. Some of the primary differences between Article 3J and the Bill Lee Act are as follows:

Whereas the Bill Lee Act divided counties into five enterprise tiers, Article 3J divides counties into three development tiers. In addition, the factors which determine enterprise tiers status under Article 3J vary slightly from the factors used under the Bill Lee Act.

Whereas under the Bill Lee Act eligibility by industry type depended on a number of factors, under Article 3J eligibility by industry type depends, for most industries, solely on the primary activity at the specific location.

Whereas the Bill Lee Act contained eight credits, Article 3J contains only three. The credits for technology commercialization, worker training, central office and aircraft facility property, research and development, and development zone projects were eliminated.

This Part would treat establishments that are involved in one of several different industry subsectors as if they were located in a development tier one area. Location in a development tier one area has the following benefits.

These taxpayers are not required to meet a wage standard with respect to employees at the establishment. Generally, taxpayers must meet a wage standard equal to the lower of 90% of the average county wage or 110% of the average State wage.

For the credit for creating jobs, the taxpayer must meet a job creation threshold of 5 before any credit may be taken. The threshold in higher-tiered areas ranges from 10 to 15 jobs.

For the credit for creating jobs, the amount of the credit is equal to $12,500 per job. The credit amount in higher-tiered areas ranges from $750 per job to $5,000 per job.

For the credit for investing in business property, the taxpayer is not required to meet a threshold before taking the credit. In higher-tiered areas, the threshold ranges from $1,000,000 to $2,000,000.

For the credit for investing in business property, the amount of the credit is equal to 7% of the eligible investment amount. In higher-tiered areas, the credit amount ranges from 3.5% to 5% of the eligible investment amount.

For the credit for investment in real property, the taxpayer would be eligible for the credit. The credit is not available in higher-tiered areas.

In 2002, the General Assembly created the Job Development Investment Grant Program. The program makes grants to participating businesses based on a percentage of the individual income tax withholdings of new positions created by the business. Participation in the program requires the creation of a minimum of 10 jobs in a development tier one area or 20 jobs in a development tier two or three area. For jobs that are located in development tiers two or three, the amount of the grant is automatically reduced.

This Part would treat businesses that are involved in the furniture, textile, or apparel manufacturing industries as if they were located in a development tier one area regardless of the actual tier designation of the location.

The General Assembly has provided for a sales and use tax refund for sales of machinery and equipment that are subject to the general rate of tax and that are put in to service in a development tier one area. Because mill machinery and equipment is generally exempt from the sales and use tax (and subject to a lower excise tax instead), it is a limited category of machinery and equipment to which this refund applies.

This Part would extend this refund to similar equipment used in a furniture, textile, or apparel manufacturing facility regardless of the actual tier designation of the particular location.

The changes to Article 3J would be effective for taxable years beginning on or after January 1, 2007. The sales and use tax changes would be effective for sales made on or after July 1, 2007. The JDIG changes would be effective when they became law.

Part II. Property Tax Exclusion

Under North Carolina law, real and personal property are subject to a property tax. Property taxes are imposed and administered by counties and cities based on general State laws adopted by the General Assembly and approved by the Governor. State law provides for numerous exclusions and exemptions from the property tax. The North Carolina Constitution prohibits legislation that would allow local governments to exclude or exempt property from the property tax[1].

[1] Article V, Section 2 of the North Carolina Constitution provides:
"Classification. Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government."

Part II of the bill would provide for an exclusion from the property tax for real and personal property that is located at an establishment whose primary activity is in one of the following industry subsectors: apparel manufacturing, furniture and related product manufacturing, textile mills, and textile product mills.

The Part relies on the concepts of 'establishment' and 'NAICS' as used in Article 3J of Chapter 105 of the General Statutes[2]. Under Article 3J, an 'establishment' is generally a discrete physical location at which business operations are conducted. 'NAICS' is the acronym for the North American Industry Classification System. NAICS is a joint effort of the Office of Management and Budget and its counterparts in Canada and Mexico. The system is designed to classify all business operation based on the primary activity that occurs at the establishment. NAICS classifications have been used in North Carolina's economic development tax incentives since 1996.

This Part would be effective for taxes imposed for taxable years beginning on or after July 1, 2008.

Part III. Low-Profit Limited Liability Companies

A limited liability company is a business entity that is essentially a hybrid of a partnership and a corporation. Like a corporation, an LLC limits the liability of its owners. Like a partnership, an LLC is usually not subject to entity-level taxation. Limited liability companies have been specifically authorized under North Carolina law since 1993.

Part III of the bill would clarify that a low-profit limited liability company is a limited liability company under North Carolina.

Low-profit limited liability companies (L^3Cs) have been proposed as a means for encouraging investment in struggling business enterprises. Under this theory, non-profit organizations that are required to spend a certain percentage of their assets each year to maintain their non-profit status would invest in L^3Cs that have some social purpose. If structured correctly, it is possible that the IRS could treat this investment as a program-related investment that would count towards the percentage that must be spent in order to maintain non-profit status. Because non-profits do not face the same pressures as for-profit investors, the theory states that non-profits would be willing to accept a lower rate of return than would be required for a for-profit investor. Struggling businesses might then be able to stay in business, providing jobs to employees and other community benefits, because the pressure to produce market-rate profit levels had been removed.

One of the benefits of L^3Cs is that no special legal structure, other than the LLC structure, is needed to establish an L^3C.

This Part would be effective when it became law.

Part IV. North Carolina Furniture Fund and Council

Part IV of the bill establishes the North Carolina Furniture Council and the North Carolina Furniture Fund in the Department of Commerce and appropriates a total of $5,000,000 from the General Fund to the Fund for the 2007-2009 biennium. The Fund is a special, interest-bearing, and nonreverting fund. The State funds appropriated to the Fund shall be used for grants to support and promote the furniture industry in the State and create jobs for the citizens of the State. The Fund will be administered by the North Carolina Furniture Council.

The North Carolina Furniture Council consists of 13 members, with appointments by the Governor and the General Assembly. The membership of the Council shall consist of manufacturing industry

[2] Article 3J replaces the Bill Lee Act for most taxpayers beginning with the 2007 tax year.

representatives, upholstery industry representatives, and one furniture retailer. The Secretary of the Department of Commerce, the President of the Community College System, and the Chancellor of North Carolina State University shall serve as members of the Council by virtue of their offices.

The primary responsibility of the North Carolina Furniture Council is to promote the furniture industry in the State. To promote the furniture industry, the Council shall assure the growth and development of the furniture industry and improve the furniture industry through the development of new markets and technologies. The Council shall also establish the criteria for recipients of grants and shall award grants from the Fund.

This Part becomes effective July 1, 2007.

Part V. Furniture Technology Center

Part V of the bill appropriates a total of $2,000,000 from the General Fund for the 2007-2009 fiscal biennium to the Community Colleges System Office to establish the Furniture Technology Center. The community colleges located in the parts of the State that have suffered job losses in the furniture industry in the past five years, including Catawba Valley Community College, Western Piedmont Community College, Caldwell Community College and Technical Institute, and Lenoir-Rhyne College, shall work together in a collaborative effort to train workers for, and develop new technologies in, the textile and furniture industries. The Furniture Technology Center shall be merged administratively with the Hosiery Technology Center at Catawba Valley Community College.

This Part becomes effective July 1, 2007.

Part VI. Additional Penalty for Misappropriation of Trade Secrets

Article 24 of Chapter 66 of the General Statutes is the Trade Secrets Protection Act and provides an owner of a trade secret a remedy by civil action for misappropriation of that trade secret. G.S. 66-154 sets forth the remedies for the misappropriation of a trade secret and allows for injunctive relief and punitive damages in addition to actual damages if the misappropriation is willful and malicious.

Part VI of the bill amends G.S. 66-154 to establish a criminal penalty for the willful and malicious misappropriation of a trade secret, which would be in addition to any civil remedy. The criminal penalty is a Class 1 misdemeanor.

This Part becomes effective December 1, 2007, and applies to acts committed on or after that date.

Part VII. Building Code – Industrial Machinery

Part VII of the bill amends G.S. 143-138, the State Building Code, to state that the State Building Code shall not govern the regulation of the design, construction, location, installation, or operation of industrial machinery. The term "industrial machinery" is defined as equipment and machinery used in a system of operations for the explicit purpose of producing a product.

The State Building Code would continue to regulate equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

This Part is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 91*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S91-ARB-76 [v.2]

Date _____,2007

Comm. Sub. [NO]
Amends Title [YES]
First Edition

Senator _____

moves to amend the bill on page 1, lines 9 through 13, by rewriting the lines to read: "FURNITURE COUNCIL TO ADMINISTER THE FUND.";

And on page 7, lines 29 – 44, by deleting those lines;

And on page 7, lines 29 – 32, by deleting those lines;

And on page 8, line 10 through page 10, line 12, by deleting those lines;

And by renumbering the remaining sections and parts accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1442
PROPOSED COMMITTEE SUBSTITUTE S1442-CSMC-57 [v.2]

7/30/2007 3:04:22 PM

Short Title: Senior Circuit Breaker Tax Benefit. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this section:

...

(3a) Property tax relief. – The property tax homestead exclusion provided in this section or the property tax homestead circuit breaker provided in G.S. 105-277.1B.

...."

SECTION 2. G.S. 105-277.1 is amended by adding a new subsection to read:

"**§ 105-277.1. Property tax homestead exclusion.**

...

(e) Election. – An owner who qualifies for both kinds of property tax relief may elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the property tax homestead circuit breaker in order for the property tax homestead circuit breaker to be allowed instead of the property tax homestead exclusion."

SECTION 3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.1B. Property tax homestead circuit breaker.**

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section.

(b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(c) Income Eligibility Limit. – The income eligibility limit provided in G.S. 105-277.1(a2) applies to this section.

(d) Qualifying Owner. – For the purpose of qualifying for the property tax homestead circuit breaker under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) The owner has an income for the preceding calendar year of not more than one hundred fifty percent (150%) of the income eligibility limit specified in subsection (c) of this section.

(2) The owner has occupied the property as a permanent residence for at least five years.

(3) The owners is at least 65 years of age or totally and permanently disabled.

(4) The owner is a North Carolina resident.

(e) Multiple Owners. – When a permanent residence is owned and occupied by two or more persons other than husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners qualify and elect to defer taxes under this section.

(f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his or her permanent residence if it exceeds a percentage of the qualifying owner's income as provided in this section.

Income	Percentage
Less than the income eligibility limit	4.0%
100% to 150% of the income eligibility limit	5.0%

(g) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this circuit breaker because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(h) Deferred Taxes. – The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes for the three fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. On or before September 1 of each year, the assessor shall notify each residence owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

(i) Disqualifying Events. – Taxes deferred under this section are payable within nine months after a disqualifying event. The tax for the fiscal year that opens in a calendar year in which deferred taxes become due is computed as if the property was not eligible for property tax relief under this section. Each of the following constitutes a disqualifying event:

(1) The owner transfers the residence. Transfer of the residence under this subdivision is not a disqualifying event if (i) the owner transfers the residence as part of a divorce proceeding to either his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, (ii) that individual occupies or continues to occupy the property as his or her permanent residence and (iii) that individual elects to continue deferring payment of the tax.

(2) The owner dies. Death of the owner under this subdivision is not a disqualifying event if (i) the owner's share passes to either his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, (ii) that individual occupies or continues to occupy the property has his or her permanent residence and (iii) that individual elects to continue deferring payment of the tax.

(3) The owner ceases to use the property as a permanent residence.

(j) Interruption of Qualification. – If the owner of a tax-deferred residence does not qualify under this section for deferral as of January 1 preceding a taxable year for reasons other than a disqualifying event or if the owner of a tax-deferred residence revokes an application for deferral by notifying the assessor in writing, the owner may not defer any additional property taxes under this section without submitting a new application. Deferred taxes from earlier years do not become due because of an interruption of qualification; however, deferred taxes existing at the time of an interruption of qualification shall be carried forward until the occurrence of a disqualifying event. If owner qualifies for tax deferral under this section following an interruption of qualification, the taxing unit or units shall disregard the years during which there was an interruption of qualification for purposes of determining the three fiscal years preceding the current tax year under subsection (g) of this section.

(k) Prepayment. – All or part of the deferred taxes and accrued interest may be paid to the tax collector at any time. Any partial payment is applied first to accrued interest. A residence owner to whom a tax deferral has previously been granted may revoke the application for deferral at any time by notifying the assessor in writing.

(l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

(m) Construction. – This section does not affect the attachment of a lien for personal property taxes against a tax-deferred residence.

(n) Application. – An application for property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1."

SECTION 4. G.S. 150-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible ~~to be exempted or excluded from taxation~~for a property tax benefit must file an application for ~~exemption or exclusion~~the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the ~~exemption or exclusion:~~benefit.

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

e. Special classes of property eligible for tax relief under G.S. 105-277.1B."

SECTION 5. G.S. 105-309(f) reads as rewritten:

"(f) The ~~notice set out below must appear~~assessor must print a homestead tax relief notice on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayer of his or her rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1 and the property tax homestead circuit breaker provided in G.S. 105-277.1B.

~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS.~~

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older~~

~~or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

~~If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.~~

~~If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1."~~"

SECTION 6. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

SENATE BILL 1442:
Senior Circuit Breaker Tax Benefit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Sen. Snow	**Summary by:**	Dan Ettefagh
Version:	PCS to First Edition S1442-CSMC		Committee Counsel

SUMMARY: The PCS for Senate Bill 1442 would create a senior property tax homestead deferral system based on certain qualifications and income requirements of owners of permanent residences located in North Carolina.

CURRENT LAW: Under current law, the only homestead property tax benefit is found in G.S. 105-277.1, the property tax homestead exclusion. Under the homestead exclusion, North Carolina residents who are at least 65 years of age or totally and permanently disabled and who meet the income eligibility limit[1] may exclude from taxation the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the permanent residence.

BILL ANALYSIS: Senate Bill 1442 proposes a property tax deferral benefit for North Carolina residents who have owned and occupied property located in the State as a permanent residence for at least five years and are either 65 years of age or older or totally and permanently disabled. The amount of taxes deferred would be based upon the income eligibility limit of the property tax homestead exclusion. Under this system, an owner who met the requirements of the circuit breaker benefit and made less than the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds four percent (4%) of the owner's income. An owner who met the requirements of the circuit breaker benefit and made between the income eligibility limit and one and one-half times the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds five percent (5%) of the owner's income.

Taxes deferred via the circuit breaker benefit would accrue interest and become a lien on the real property of the taxpayer. The general rule is that these deferred taxes would be carried forward until the death of the owner or until the owner transfers the property, at which time the amount of taxes for that year with no circuit breaker benefit plus those taxes deferred for the preceding three fiscal years, together with interest would become due and must be paid within nine months after the date of death or transfer. An exception to this rule exists, allowing the deferral to continue where the residence is transferred to the former owner's spouse, if the spouse qualifies for the circuit breaker benefit, occupies the property has a permanent residence, and elects to continue deferral.

If the owner ceases to use the residence as a permanent residence for a reason other than a temporary absence for reasons of health or an extended absence while confined to a rest home or nursing home while the residence remains either unoccupied or occupied by the owner's spouse or other dependent, the owner loses the benefit of the circuit breaker, and the deferred taxes become due and payable at the same time the tax levied on the residence in that year is due. If the owner fails to qualify for the circuit

[1] The income eligibility limit until July 1, 2003 was $18,000. For taxable years beginning on or after July 1, 2003, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to Social Security benefits, rounded to the nearest $100. In 2006, the income eligibility limit was $19,700.

breaker benefit for a taxable year but continues using the property as a permanent residence, no deferral is allowed for that year but deferred taxes from earlier years do not become due.

Other provisions in the bill include:

- The assessor must annually notify each owner electing this tax benefit of the accumulated sum of deferred taxes and interest.
- Prepayment of all or part of taxes deferred to the tax collector is allowed at any time, with partial payments applied first to accrued interest.
- A qualifying owner may revoke a tax deferral application at any time by written notification to the assessor.
- Mortgagees or trustees electing to pay taxes deferred by a qualifying owner do not acquire a right to foreclose as a result.
- Provisions in mortgages, deeds of trust, or other agreements prohibiting a qualifying owner from electing the circuit breaker benefit are void.
- Where property is owned by two or more persons other than husband and wife, all owners must qualify and elect the circuit breaker benefit for it to be available to any of the qualifying owners.
- The tax benefit under this section may not be combined with the property tax homestead exclusion. Owners qualifying for both types of property tax benefit must elect which to utilize.

EFFECTIVE DATE: This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

S1442e1-SMMC-CSMC

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 29, 2007

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: PSC to SB 1442

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
		No General Fund Impact			
Local Governments		***See Assumptions and Methodology***			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Local Governments, NC Department of Revenue

EFFECTIVE DATE: Effective for taxes imposed for taxable years beginning on or after July 1, 2008.

BILL SUMMARY:
Senate Bill 1442 proposes a property tax deferral benefit for North Carolina residents who have owned and occupied property located in the State as a permanent residence for at least five years and are either 65 years of age or older or totally and permanently disabled. The amount of taxes deferred would be based upon the income eligibility limit of the property tax homestead exclusion. Under this system, an owner who met the requirements of the circuit breaker benefit and made less than the income eligibility limit could elect to defer the portion of taxes imposed on the permanent

residence that exceeds four percent (4%) of the owner's income. An owner who met the requirements of the circuit breaker benefit and made between the income eligibility limit and one and one-half times the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds five percent (5%) of the owner's income.

ASSUMPTIONS AND METHODOLOGY:
A simulation model was developed to determine the estimated tax liability of homeowners in the qualifying income categories compared to their calculated income thresholds. The amount of tax liability in excess of the threshold is the potential deferred amount.

For purposes of this analysis, the Homestead income limit is assumed to be $25,000. Therefore, a homeowner with income up to $25,000 would be subject to the 4% income threshold. Homeowners earning between $25,000 and $37,500 (150% of $25,000) would be subject to the 5% threshold.

For example, if a taxpayer's home is valued at $150,000 and the tax rate is $1 per $100 in assessed value, the total tax due is $1,500. If the taxpayer earns $25,000 in income, he may defer any taxes in excess of 4%, or $1,000. Therefore, the taxpayer would be able to defer $500 in this example.

Because the bill includes a rollback provision in the event the homeowner sells the property or otherwise becomes ineligible for the program, the total impact of the bill is determined by subtracting the rollback payments from the amount of deferred taxes in any given year. The rollback provides for payment of current taxes due plus the previous three years. Finally, a participation rate is applied to reflect the estimated percentage of eligible homeowners who will participate in the program.

To determine the potential impact of the deferral, a distribution table was obtained from the American Community Survey of the US Census Bureau. The table provides a distribution of home values by income groups. [NOTE: the distribution reflects the relationship of home values and incomes for all age groups. It is not known to what degree the relationship between income and home value would differ for senior citizens.]

For each income group, the income threshold is calculated by multiplying the income by 4% for incomes below $25,000 and by 5% for incomes between $25,000 and $37,500. Within each income group, the distribution table provides the number of homeowners in various home value ranges. For each group, the property tax owed can be calculated and compared to the income threshold.

The amount of tax liability in excess of the income threshold for each home value category is the amount eligible for deferment for each homeowner in the category. This amount is multiplied by the number of homeowners in the category to determine to total amount of deferred taxes. This process is repeated for each home value category in all eligible income groups. For future year projections, the income values are assumed to grow by 5% per year and home values are projected to grow 5% per year. Population is assumed to grow 2% per year.

The bill also limits the program to homeowners who have been in their homes for 5 or more years. The percentage of homeowners in this category is estimated to be 65 percent based on Census data. The rollback amount is calculated based on the assumption that homeowners sell their homes on average every 7 years. Thus, each year of the estimate assumes that 1/7 of the participating homeowners will drop out of the program and pay the appropriate rollback of the current year taxes plus deferred taxes from the previous three years with interest.

Although many other states offer circuit breaker programs, few are structured as deferrals. As a result, it is difficult based on other states' experience to draw conclusions about what level of participation could be expected with this program in North Carolina. The reason cited by other states for the low participation rates is that homeowners are reluctant to have a lien placed on their homes and in many cases elderly homeowners are reluctant to leave their heirs with a large tax payment.

To estimate a potential participation rate, FRD estimated the total number of years a homeowner would need to reside in the residence in order for the program to be financially beneficial. To qualify for the program, a homeowner must have lived in the home for 5 or more years. Because the rollback period is the equivalent of the current year taxes plus three years of deferred taxes, the homeowner would benefit after 5 years of being in the program. In other words, after five years in the program, the homeowner could continue to participate in the program with no additional years of deferred liability.

Thus, including the five-year period required to qualify for the program, a homeowner would need to live in a home for 10 years in order to benefit from participation. According to Census data, the percentage of homeowners who have lived in their homes for 10 or more years is 45%. Approximately 60% of these eligible homeowners would also be eligible for the homestead exemption either program. Because of the hesitancy homeowners have shown in having liens placed on their homes for deferral programs, this estimate assumes that 90% of the homeowners eligible for both programs would choose the homestead exemption. The table below indicates the impact based on these assumptions.

Estimated Impact of SB 1442 ($millions)					
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Local Governments	$0	($7.4)	($6.3)	($5.5)	($4.1)

SOURCES OF DATA: US Census Bureau

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1499

Committee Substitute Favorable 5/2/07

Committee Substitute #2 Favorable 6/19/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1499-CSMC-58 [v.3]

7/30/2007 3:39:31 PM

Short Title: Property Tax And PUV Changes And Studies. (Public)

Sponsors:

Referred to:

April 17, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE BENEFIT OF THE PROPERTY TAX HOMESTEAD EXCLUSION BY RAISING BOTH THE INCOME ELIGIBILITY LIMIT AND THE AMOUNT EXCLUDED FROM TAXATION; TO AUTHORIZE THE REVENUE LAWS STUDY COMMITTEE TO STUDY WHETHER AND HOW TO INDEX THE MINIMUM AMOUNT THAT IS EXCLUDED FROM TAX; TO CREATE A SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT; TO MODIFY THE PRESENT-USE VALUE REQUIREMENTS FOR AGRICULTURAL LAND USED AS AN AQUATIC SPECIES FARM; AND TO AUTHORIZE THE REVENUE LAWS STUDY COMMITTEE TO STUDY VARIOUS MODIFICATIONS AND EXPANSIONS TO THE PRESENT-USE VALUE SYSTEM.

The General Assembly of North Carolina enacts:

PART I. PROPERTY TAX HOMESTEAD EXCLUSION MODIFICATION

SECTION 1.1. G.S. 105-277.1 reads as rewritten:

"**§ 105-277.1. Property tax homestead exclusion.**

(a) Exclusion. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of ~~twenty thousand dollars ($20,000)~~twenty-five thousand or fifty percent (50%) of the appraised value of the residence. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is at least 65 years of age or totally and permanently disabled.

(2) Has an income for the preceding calendar year of not more than the income eligibility limit.
(3) Is a North Carolina resident.

(a1) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(a2) Income Eligibility Limit. – Until July 1, ~~2003,~~2008, the income eligibility limit is ~~eighteen thousand dollars ($18,000).~~twenty-five thousand dollars ($25,000). For taxable years beginning on or after July 1, ~~2003,~~2008, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year.

(b) Definitions. – The following definitions apply in this section:
(1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.
(1a) Income. – ~~Adjusted gross income, as defined in section 62 of the Code, plus all other~~All moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.
(1b) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. A manufactured home jointly owned by husband and wife is considered property held by the entirety.
(2) Repealed by Session Laws 1993, c. 360, s. 1.
(2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.
(3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home.
(4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

(c) Application. – An application for the exclusion provided by this section should be filed during the regular listing period, but may be filed and must be accepted

at any time up to and through June 1 preceding the tax year for which the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each owner must apply separately for his or her proportionate share of the exclusion.

(1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.

(2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. The proof must be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, the applicant is not required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation.

(d) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may the total exclusion allowed for a permanent residence exceed the exclusion amount provided in this section."

SECTION 1.2. The Revenue Laws Study Committee may study the issue of whether to index the minimum excluded appraised value limit in the property tax homestead exclusion in G.S. 105-277.1 and, if so, which index to use.

SECTION 1.3. Section 1.1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of this section is effective when it becomes law.

PART II. SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT

SECTION 2.1. G.S. 105-277.1(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this section:

...

(3a) Property tax relief. – The property tax homestead exclusion provided in this section or the property tax homestead circuit breaker provided in G.S. 105-277.1B.

...."

SECTION 2.2. G.S. 105-277.1 is amended by adding a new subsection to read:

"**§ 105-277.1. Property tax homestead exclusion.**

...

(e) Election. – An owner who qualifies for both kinds of property tax relief may elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the property tax homestead circuit breaker in order for the property tax homestead circuit breaker to be allowed instead of the property tax homestead exclusion."

SECTION 2.3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.1B. Property tax homestead circuit breaker.**

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section.

(b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(c) Income Eligibility Limit. – The income eligibility limit provided in G.S. 105-277.1(a2) applies to this section.

(d) Qualifying Owner. – For the purpose of qualifying for the property tax homestead circuit breaker under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) The owner has an income for the preceding calendar year of not more than one hundred fifty percent (150%) of the income eligibility limit specified in subsection (c) of this section.

(2) The owner has occupied the property as a permanent residence for at least five years.

(3) The owners is at least 65 years of age or totally and permanently disabled.

(4) The owner is a North Carolina resident.

(e) Multiple Owners. – When a permanent residence is owned and occupied by two or more persons other than husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners qualify and elect to defer taxes under this section.

(f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his or her permanent residence if it exceeds a percentage of the qualifying owner's income as provided in this section.

Income	Percentage
Less than the income eligibility limit	4.0%
100% to 150% of the income eligibility limit	5.0%

(g) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this circuit breaker because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(h) Deferred Taxes. – The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes for the three fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. On or before September 1 of each year, the assessor shall notify each residence owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

(i) Disqualifying Events. – Taxes deferred under this section are payable within nine months after a disqualifying event. The tax for the fiscal year that opens in a calendar year in which deferred taxes become due is computed as if the property was not eligible for property tax relief under this section. Each of the following constitutes a disqualifying event:

(1) The owner transfers the residence. Transfer of the residence under this subdivision is not a disqualifying event if (i) the owner transfers the residence as part of a divorce proceeding to either his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, (ii) that individual occupies or continues to occupy the property as his or her permanent residence and (iii) that individual elects to continue deferring payment of the tax.

(2) The owner dies. Death of the owner under this subdivision is not a disqualifying event if (i) the owner's share passes to either his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, (ii) that individual occupies or continues to occupy the property has his or her permanent residence and (iii) that individual elects to continue deferring payment of the tax.

(3) The owner ceases to use the property as a permanent residence.

(j) Interruption of Qualification. – If the owner of a tax-deferred residence does not qualify under this section for deferral as of January 1 preceding a taxable year for reasons other than a disqualifying event or if the owner of a tax-deferred residence revokes an application for deferral by notifying the assessor in writing, the owner may not defer any additional property taxes under this section without submitting a new application. Deferred taxes from earlier years do not become due because of an interruption of qualification; however, deferred taxes existing at the time of an interruption of qualification shall be carried forward until the occurrence of a disqualifying event. If owner qualifies for tax deferral under this section following an interruption of qualification, the taxing unit or units shall disregard the years during

which there was an interruption of qualification for purposes of determining the three fiscal years preceding the current tax year under subsection (g) of this section.

(k) Prepayment. – All or part of the deferred taxes and accrued interest may be paid to the tax collector at any time. Any partial payment is applied first to accrued interest. A residence owner to whom a tax deferral has previously been granted may revoke the application for deferral at any time by notifying the assessor in writing.

(l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

(m) Construction. – This section does not affect the attachment of a lien for personal property taxes against a tax-deferred residence.

(n) Application. – An application for property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1."

SECTION 2.4. G.S. 150-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible ~~to be exempted or excluded from taxation~~for a property tax benefit must file an application for ~~exemption or exclusion~~the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the ~~exemption or exclusion:~~benefit.

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

e. Special classes of property eligible for tax relief under G.S. 105-277.1B."

SECTION 2.5. G.S. 105-309(f) reads as rewritten:

"(f) The ~~notice set out below must appear~~assessor must print a homestead tax relief notice on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayer of his or her rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1 and the property tax homestead circuit breaker provided in G.S. 105-277.1B.

~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS.~~

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

~~If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.~~

~~If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1.~~""

SECTION 2.6. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

PART III. AQUATIC SPECIES FARM MODIFICATIONS TO PUV

SECTION 3.1. G.S. 105-277.3(a)(1) reads as rewritten:

"(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which ~~consists~~ satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all

other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual ~~production and that,~~production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars ($1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004. ~~Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.~~"

SECTION 3.2. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

PART IV. TAX RELIEF STUDY FOR NON-DEVELOPMENTAL PROPERTY

SECTION 4.1. The General Assembly finds that increases to property tax values in this State resulting from real estate development often make it difficult for owners who do not want to develop their property to continue to use their property for farming or other non-developmental purposes. The Revenue Laws Study Committee may study ways to address the inability of landowners to pay escalating property taxes while maintaining non-developmental uses. The study may include a review of the following:

(1) Implementing tax benefits for donating perpetual easements on property to ensure continuation of non-developmental uses.

(2) Extending present-use value benefits to property that is used for wildlife conservation.

(3) Other ways to reduce property taxes to preserve property used for farmland and other non-developmental uses.

SECTION 4.2. The Revenue Laws Study Committee may report its findings on the issues in this act, including any recommendations or legislative proposals, to the 2008 Regular Session of the General Assembly.

SECTION 4.3. This section is effective when it becomes law.

HOUSE BILL 1499:
Property Tax And PUV Changes And Studies

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Reps. Martin, Holliman, R. Warren, Braxton	**Summary by:**	Dan Ettefagh
Version:	PCS to Third Edition		Martha Walston
	H1499-CSMC		Committee Counsel

PART I: PROPERTY TAX HOMESTEAD EXCLUSION MODIFICATION AND STUDY

SUMMARY: ***Part I of HB 1499 amends the property tax homestead exclusion by increasing the income eligibility limit to $25,000, by amending the definition but not the application of the definition for "income", and by increasing the property tax exclusion for a qualifying homestead from the greater of $20,000 or 50% of its appraised value to the greater of $25,000 or 50% of its appraised value. Part I also authorizes a study as to whether and how to index the appraised value exemption for the homestead exclusion.***

CURRENT LAW: Under current law, the property tax homestead exclusion in G.S. 105-277.1 grants an exclusion from property tax on the residence of North Carolina residents who (i) are at least 65 years of age or totally and permanently disabled AND (ii) have an income not exceeding the income eligibility limit. Until July 1, 2003, the income eligibility limit was $18,000. For taxable years beginning on or after July 1, 2003, the income eligibility limit of $18,000 has been adjusted each year by a cost-of-living adjustment (COLA) percentage used to increase Social Security benefits for the preceding calendar year. In 2007, the income eligibility limit is $20,500.

The income used to determine the income eligibility limit is a homeowner's adjusted gross income, as defined in the Internal Revenue Code[1], plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses is included, whether or not the property is in both names.

The amount excluded from property tax is the greater of $20,000 or 50% of the tax value of the home.[2] To apply for the exclusion, the taxpayer must file an application with the tax assessor by June 1 following the listing period. Once a taxpayer has qualified for the exclusion, it is not necessary to reapply each year.

BILL ANALYSIS: Part I of HB 1499 increases the income eligibility limit to $25,000, and indexes this amount for taxable years beginning on or after July 1, 2008. The definition of "income" used to determine income eligibility limit is clarified so that it includes all moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. Finally, HB 1499 increases the amount excluded from taxation from the greater of $20,000 or 50% of the tax value

[1] Adjusted gross income in section 62 of the Code is a taxpayer's gross income (all income received from any source other than tax-free income) minus number of deductions such as capital losses, business expenses, net operating losses, and IRA contributions.

[2] A residence owned by husband and wife as tenants by the entirety is entitled to the full exclusion notwithstanding that only one spouse meets the age or disability requirements. If a residence is owned by two or more persons other than husband and wife, each owner who meets the eligibility requirements is entitled to the full exclusion not to exceed the owner's proportionate share of the valuation of the residence.

of the home to the greater or $25,000 or 50% of the tax value of the home. The Revenue Laws Study Committee is directed to study whether to index the excluded tax value and, if so, which index to use.

EFFECTIVE DATE: Section 1.1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of section 1 is effective when it becomes law.

PART II: SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT

SUMMARY: Part II of HB 1499 would create a senior property tax homestead deferral system based on certain qualifications and income requirements of owners of permanent residences located in North Carolina.

CURRENT LAW: See current law section for Part I for a review of the current homestead exclusion.

BILL ANALYSIS: Senate Bill 1442 proposes a property tax deferral benefit for North Carolina residents who have owned and occupied property located in the State as a permanent residence for at least five years and are either 65 years of age or older or totally and permanently disabled. The amount of taxes deferred would be based upon the income eligibility limit of the property tax homestead exclusion. Under this system, an owner who met the requirements of the circuit breaker benefit and made less than the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds four percent (4%) of the owner's income. An owner who met the requirements of the circuit breaker benefit and made between the income eligibility limit and one and one-half times the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds five percent (5%) of the owner's income.

Taxes deferred via the circuit breaker benefit would accrue interest and become a lien on the real property of the taxpayer. The general rule is that these deferred taxes would be carried forward until the death of the owner or until the owner transfers the property, at which time the amount of taxes for that year with no circuit breaker benefit plus those taxes deferred for the preceding three fiscal years, together with interest would become due and must be paid within nine months after the date of death or transfer. An exception to this rule exists, allowing the deferral to continue where the residence is transferred to the former owner's spouse, if the spouse qualifies for the circuit breaker benefit, occupies the property has a permanent residence, and elects to continue deferral.

If the owner ceases to use the residence as a permanent residence for a reason other than a temporary absence for reasons of health or an extended absence while confined to a rest home or nursing home while the residence remains either unoccupied or occupied by the owner's spouse or other dependent, the owner loses the benefit of the circuit breaker, and the deferred taxes become due and payable at the same time the tax levied on the residence in that year is due. If the owner fails to qualify for the circuit breaker benefit for a taxable year but continues using the property as a permanent residence, no deferral is allowed for that year but deferred taxes from earlier years do not become due.

Other provisions in the bill include:

- The assessor must annually notify each owner electing this tax benefit of the accumulated sum of deferred taxes and interest.
- Prepayment of all or part of taxes deferred to the tax collector is allowed at any time, with partial payments applied first to accrued interest.
- A qualifying owner may revoke a tax deferral application at any time by written notification to the assessor.

- Mortgagees or trustees electing to pay taxes deferred by a qualifying owner do not acquire a right to foreclose as a result.
- Provisions in mortgages, deeds of trust, or other agreements prohibiting a qualifying owner from electing the circuit breaker benefit are void.
- Where property is owned by two or more persons other than husband and wife, all owners must qualify and elect the circuit breaker benefit for it to be available to any of the qualifying owners.
- The tax benefit under this section may not be combined with the property tax homestead exclusion. Owners qualifying for both types of property tax benefit must elect which to utilize.

EFFECTIVE DATE: Part II of HB 1499 is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

PART III: AQUATIC SPECIES FARM MODIFICATIONS TO PUV

SUMMARY: Part II of HB 1499 modifies the classification for agricultural land for purposes of present-use value to separate it into two broad categories: agricultural land used for aquatic species farms and all other agricultural land.

CURRENT LAW: Under current law, agricultural land is one of three classifications that qualify for present-use value tax treatment (PUV). Agricultural land is defined as land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals. If land meets the requirements of agricultural land under PUV, taxes are assessed on the land according to its value as used for its agricultural purposes, as opposed to its true value. In order to qualify as agricultural land for PUV, the land must be (i) individually owned, (ii) consist of one or more tracts, one of which consists of at least 10 acres that are in actual production, and (iii) for at least 3 years prior to January 1 for the year in which the landowner is claiming PUV, the land produced an average gross income of at least $1,000.

BILL ANALYSIS: The PCS for Senate Bill 1305 establishes substitute production and acreage requirements for agricultural land used as an aquatic species farm. For aquatic species farm agricultural land only, the tract qualifies for PUV if it meets the existing $1,000 income requirement and either (i) consists of at least five acres in actual production, or (ii) produces 20,000 pounds of aquatic species for commercial sale annually, irrespective of acreage. Aquatic species is defined as any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including but not limited to fish and fishes as defined in G.S. 113-129(7).[3]

EFFECTIVE DATE: Part III of HB 1499 is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

BACKGROUND:

Since 1973, the General Assembly has provided that farmland (agricultural land, horticultural land, and forestland) must be appraised, assessed, and taxed at its present-use value, as opposed to its market value. The present-use value classification has helped preserve farmland by insulating it from the rising property tax values caused by competing market pressure to develop farmland for commercial and residential purposes.

[3] G.S. 113-129(7) defines "fish" and "fishes" as all marine mammals, shellfish, crustaceans, and all other fishes.

Classifications of agricultural use value land: Agricultural land must be actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program and consist of at least one tract with a minimum of 10 acres in actual production. For the preceding three years, the land must have produced an average gross income of at least $1,000.

Ownership requirements

To qualify for use value the property must be owned by one of the following:

- A natural person who (1) lives on the land, (2) has owned the land in their family for at least four years, or (3) was a member or beneficiary of a business entity or trust and received the land from the business entity or trust that qualified for classification at use value in the hands of the entity or trust when it was transferred to the person.
- An eligible business entity or trust that owned the land itself or by one or more of its members or creators for the last four years.

Exceptions to the four-year ownership requirement

- Land may qualify for use value when purchased by a new owner if the land is eligible at the time of transfer for use value classification of the same basis as other use value property owned by the new owner.
- Land may qualify for use value if at the time of transfer to a new owner the land was in the use value program and the new owner accepts liability for the deferred taxes.[4]

PART IV: TAX RELIEF STUDY FOR NON-DEVELOPMENTAL PROPERTY

SUMMARY: The PCS for Senate Bill 1203 authorizes the Revenue Laws Study Committee to study various changes to the present-use value (PUV) system.

BILL ANALYSIS: The PCS for Senate Bill 1203 authorizes the Revenue Laws Study Committee to study (i) methods, including modifying PUV or adopting tax deferral measures, for preserving farmland that owners may be forced to sell as a result of increasing land prices; (ii) measures to reduce taxes for PUV landowners who donate a perpetual easement on the property to ensure its continued current use; and (iii) whether to add a classification under the PUV system for property used for wildlife conservation. The RLSC is directed to report its findings on the issues, including recommendations or proposals, to the 2008 Regular Session of the General Assembly.

EFFECTIVE DATE: Part IV of HB 1499 is effective when it becomes law.

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[4] The four-year ownership requirement continues to apply to land that was eligible for, but not in, the use value program at the time of transfer if the purchaser has no other use value land.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S 2

SENATE BILL 915

Health Care Committee Substitute Adopted 7/26/07

Short Title: Assisted Living Facility Amendments. (Public)

Sponsors:

Referred to:

March 20, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND ORGANIZATIONAL CHANGES TO THE LAW REGARDING THE LICENSURE AND INSPECTION OF FACILITIES FOR AGED AND DISABLED INDIVIDUALS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 131D of the General Statutes is amended by adding the following new Article to read:

"Article 1B.

"Licensing of Maternity Homes."

SECTION 1.(b) G.S. 131D-1 is recodified as G.S. 131D-10.10 under Article 1B of Chapter 131D of the General Statutes.

SECTION 1.(c) The title of Article 1 of Chapter 131D reads as rewritten:

"Article 1.

~~Licensing of Facilities.~~

Adult Care Homes."

SECTION 1.(d) G.S. 131D-2 is repealed.

SECTION 1.(e) Article 1 of Chapter 131D of the General Statutes, as amended by Section 1(c) of this act, is amended by adding the following new Parts to read:

"Part 1. Licensing.

"**§ 131D-2.1. Definitions.**

As used in this Article:

(1) "Abuse." – The willful or grossly negligent infliction of physical pain, injury, or mental anguish, unreasonable confinement, or the willful or grossly negligent deprivation by the administrator or staff of an adult care home of services which are necessary to maintain mental and physical health.

(2) "Administrator." – A person approved by the Department of Health and Human Services who has the responsibility for the total operation of a licensed domiciliary home.

(3) "Adult care home." – An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes.

(4) "Amenities." – Services such as meals, housekeeping, transportation, and grocery shopping that do not involve hands-on personal care.

(5) "Assisted living residence." – Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. Housing programs for two or more unrelated adults that target their services to elderly or disabled persons in which the only services provided by the housing management, either directly or through an agreement or other arrangements, are amenities that include, at a minimum, one meal a day and housekeeping services, are exempt from licensure, but are required to be listed with the Division of Aging and Adult Services, providing information on their location and number of units operated. This type of housing is not considered assisted living. There are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multiunit assisted housing with services. As used in this section, "elderly person" means:

a. Any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services, or

b. Any adult who has a primary diagnosis of Alzheimer's disease or other form of dementia who requires assistance with

activities of daily living, housing, and services provided by a licensed Alzheimer's and dementia care unit.

(6) "Compensatory agent." – A spouse, relative, or other caretaker who lives with a resident and provides care to a resident.

(7) "Department." – The Department of Health and Human Services unless some other meaning is clearly indicated from the context.

(8) "Exploitation." – The illegal or improper use of an aged or disabled resident or the aged or disabled resident's resources for another's profit or advantage.

(9) "Family care home." – An adult care home having two to six residents. The structure of a family care home may be no more than two stories high, and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story.

(10) "Multiunit assisted housing with services." – An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register with the Division of Health Service Regulation and to provide a disclosure statement. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:

a. Emergency response system;
b. Charges for services offered;
c. Limitations of tenancy;
d. Limitations of services;
e. Resident responsibilities;
f. Financial/legal relationship between housing management and home care or hospice agencies;
g. A listing of all home care or hospice agencies and other community services in the area;
h. An appeals process; and

i. Procedures for required initial and annual resident screening and referrals for services.

Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, are exempt from the regulatory requirements for multiunit assisted housing with services programs.

(11) "Neglect." – The failure to provide the services necessary to maintain a resident's physical or mental health.

(12) "Personal care services." – Any hands-on services allowed to be performed by In-Home Aides II or III as outlined in Department rules.

(13) "Registration." – The submission by a multiunit assisted housing with services provider of a disclosure statement containing all the information as outlined in subdivision (10) of this section.

(14) "Resident." – A person living in an assisted living residence for the purpose of obtaining access to housing and services provided or made available by housing management.

(15) "Secretary." – The Secretary of Health and Human Services unless some other meaning is clearly indicated from the context.

"**§ 131D-2.2. Persons not to be cared for in adult care homes and multiunit assisted housing with services; hospice care.**

(a) Adult Care Homes. – Except when a physician certifies that appropriate care can be provided on a temporary basis to meet the resident's needs and prevent unnecessary relocation, adult care homes shall not care for individuals with any of the following conditions or care needs:

(1) Ventilator dependency;

(2) Individuals requiring continuous licensed nursing care;

(3) Individuals whose physician certifies that placement is no longer appropriate;

(4) Individuals whose health needs cannot be met in the specific adult care home as determined by the residence; and

(5) Such other medical and functional care needs as the Medical Care Commission determines cannot be properly met in an adult care home.

(b) Multiunit Assisted Housing With Services. – Except when a physician certifies that appropriate care can be provided on a temporary basis to meet the resident's needs and prevent unnecessary relocation, multiunit assisted housing with services shall not care for individuals with any of the following conditions or care needs:

(1) Ventilator dependency;

(2) Dermal ulcers III and IV, except those stage III ulcers which are determined by an independent physician to be healing;

(3) Intravenous therapy or injections directly into the vein, except for intermittent intravenous therapy managed by a home care or hospice agency licensed in this State;

(4) Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold;

(5) Psychotropic medications without appropriate diagnosis and treatment plans;

(6) Nasogastric tubes;

(7) Gastric tubes except when the individual is capable of independently feeding himself or herself and caring for the tube, or as managed by a home care or hospice agency licensed in this State;

(8) Individuals requiring continuous licensed nursing care;

(9) Individuals whose physician certifies that placement is no longer appropriate;

(10) Unless the individual's independent physician determines otherwise, individuals who require maximum physical assistance as documented by a uniform assessment instrument and who meet Medicaid nursing facility level-of-care criteria as defined in the State Plan for Medical Assistance. Maximum physical assistance means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on a uniform assessment instrument;

(11) Individuals whose health needs cannot be met in the specific multiunit assisted housing with services as determined by the residence; and

(12) Such other medical and functional care needs as the Medical Care Commission determines cannot be properly met in multiunit assisted housing with services.

(c) Hospice Care. – At the request of the resident, hospice care may be provided in an assisted living residence under the same requirements for hospice programs as described in Article 10 of Chapter 131E of the General Statutes.

(d) Obtaining Services. – The resident of an assisted living facility has the right to obtain services at the resident's own expense from providers other than the housing management. This subsection shall not be construed to relieve the resident of the resident's contractual obligation to pay the housing management for any services covered by the contract between the resident and housing management.

"**§ 131D-2.3. Exemptions from licensure.**

(a) The following are excluded from this Article and are not required to be registered or obtain licensure under this Article:

(1) Facilities licensed under Chapter 122C or Chapter 131E of the General Statutes;

(2) Persons subject to rules of the Division of Vocational Rehabilitation Services;

(3) Facilities that care for no more than four persons, all of whom are under the supervision of the United States Veterans Administration;

(4) Facilities that make no charges for housing, amenities, or personal care service, either directly or indirectly; and

(5) Institutions that are maintained or operated by a unit of government and that were established, maintained, or operated by a unit of government and exempt from licensure by the Department on September 30, 1995.

"**§ 131D-2.4. Licensure of adult care homes for aged and disabled individuals; impact of prior violations on licensure; compliance history review; license renewal.**

(a) Licensure. – Except for those facilities exempt under G.S. 131D-2.3, the Department of Health and Human Services shall inspect and license all adult care homes. The Department shall issue a license for a facility not currently licensed as an adult care home for a period of six months. If the licensee demonstrates substantial compliance with Articles 1 and 3 of this Chapter and rules adopted thereunder, the Department shall issue a license for the balance of the calendar year.

(b) Compliance History Review. – Prior to issuing a new license or renewing an existing license, the Department shall conduct a compliance history review of the facility and its principals and affiliates. The Department may refuse to license a facility when the compliance history review shows a pattern of noncompliance with State law by the facility or its principals or affiliates, or otherwise demonstrates disregard for the health, safety, and welfare of residents in current or past facilities. The Department shall require compliance history information and make its determination according to rules adopted by the Medical Care Commission.

(c) Prior Violations. – No new license shall be issued for any adult care home to an applicant for licensure who:

(1) Was the owner, principal, or affiliate of a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 of the General Statutes that had its license revoked until one full year after the date of revocation;

(2) Is the owner, principal, or affiliate of an adult care home that was assessed a penalty for a Type A or Type B violation until the earlier of one year from the date the penalty was assessed or until the home has substantially complied with the correction plan established pursuant to G.S. 131D-34 and substantial compliance has been certified by the Department;

(3) Is the owner, principal, or affiliate of an adult care home that had its license summarily suspended or downgraded to provisional status as a result of Type A or Type B violations until six months from the date of reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable; or

(4) Is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Chapter 122C or Article 1 of Chapter 131D of the General Statutes or had its license summarily suspended or

denied under Article 7 of Chapter 110 of the General Statutes until six months from the date of the reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable.

An applicant for new licensure may appeal a denial of certification of substantial compliance under subdivision (2) of this subsection by filing with the Department a request for review by the Secretary within 10 days of the date of denial of the certification. Within 10 days of receipt of the request for review, the Secretary shall issue to the applicant a written determination that either denies certification of substantial compliance or certifies substantial compliance. The decision of the Secretary is final.

(d) License Renewals. – License renewals shall be valid for one year from the date of renewal unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall not renew a license if outstanding fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may require.

(e) In order for an adult care home to maintain its license, it shall not hinder or interfere with the proper performance of duty of a lawfully appointed community advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

"**§ 131D-2.5. License fees.**

The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of two hundred fifty dollars ($250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50).

"**§ 131D-2.6. Legal action by Department.**

(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management, or operation of an adult care home without a license. Such action shall be instituted in the superior court of the county in which any unlicensed activity has occurred or is occurring.

(b) If any person shall hinder the proper performance of duty of the Secretary or his representative in carrying out this section, the Secretary may institute an action in the superior court of the county in which the hindrance has occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

(c) Actions under this section shall be in accordance with Article 37 of Chapter 1 of the General Statutes and Rule 65 of the Rules of Civil Procedure.

"**§ 131D-2.7. Provisional license; license revocation.**

(a) Provisional License. – Except as otherwise provided in this section, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

(1) The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;

(2) There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

(3) There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.

(b) License Revocation. – The Department may revoke a license whenever:

(1) The Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

b. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

(2) The Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

b. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

"**§ 131D-2.8. Penalties.**

(a) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a Class 3 misdemeanor, and, upon conviction, shall be punishable only by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(b) In addition, the Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation, or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of summary suspension to the licensee.

"**§§ 131D-2.9 and 2.10: Reserved for future codification purposes.**

"Part 2. Other Laws Pertaining to the Inspection and Operation of Adult Care Homes.

"**§ 131D-2.11. Inspections, monitoring, and review by State agency and county departments of social services.**

(a) State Inspection and Monitoring. – The Department shall ensure that adult care homes required to be licensed by this Article are monitored for licensure compliance on a regular basis. All facilities licensed under this Article and adult care units in nursing homes are subject to inspections at all times by the Secretary. The Division of Health Service Regulations shall inspect all adult care homes and adult care units in nursing homes on an annual basis. In addition, the Department shall ensure that adult care homes are inspected every two years to determine compliance with physical plant and life-safety requirements.

(b) Monitoring by County. – The Department shall work with county departments of social services to do the routine monitoring in adult care homes to ensure compliance with State and federal laws, rules, and regulations in accordance with policy and procedures established by the Division of Health Service Regulation and to have the Division of Health Service Regulation oversee this monitoring and perform any required follow-up inspection. The county departments of social services shall document in a written report all on-site visits, including monitoring visits, revisits, and complaint investigations. The county departments of social services shall submit to the Division of Health Service Regulation written reports of each facility visit within 20 working days of the visit.

(c) State Review of County Compliance. – The Division of Health Service Regulation shall conduct and document annual reviews of the county departments of social services' performance. When monitoring is not done timely or there is failure to identify or document noncompliance, the Department may intervene in the particular service in question. Department intervention shall include one or more of the following activities:

(1) Sending staff of the Department to the county departments of social services to provide technical assistance and to monitor the services being provided by the facility.
(2) Advising county personnel as to appropriate policies and procedures.
(3) Establishing a plan of action to correct county performance.

The Secretary may determine that the Department shall assume the county's regulatory responsibility for the county's adult care homes.

"**§ 131D-2.12. Training requirements; county departments of social services.**

(a) The county departments of social services' adult home specialists and their supervisors shall complete:

(1) Eight hours of prebasic training within 60 days of employment;
(2) Thirty-two hours of basic training within six months of employment;
(3) Twenty-four hours of postbasic training within six months of the basic training program;
(4) A minimum of eight hours of complaint investigation training within six months of employment; and
(5) A minimum of 16 hours of statewide training annually by the Division of Health Service Regulation.

(b) The joint training requirements by the Department shall be as provided in G.S. 143B-139.5B.

"**§ 131D-2.13. Departmental duties.**

(a) Enforcement of Room Ventilation and Temperature. – The Department shall monitor regularly the enforcement of rules pertaining to air circulation, ventilation, and room temperature in resident living quarters. These rules shall include the requirement that air conditioning or at least one fan per resident bedroom and living and dining areas be provided when the temperature in the main center corridor exceeds 80 degrees Fahrenheit.

(b) Administrator Directory. – The Department shall keep an up-to-date directory of all persons who are administrators as defined in G.S. 131D-2.1.

(c) Departmental Complaint Hotline. – Adult care homes shall post the Division of Health Service Regulation's complaint hotline number conspicuously in a public place in the facility.

(d) Provider File. – The Department of Health and Human Services shall establish and maintain a provider file to record and monitor compliance histories of facilities, owners, operators, and affiliates of nursing homes and adult care homes.

(e) Report on Use of Restraint. – The Department shall report annually on October 1 to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services the following for the immediately preceding fiscal year:

(1) The level of compliance of each adult care home with applicable State law and rules governing the use of physical restraint and physical hold of residents. The information shall indicate areas of highest and lowest levels of compliance.

(2) The total number of adult care homes that reported deaths under G.S. 131D-34.1, the number of deaths reported by each facility, the number of deaths investigated pursuant to G.S. 131D-34.1, and the number found by the investigation to be related to the adult care home's use of physical restraint or physical hold.

"**§ 131D-2.14. Confidentiality.**

Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under G.S. 131D-2.11:

(1) Department representatives may review any writing or other record concerning the admission, discharge, medication, care, medical condition, or history of any person who is or has been a resident of the facility being inspected, and

(2) Any person involved in giving care or treatment at or through the facility may disclose information to Department representatives unless the resident objects in writing to review of his records or disclosure of such information.

(3) The facility, its employees, and any other person interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department. The Department shall not disclose:

a. Any confidential or privileged information obtained under this section unless the resident or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or

b. The name of anyone who has furnished information concerning a facility without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. All confidential or privileged information obtained under this section and the names of persons providing such information shall be exempt from Chapter 132 of the General Statutes.

(4) Notwithstanding any law to the contrary, Chapter 132 of the General Statutes, the Public Records Law, applies to all records of the State Division of Social Services of the Department of Health and Human Services and of any county department of social services regarding inspections of domiciliary care facilities except for information in the records that is confidential or privileged, including medical records, or that contains the names of residents or complainants.

"**§ 131D-2.15. Resident assessments.**

(a) The Department shall ensure that facilities conduct and complete an assessment of each resident within 72 hours of admitting the resident and annually thereafter. In conducting the assessment, the facility shall use an assessment instrument approved by the Secretary upon the advice of the Director of the Division of Aging and

Adult Services. The Department shall provide ongoing training for facility personnel in the use of the approved assessment instrument.

The facility shall use the assessment to develop appropriate and comprehensive service plans and care plans and to determine the level and type of facility staff that is needed to meet the needs of residents. The assessment shall determine a resident's level of functioning and shall include, but not be limited to, cognitive status and physical functioning in activities of daily living. Activities of daily living are personal functions essential for the health and well-being of the resident. The assessment shall not serve as the basis for medical care. The assessment shall indicate if the resident requires referral to the resident's physician or other appropriate licensed health care professional or community resource.

(b) The Department, as part of its inspection and licensing of adult care homes, shall review assessments and related service plans and care plans for a selected number of residents. In conducting this review, the Department shall determine:

(1) Whether the appropriate assessment instrument was administered and interpreted correctly;

(2) Whether the facility is capable of providing the necessary services;

(3) Whether the service plan or care plan conforms to the results of an appropriately administered and interpreted assessment; and

(4) Whether the service plans or care plans are being implemented fully and in accordance with an appropriately administered and interpreted assessment.

(c) If the Department finds that the facility is not carrying out its assessment responsibilities in accordance with this section, the Department shall notify the facility and require the facility to implement a corrective action plan. The Department shall also notify the resident of the results of its review of the assessment, service plans, and care plans developed for the resident. In addition to administrative penalties, the Secretary may suspend the admission of any new residents to the facility. The suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.

"**§ 131D-2.16. Suspension of admissions.**

(a) In addition to the administrative penalties described in G.S. 131D-2.8, the Secretary may suspend the admission of any new residents to an adult care home where the conditions of the adult care home are detrimental to the health or safety of the residents. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.

(b) In imposing a suspension under this section, the Secretary shall consider the following factors:

(1) The degree of sanctions necessary to ensure compliance with this section and rules adopted hereunder; and

(2) The character and degree of impact of the conditions at the home on the health or safety of its residents.

(c) The Secretary of Health and Human Services shall adopt rules to implement this section.

(d) Any facility wishing to contest a suspension of admissions shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of suspension of admissions to the licensee.

"**§ 131D-2.17. Rules.**

Except as otherwise provided in this Article, the Medical Care Commission shall adopt rules necessary to carry out this Article. The Commission has the authority, in adopting rules, to specify the limitation of nursing services provided by assisted living residences. In developing rules, the Commission shall consider the need to ensure comparable quality of services provided to residents, whether these services are provided directly by a licensed assisted living provider, licensed home care agency, or hospice. In adult care homes, living arrangements where residents require supervision due to cognitive impairments, rules shall be adopted to ensure that supervision is appropriate and adequate to meet the special needs of these residents. Rule-making authority under this section is in addition to that conferred under G.S. 131D-4.3 and G.S. 131D-4.5.

"**§ 131D-2.18. Impact on other laws; severability.**

(a) Nothing in this section shall be construed to supersede any federal or State antitrust, antikickback, or safe harbor laws or regulations.

(b) If any provisions of this section or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

"**§ 131D-2.19. Application of other laws.**

(a) Certification of assisted living administrators shall be as provided under Article 20A of Chapter 90 of the General Statutes.

(b) Compliance with the Health Care Personnel Registry shall be as provided under G.S. 131E-256.

(c) Rules for the operation of the adult care portion of a combination home, as defined in G.S. 131E-101, shall be as provided in G.S. 131E-104."

SECTION 2. G.S. 131D-41 and G.S. 131D-42 are repealed.

SECTION 3. This act becomes effective October 1, 2007. Licenses issued pursuant to G.S. 131D-2 remain effective until the date of annual renewal at which time Part 1 of Article 1 of Chapter 131D of the General Statutes shall apply. In all other respects, beginning October 1, 2007, Part 1 of Article 1 of Chapter 131D shall apply to the operation of facilities currently licensed under G.S. 131D-2.

SENATE BILL 915:
Assisted Living Facility Amendments

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Sen. Nesbitt	**Summary by:**	Dan Ettefagh
Version:	Second Edition		Committee Counsel

SUMMARY: Senate Bill 915 makes technical and organizational changes to the laws regarding licensure and inspection of facilities for aged and disabled individuals.

The following chart tracts the proposed changes:

Comparison			
Provision title	**SB 915**	**Existing NC law**	**Difference**
Definitions	proposed G. 131D-2.1	GS 131D-2	Renumbers defined terms
Persons not to be cared for in adult care homes & multiunit assisted housing with services; hospice care	proposed GS 131D-2.2	GS 131D-2(a1), GS 131D-2(a2), GS 131D-2(a3), & GS 131D-2(c1)	Reorganizes; Section (d) in proposed GS 131D-2.2 - Obtaining services rewritten from original language in GS 131D-2(c1)
Exemptions from licensure	proposed GS 131D-2.3	GS 131D-2(c)	
Licensure of adult care homes for aged & disabled individuals; impact of prior violations on licensure; compliance history review; license renewal.	proposed GS 131D-2.4	GS 131D-2(b)(1), GS 131D-2(b)(6), GS 131D-2(b1),	
License fees	proposed GS 131D-2.5	GS 131D-2(b)(1)	Corrects fee schedule (SL 2005-275)
Legal action by department	proposed GS 131D-2.6	GS 131D-2(i)	
Provisional license; license revocation	proposed GS 131D-2.7	GS 131D-2(b)(1)	
Penalties	proposed GS 131D-2.8	GS 131D-2(b)(2), GS 131D-2(b)(3)	
Inspections, monitoring, and review by State agency and county departments of social services	proposed GS 131D-2.11	GS 131D-2(b)(1a)	
Training requirements; county departments of social services	proposed GS 131D-2.12	GS 131D-2(b)(1a)(d)	Proposed GS 131D-2.12(b) new language that references joint training requirements by the Department in GS 143B-139.5B

Departmental duties	proposed GS 131D-2.13(a), GS 131D - 2.13(b), GS 131D-2.13(c), GS 131D-2.13(d), GS 131D-2.13(e)	GS 131D-2(b)(1a)(e), GS 131D-2(b)(1a)(f), GS 131D-2(j), GS 131D-41, GS 131D-42	
Confidentiality	proposed GS 131D-2.14	GS 131D-2(b)(4)	
Resident assessments	proposed GS 131D-2.15	GS 131D-2(e)	
Suspension of admissions	proposed GS 131D-2.16	GS 131D-2(h)	
Rules	proposed GS 131D-2.17	GS 131D-2(c2)	
Impact on other laws; severability	proposed GS 131D-2.18	GS 131D-2(c3), GS 131D-2(f)	
Application of other laws	proposed GS 131D-2.19	N/A	

This chart was prepared by Susan Barham, Research Division, North Carolina General Assembly.

EFFECTIVE DATE: This act becomes effective October 1, 2007. Licenses issued pursuant to G.S. 131D-2 remain effective until the date of annual renewal at which time Part 1 of Article 1 of Chapter 131D of the General Statutes shall apply. In all other respects, beginning October 1, 2007, Part 1 of Article 1 of Chapter 131D shall apply to the operation of facilities currently licensed under G.S. 131D-2.

S0915e2-SMMC

Shawn Parker, Legislative Analyst, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

S D

SENATE BILL 1309
PROPOSED COMMITTEE SUBSTITUTE S1309-CSLAx-41 [v.3]

7/30/2007 1:01:20 PM

Short Title: Fairness in PT Values/Lien on Mobile Home. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE DISCREPANCY BETWEEN THE PROPERTY TAX VALUE OF PROPERTY AND ITS MARKET VALUE AND TO TREAT MOBILE HOMES THE SAME AS OTHER HOMES WITH RESPECT TO PROPERTY TAX LIENS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-286 reads as rewritten:

"**§ 105-286. Time for general reappraisal of real property.**

(a) ~~Octennial~~ Quadrennial Plan. – Unless the date shall be ~~advanced~~ postponed as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every ~~eighth~~ fourth year thereafter, shall reappraise all real property in accordance with the provisions of G.S. 105-283 and 105-317.

(1) Schedule of Initial Reappraisals. –

Division One – 1972: Avery, Camden, Cherokee, Cleveland, Cumberland, Guilford, Harnett, Haywood, Lee, Montgomery, Northampton, and Robeson.

Division Two – 1973: Caldwell, Carteret, Columbus, Currituck, Davidson, Gaston, Greene, Hyde, Lenoir, Madison, Orange, Pamlico, Pitt, Richmond, Swain, Transylvania, and Washington.

Division Three – 1974: Ashe, Buncombe, Chowan, Franklin, Henderson, Hoke, Jones, Pasquotank, Rowan, and Stokes.

Division Four – 1975: Alleghany, Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New Hanover, Surry, Tyrrell, and Yadkin.

Division Five – 1976: Bertie, Caswell, Forsyth, Iredell, Jackson, Lincoln, Onslow, Person, Perquimans, Rutherford, Union, Vance, Wake, Wilson, and Yancey.

Division Six – 1977: Alamance, Durham, Edgecombe, Gates, Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.

Division Seven – 1978: Alexander, Anson, Beaufort, Clay, Craven, Davie, Duplin, and Granville.

Division Eight – 1979: Burke, Chatham, Graham, Hertford, Johnston, McDowell, Mecklenburg, Moore, Pender, Rockingham, Sampson, Scotland, Watauga, and Wayne.

(2) ~~Advancing Scheduled Octennial Reappraisal. – Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided herein, real property in that county shall thereafter be reappraised every eighth year following the advanced date unless, in accordance with the provisions of this subdivision (a)(2), an earlier date shall be adopted by resolution of the board of county commissioners, in which event a new schedule of octennial reappraisals shall thereby be established for that county.~~Postponing Scheduled Quadrennial Reappraisal. – If, at the time for reappraisal of real property as required by subsection (a), the sales assessment ratio defined in G.S. 105-289(h) exceeds .90 for a county, that county may postpone a reappraisal of real property upon adoption by the board of county commissioners of a resolution until the time for the next subsequent reappraisal of real property as required by subsection (a) for that county. A county passing a resolution under this subsection shall promptly submit a copy to the Department of Revenue.

~~(b) Fourth-Year Horizontal Adjustments. – As of January 1 of the fourth year following a reappraisal of real property conducted under the provisions of subsection (a), above, each county shall review the appraised values of all real property and determine whether changes should be made to bring those values into line with then current true value. If it is determined that the appraised value of all real property or of defined types or categories of real property require such adjustment, the assessor shall revise the values accordingly by horizontal adjustments rather than by actual appraisal of individual properties: That is, by uniform application of percentages of increase or reduction to the appraised values of properties within defined types or categories or within defined geographic areas of the county.~~

(c) Value to Be Assigned Real Property When Not Subject to Appraisal. – In years in which real property within a county is not subject to reappraisal under ~~subsections (a) or (b),~~ subsection (a), above, or under G.S. 105-287, it shall be listed at the value assigned when last appraised under this section or under G.S. 105-287."

SECTION 2. G.S. 105-287 reads as rewritten:

"**§ 105-287. Changing appraised value of real property in years in which general reappraisal ~~or horizontal adjustment~~ is not made.**

(a) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property.

(1) Correct a clerical or mathematical error.

(2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal.

(2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.

(2b) Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.

(2c) Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.

(3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b).

(b) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor may not increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in value caused by:

(1) Normal, physical depreciation of improvements;

(2) Inflation, deflation, or other economic changes affecting the county in general; or

(3) Betterments to the property made by:

a. Repainting buildings or other structures;

b. Terracing or other methods of soil conservation;

c. Landscape gardening;

d. Protecting forests against fire; or

e. Impounding water on marshland for non-commercial purposes to preserve or enhance the natural habitat of wildlife.

(c) An increase or decrease in the appraised value of real property authorized by this section shall be made in accordance with the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~reappraisal. An increase or decrease in appraised value made under this section is effective as of January 1 of the year in which it is made and is not retroactive. This section does not modify or restrict the provisions of G.S. 105-312 concerning the appraisal of discovered property.

(d) Notwithstanding subsection (a), if a tract of land has been subdivided into lots and more than five acres of the tract remain unsold by the owner of the tract, the

assessor may appraise the unsold portion as land acreage rather than as lots. A tract is considered subdivided into lots when the lots are located on streets laid out and open for travel and the lots have been sold or offered for sale as lots since the last appraisal of the property."

SECTION 3. G.S. 105-355 reads as rewritten:

"**§ 105-355. Creation of tax lien; date as of which lien attaches.**

(a) Lien on Real Property. – Regardless of the time at which liability for a tax for a given fiscal year may arise or the exact amount thereof be determined, the lien for taxes levied on a parcel of real property shall attach to the parcel taxed on the date as of which property is to be listed under G.S. 105-285, and the lien for taxes levied on personal property shall attach to all real property of the taxpayer in the taxing unit on the same date. All penalties, interest, and costs allowed by law shall be added to the amount of the lien and shall be regarded as attaching at the same time as the lien for the principal amount of the taxes. For purposes of this subsection (a):

(1) Taxes levied on real property listed in the name of a life tenant under G.S. 105-302 (c)(8) shall be a lien on the fee as well as the life estate.

(2) Taxes levied on improvements on or separate rights in real property owned by one other than the owner of the land, whether or not listed separately from the land under G.S. 105-302 (c)(11), shall be a lien on both the improvements or rights and on the land.

(b) Lien on Mobile Home Listed as Personal Property. – The lien for taxes levied on a mobile home listed as personal property shall attach to the mobile home and to all real property of the taxpayer in the taxing unit on the date as of which property is to be listed under G.S. 105-285.

~~(b)~~(c) Lien on Personal Property. – Taxes levied on real and personal property (including penalties, interest, and costs allowed by law) shall be a lien on personal property from and after levy or attachment and garnishment of the personal property levied upon or attached."

SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The reappraisal schedule in G.S. 105-286, determined without regard to the amendment to that statute made by Section 1 of this act, applies to a county until the county conducts its next general reappraisal. When a county conducts its next general reappraisal, the schedule in G.S. 105-286, as amended by Section 1 of this act, applies to that county.

SENATE BILL 1309:
Fairness in PT Values/Lien of Mobile Home

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Sen. Clodfelter	**Summary by:**	Martha Walston
Version:	PCS to First Edition		Dan Ettafagh
	S1309-CSLA		Committee Counsel

SUMMARY: The proposed committee substitute for Senate Bill 1309 does the following:

- ***Changes the eight-year property tax valuation cycle to a four-year cycle, and authorizes a county to postpone a scheduled four-year reappraisal if the county's sales assessment ratio exceeds .90.***
- ***Creates a tax lien on mobile homes listed as personal property.***

CURRENT LAW:

Timing of Property Tax Revelations

Counties are required to reappraise real property at least every eight years in a staggered system. The property tax statutes provide for horizontal adjustments every fourth year of the cycle, in which the counties review the appraised values of the real property and compare it to the current true value to determine whether an adjustment needs to be made to normalize the appraised value to the current true value. In practice, many counties have chosen to have a shorter reappraisal cycle of four or six years, and horizontal adjustments are infrequently used.

A tax assessor must reappraise specific parcels in a nonrevaluation year in order to correct clerical or mathematical errors in the former reappraisal; correct appraisal errors resulting from misapplication of the county's appraisal manual; or recognize an increase or a decrease in value resulting from some factor other than normal depreciation, economic changes affecting property in general, or certain improvements such as repainting and landscaping.[1]

Tax Lien on Mobile Home treated as Personal Property

For property tax purposes, a mobile home is defined as a manufactured home under G.S. 105-273(13)[2] or a structure designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation and capable of being transported from place to place on wheels attached to its frame Trailers and vehicles required to be registered annually fall outside of the definition of mobile home.

Before moving a mobile home, anyone other than a manufacturer or dealer of mobile homes, must obtain a permit from the county tax collector. When applying for the permit, the applicant must do one of the following: (a) pay all taxes due to be paid by the owner of the mobile home, (b) show proof that no taxes are due, or (c) demonstrate that removal of the mobile home will not jeopardize the collection

[1] Reappraisals made under the authority of G.S. 105-287 must conform to the appraisal manual adopted in the last revaluation year so that they will represent market or present-use value as of January 1 of the revaluation year, rather than current value. Also, these appraisals take effect as of January 1 of the year in which they are made and do not affect previous tax years.

[2] Under G.S. 105-273(13), a manufactured home is real property when it is a residential structure; the moving hitch wheels, and axles have been removed; the home is placed on a permanent foundation; and the home is either situated on land owned by the owner or the manufactured home or on land in which the owner of the home has a 20 year lease that provides for disposition of the home on termination of the lease.

of taxes. The applicant must also provide his name and address, where the mobile home is now, where the mobile home is going, and who is moving it. There is no charge for the permit.

If the holder of a lien is repossessing the mobile home, the lienholder must first pay taxes due on the home and inform the tax collector where the mobile home is going. A lienholder, who is a N.C. resident, must pay the taxes within 7 day of issuance of the permit. Any other lienholder must pay at the time of application for a permit.

It taxes are not paid on the mobile home, the tax collector may go against the taxpayer by garnishing wages, attaching bank accounts, using debt setoff, or levying on the home by taking possession and selling. If the mobile home is considered real property, then the unpaid taxes are a lien on the mobile home. This means that a subsequent purchaser of the home is liable for the unpaid taxes.

Counties have encountered frequent situations where a mobile home has been repossessed and sold on-site or where the mobile home is sold and moved without a permit. Often the tax collectors are not aware of the sales until after they are completed and the former owner has disappeared. Once the mobile home is transferred to a new owner for value, the county's ability to collect taxes due by levy and sale expires. The county tax collector has no recourse against the present owner if the mobile home is listed as personal property.

BILL ANALYSIS:

Senate bill 1309 would eliminate the current octennial plan for general reappraisals of real property and replace it with a quadrennial plan. However, the four-year reappraisal would be postponed if at the time of reappraisal, the ratio of the appraised value of real property to the true value of real property exceeds .90 and the board of county commissioners adopts a resolution to postpone the reappraisal until the next subsequent quadrennial reappraisal. Any resolution adopted by the county to postpone the reappraisal must be promptly submitted to the Department of Revenue. This change would also eliminate the need for horizontal adjustment provisions in the reappraisal system.

Under current law, the Department of Revenue is required to make annual studies of the ratio of the appraised value of real property to its true value or market value and to establish for each county the median ratio as determined by the studies for each calendar year. As the sales assessment ratio increases, the appraised value becomes closer to the true value or market value of the property.

Senate bill 1309 would also provide that a tax lien attaches to a mobile home listed as personal property and to all real property of the taxpayer in the taxing unit on the date the mobile home is listed (January 1). Once the lien has attached, its priority is not affected by transfer of title, by death, or by receivership of the property owner. In other words, the delinquent taxes follow the mobile home, and a subsequent buyer is liable for the unpaid taxes. The North Carolina Association of County Commissioners and the North Carolina Tax Collectors Association support this proposal.

EFFECTIVE DATE: This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The reappraisal schedule in G.S. 105-286, determined without regard to the amendment to that statute made by Section 1 of this act, applies to a county until the county conducts its next general reappraisal. When a county conducts its next general reappraisal, the schedule in G.S. 105-286, as amended by Section 1 of this act, applies to that county.

S1309e1-SMLA-CSLA

SENATE FINANCE COMMITTEE
Tuesday, July 31, 2007 at 1 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met in room 544 of the Legislative Office Building, on Tuesday, July 31, at 1:00 p.m. Twenty-nine members of the committee were present. Senator David Hoyle presided.

H.B. 1688 – Amend Combined MV Registration and PT System.

Representative Folwell was recognized to explain the bill. Since the bill had not yet been referred to the committee, it was taken up for discussion only. A copy of the bill and the summary is attached.

H.B. 109 – Firefighters/Rescue Squad Tax Deduction.

Senator Swindell was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Hartsell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1786 – Regulate Mixed Martial Arts.

Senator Dorsett was recognized to explain the bill. Senator Jenkins moved to adopt the proposed committee substitute for discussion. The motion carried. Thomas Caves, Crime Control and Public Safety, was recognized to speak on the bill. He stated that the Division had no position on regulated sports and that it should be revenue neutral. Bob Kaylor, Carolina Fight Promotions lobbyist, was recognized to speak in favor of the bill. Doug Muhle, Carolina Fight Promotions, was recognized to speak in favor of the bill and answer questions. Senator Soles moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 898 – Expunge Nonviolent Felony/Youthful Offender.

This bill was pulled from the agenda.

The meeting adjourned at 1:32 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected: H1786 - Req. Liability Insurance/Toughman Matches has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	July 31, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 898	Expunge Nonviolent Felony/Youthful Offender.	Representative Bordsen Representative Jones Representative Crawford, Jr. Representative Hall
HB 109	Firefighter/Rescue Squad Tax Deduction.	Representative Underhill Representative Thomas Representative Setzer Representative Wilkins, Jr.
HB 1688	Amend Combined MV Registration and PT System.	Representative Folwell
HB 1786	Req. Liability Insurance/Toughman Matches.	Representative Bordsen Representative Love, Sr.

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Tuesday, July 31, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **109** Firefighter/Rescue Squad Tax Deduction.

Draft Number:	10276
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1786** Req. Liability Insurance/Toughman Matches.

Draft Number:	60406
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

Senate Finance Committee
Tuesday, July 31, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Bills

HB 109	Firefighter/Rescue Squad Tax Deduction.	Representative Underhill Representative Thomas Representative Setzer Representative Wilkins
HB 898	Expunge Nonviolent Felony/Youthful Offender.	Representative Bordsen Representative Jones Representative Crawford Representative Hall
HB 1688	Amend Combined MV Registration and PT System.	Representative Folwell

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 31, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Evan Rogers	Center for Responsible Lending
Sarah Preston	ACLU-NC
David Baker	NC DOR
[illegible]	NCDOR
Doug + Sara Muhle	Carolina Fight Promotions
Jason Culbirth	Carolina Fight Promotions
Bill Rowe	NC Justice Center
Sara Schmidt	Action for Children NC
Paul Pulley	NCATL
Mike Robertson	NCALE
Roger Hutchings	NCALE

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 31, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
	NPAS
Ben Comstock	NCSR
	NCAE
Amy Schilder	MWC
	BCA
	IFNC
	IFNC
	AFPNC
	The Daily Bulletin (JC)

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 31, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Joe McClees	McClees Consulting
Brian Lewis	Covenant with NC's Children

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 31, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ellie Edwards	NC Sheriffs Assn
Leone Winn	NCSBA
David McLeod	NCDACS
Paul Meyer	NCACC
Johanna Reese	DOT
	JOAL, JA
	BCBSNC
Charlie Diehl	NC Trucking Assoc.
Virgil McBride	"
Richard Hemmil	DOT/Bridge
Roz Savitt	NCCCA
	Bond Assoc
DON THORNTON	NCDOC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 31, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Romanet	NCLM
	WCPSS
Betty Turner	BAC
	BPMHL
	ECNC
	NMRS
John McAlister	NC Chamber
	NC. D.O.R.

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 31, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bill Stobbin	KL
Andy Ellen	[illegible]
[illegible]	[illegible]
John McMillan	NFOS
Susanne Stoeb	NCRLA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 1688

Committee Substitute Favorable 7/25/07

Third Edition Engrossed 7/30/07

Short Title: Amend Combined MV Registration and PT System. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO CREATE A LIMITED REGISTRATION PLATE, TO EXEMPT MOTOR VEHICLES REGISTERED UNDER THE INTERNATIONAL REGISTRATION PLAN FROM THE COMBINED REGISTRATION AND PROPERTY TAX SYSTEM, TO PROVIDE THAT INTEREST GENERATED BY FUNDS IN THE COMBINED MOTOR VEHICLE AND REGISTRATION ACCOUNT BE CREDITED TO THE ACCOUNT, TO AUTHORIZE THE OFFICE OF STATE BUDGET AND MANAGEMENT TO DIRECT THE TREASURER TO DISTRIBUTE THE FUNDS IN THE ACCOUNT TO IMPLEMENT THE INTEGRATED COMPUTER SYSTEM, TO DISTRIBUTE ANY REMAINING FUNDS IN THE ACCOUNT TO THE LOCAL GOVERNMENTS, AND TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE COMBINED MOTOR VEHICLE REGISTRATION RENEWAL AND PROPERTY TAX COLLECTION SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.1 reads as rewritten:

"**§ 20-79.1. Use of temporary registration plates or markers by purchasers of motor vehicles in lieu of dealers' plates.**

(a) The Division may, subject to the limitations and conditions hereinafter set forth, deliver temporary registration plates or markers designed by said Division to a dealer duly registered under the provisions of this Article who applies for at least 25 such plates or markers and who encloses with such application a fee of one dollar ($1.00) for each plate or marker for which application is made. Such application shall be made upon a form prescribed and furnished by the Division. Dealers, subject to the limitations and conditions hereinafter set forth, may issue such temporary registration plates or markers to owners of vehicles, provided that such owners shall comply with the pertinent provisions of this section.

(b) Every dealer who has made application for temporary registration plates or markers shall maintain in permanent form a record of all temporary registration plates or markers delivered to him, and shall also maintain in permanent form a record of all temporary registration plates or markers issued by him, and in addition thereto, shall maintain in permanent form a record of any other information pertaining to the receipt or the issuance of temporary registration plates or markers that the Division may require. Each record shall be kept for a period of at least one year from the date of entry of such record. Every dealer shall allow full and free access to such records during regular business hours, to duly authorized representatives of the Division and to peace officers.

(c) Every dealer who issues temporary registration plates or markers shall also issue a temporary registration certificate upon a form furnished by the Division and deliver it with the registration plate or marker to the owner.

(d) A dealer shall:

(1) Not issue, assign, transfer, or deliver temporary registration plates or markers to anyone other than a bona fide purchaser or owner of a vehicle which he has sold.

(2) Not issue a temporary registration plate or marker without first obtaining from the purchaser or owner a written application for titling and registration of the vehicle and the applicable fees.

(3) Within 10 working days, mail or deliver the application and fees to the Division or deliver the application and fees to a local license agency for processing. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract.

(4) Not deliver a temporary registration plate to anyone purchasing a vehicle that has an unexpired registration plate that is to be transferred to the purchaser.

(5) Not lend to anyone, or use on any vehicle that he may own, any temporary registration plates or markers.

A dealer may issue temporary markers, without obtaining the written application for titling and registration or collecting the applicable fees, to nonresidents for the purpose of removing the vehicle from the State.

(e) Every dealer who issues temporary plates or markers shall write clearly and indelibly on the face of the temporary registration plate or marker:

(1) The dates of issuance and expiration;

(2) The make, motor number, and serial numbers of the vehicle; and

(3) Any other information that the Division may require.

It shall be unlawful for any person to issue a temporary registration plate or marker containing any misstatement of fact or to knowingly write any false information on the face of the plate or marker.

(f) If the Division finds that the provisions of this section or the directions of the Division are not being complied with by the dealer, ~~he~~ the Division may suspend, after a hearing, the right of a dealer to issue temporary registration plates or markers. Nothing

in this section shall be deemed to require a dealer to collect or receive property taxes from any person.

(g) Every person to whom temporary registration plates or markers have been issued shall permanently destroy such temporary registration plates or markers immediately upon receiving the limited registration plates or the annual registration plates from the Division: Provided, that if the limited registration plates or the annual registration plates are not received within 30 days of the issuance of the temporary registration plates or markers, the owner shall, notwithstanding, immediately upon the expiration of such 30-day period, permanently destroy the temporary registration plates or markers.

(h) Temporary registration plates or markers shall expire and become void upon the receipt of the limited registration plates or the annual registration plates from the Division, or upon the rescission of a contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of issuance, depending upon whichever event shall first occur. No refund or credit or fees paid by dealers to the Division for temporary registration plates or markers shall be allowed, except in the event that the Division discontinues the issuance of temporary registration plates or markers or unless the dealer discontinues business. In this event the unissued registration plates or markers with the unissued registration certificates shall be returned to the Division and the dealer may petition for a refund. Upon the expiration of the 30 days from the date of issuance, a second 30-day temporary registration plate or marker may be issued by the dealer upon showing the vehicle has been sold, a temporary lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that the lien may be perfected.

(i) A temporary registration plate or marker may be used on the vehicle for which issued only and may not be transferred, loaned, or assigned to another. In the event a temporary registration plate or marker or temporary registration certificate is lost or stolen, the owner shall permanently destroy the remaining plate or marker or certificate and no operation of the vehicle for which the lost or stolen registration certificate, registration plate or marker has been issued shall be made on the highways until the regular license plate is received and attached thereto.

(j) The Commissioner of Motor Vehicles shall have the power to make such rules and regulations, not inconsistent herewith, as he shall deem necessary for the purpose of carrying out the provisions of this section.

(k) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 shall apply in like manner to temporary registration plates or markers as is applicable to nontemporary plates."

SECTION 2. Part 5 of Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-79.1A. Use of limited registration plates on motor vehicles.**

(a) The Division or its authorized agent shall issue a limited registration plate upon receipt of an application for title and registration fees from a dealer, who is authorized to issue temporary registration plates or markers to owners of vehicles pursuant to G.S. 20-79.1, or from any other person. The limited registration plate must

be clearly and visibly designated as "temporary" and shall expire on the last day of the second month following the date of application of the limited registration plate.

(b) Notwithstanding subsection (a) of this section, the Division or its authorized agent shall issue an annual registration plate upon receipt of an application for title, registration fees, and property taxes from the dealer or any other person."

SECTION 3. G.S. 105-330.4(a), as amended by Section 3 of S.L. 2005-294, reads as rewritten:

"**§ 105-330.4. Due date, interest, and enforcement remedies.**

(a) **(Effective until July 1, 2010)** Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be due each year on the following dates:

(1) For a vehicle registered under the staggered system, taxes shall be due on the first day of the fourth month following the date the registration expires or on the first day of the fourth month following the last day of the month in which the new registration is applied for.

(2) For a vehicle newly registered under the annual system, taxes shall be due on the first day of the fourth month following the date the new registration is applied for. For a vehicle whose registration is renewed under the annual system, taxes shall be due on May 1 following the date the registration expired.

(a) **(Effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first)** Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) are due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) are due each year on the date a new registration is applied for or the fifteenth day of the month following the month in which the registration renewal sticker expired pursuant to G.S. 20-66(g).

(a1) Notwithstanding subsection (a) of this section, taxes on a classified motor vehicle for which the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, are due on the last day of the second month following the date on which the limited registration is applied for."

SECTION 4. G.S. 105-330.5, as amended by Section 6 of S.L. 2005-294, is amended by adding a new subsection to read:

"(a2) For classified motor vehicles where the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, the Property Tax Division's notice shall contain a statement that registration fees have been paid pursuant to G.S. 20-79.1 or G.S. 20-79.1A and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year."

SECTION 5. G.S. 105-330.5(b), as amended by Section 6 of S.L. 2005-294, reads as rewritten:

"(b) When the combined tax and registration notice required by subsection (a) or (a2) of this section is prepared, the Property Tax Division of the Department of Revenue or a third-party contractor shall mail a copy of the notice, with appropriate instructions for payment, to the motor vehicle owner. The Department shall establish a fee equal to the actual cost of printing and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may retain a fee for collecting these taxes and fees. The fee retained by the collecting authority shall be an amount equal to at least one-third of the compensation paid for registration renewals conducted by contract agents under G.S. 20-63(h). The Property Tax Division shall establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month. Each collecting authority shall provide a weekly financial report containing information required by the Property Tax Division to the taxing units and Division of Motor Vehicles to enable them to account for payments received."

SECTION 6. G.S. 105-330.1(b) reads as rewritten:

"(b) Exceptions. – The following motor vehicles are not classified under subsection (a) of this section:

(1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
(2) Manufactured homes, mobile classrooms, and mobile offices.
(3) Semitrailers or trailers registered on a multiyear basis.
(4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.
(5) Repealed by Session Laws 2000, c. 140, s. 75(a). (1991, c. 624, s. 1; 1991 (Reg. Sess., 1992), c. 961, s. 3; 1993, c. 485, s. 18; c. 543, s. 4; 1993 (Reg. Sess., 1994), c. 745, s. 1; 2000-140, s. 75(a).)
(6) Motor vehicles registered under the International Registration Plan."

SECTION 7.(a) G.S. 105-330.10 reads as rewritten:

"**§ 105-330.10. (Effective until July 1, 2010) Disposition of interest.**

Sixty percent (60%) of the first month's interest collected on unpaid taxes pursuant to G.S. 105-330.4 shall be transferred on a monthly basis to the Combined Motor Vehicle and Registration Account created within the Treasurer's Office. Interest generated by the funds in the Combined Motor Vehicle and Registration Account shall be credited to the Account. ~~The North Carolina Association of County Commissioners~~The Office of State Budget and Management shall direct the Treasurer to distribute the funds in the Account to the Division of Motor Vehicles for the purpose of developing and implementing an integrated computer system within the Division of Motor Vehicles that would allow for the combined assessment, billing, and collection of property taxes on motor vehicles and the issuance of registration plates. Funds in the Account shall not be transferred by the Office of State Budget and Management and appropriated by the General Assembly until the Department of Transportation and the

North Carolina Association of County Commissioners reach agreement on a project plan for the integrated system. The Treasurer shall report to the Revenue Laws Study Committee semiannually with the first report due by April 30, 2006. The report shall contain a detailed description of the amount of moneys transferred to the Account and distributed from the Account. Any funds remaining in the Account after the integrated computer system has been certified to be in operation shall be distributed to the local governments on a pro rata basis determined by the first month's interest collected on the unpaid taxes on classified motor vehicles and paid into the Account by each local government."

SECTION 7.(b) This section is effective when it becomes law.

SECTION 8. Unless otherwise stated, this act becomes effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.

HOUSE BILL 1688:
Amend Combined MV Registration and PT System

BILL ANALYSIS

Committee:	House Finance	**Date:**	July 31, 2007
Introduced by:	Rep. Folwell	**Summary by:**	Martha Walston
Version:	Third Edition		Committee Counsel

SUMMARY: House Bill 1688 does the following:

- *Creates a limited registration plate designed and issued by the DMV. This plate will be designated as "temporary" and issued upon receipt of an application of title and payment of registration fees. The plate expires on the last day of the second month following the date of application of the limited registration plate.*
- *Authorizes licensed motor vehicle dealers to issue a limited registration plate to the purchaser of a motor vehicle*
- *Authorizes other persons to obtain a limited registration plate from the DMV or an authorized agent.*
- *Exempts motor vehicles registered under the International Registration Plan from the special class of motor vehicles listed under the combined motor vehicle registration and property tax system.*
- *Provides that the interest generated by the funds in the Combined Motor Vehicle and Registration Account located in the Treasurer's Office shall be credited to the Account. These funds will not transferred by the Office of State Budget and Management and appropriated by the General Assembly until the DOT and the NC Association of County Commissioners reach agreement on a project plan for the integrated computer system.*
- *Provides that any funds remaining in the Account after the system is certified to be in operation will be distributed to the local governments on a pro rata basis.*
- *Makes technical and conforming changes to the combined motor vehicle registration and property tax system that is to go into effect July 1, 2010, or when the DMV and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collect for motor vehicles is in operation, whichever occurs first.*

CURRENT LAW: When a person buys a new automobile from a dealer, the purchaser either transfers a registration plate or obtains a new plate. If the purchaser obtains a new plate, the dealer is authorized by statute to provide him with a 30-day temporary plate.[1] Before issuing the plate, the dealer must obtain from the owner a written application for titling and registration and the applicable fees. Within 10 working days, the dealer must then send the application and fees to the DMV or local license agency for processing. The temporary registration plate expires upon receipt of the annual registration plate from the DMV, upon rescission of a contract to purchase a motor vehicle, or upon expiration of the 30 days from date of issuance of the temporary plate, whichever occurs first. Some dealers have contracted with DMV to obtain the annual registration plate for the purchaser. In this case, the purchaser pays the dealer a fee for this service instead of going to the DMV or local license agency himself to obtain the annual registration plate.

[1] G.S. 20-79.1, DMV will issue temporary plates to a licensed dealer who applies for at least 25 such plates and pays a $1.00 fee for each plate. The dealer must maintain a permanent record of all temporary plates delivered to him and issued by him.

Under the combined system, which goes into effect July 1, 2010, or when the integrated computer system is in place, property taxes on a motor vehicle are due at the time of registration or renewal of registration. In the above scenario when a person purchases a new vehicle from a dealer and obtains the annual plate from the dealer, the dealer would be required to collect property taxes from the purchaser.

BILL ANALYSIS:

Limited Registration Plate

House Bill 1688 creates a new limited registration plate which would allow purchasers of a motor vehicle from a dealer or any other person up to 90 days in some cases to pay property tax on the vehicle. A dealer would not be required to collect the property tax from a purchaser unless the purchaser asked the dealer to obtain the annual registration plate on the vehicle.

Scenario #1

Purchaser buys a car from Dealer on March 15. Dealer is authorized by DMV to issue the temporary 30-day plate and the proposed limited plate.

Purchaser fills out an application for titling and registration of the vehicle and pays the titling and registration fees to Dealer. Dealer then provides the purchaser with the temporary plate and the purchaser drives the vehicle off the lot.

Dealer submits the titling and registration fees to DMV and obtains a limited plate for the purchaser. This limited plate expires on the last day of May.

The Property Tax Division within the Department of Revenue mails a notice to Purchaser indicating that the limited plate expires on the last day of May, that registration fees have been paid and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year.

County and municipal taxes and fees on the motor vehicle are due on last day of May, giving Purchaser 75 days from the date of purchase to pay the local taxes and fees.

Scenario #2

Purchaser buys a car from a private citizen on March 15, and goes to the DMV or its authorized agent to apply for a title and pay registration fees. The DMV or its authorized agent provides the purchaser with a limited registration plate which will expire on the last day of May.

The Property Tax Division within the Department of Revenue mails a notice to Purchaser indicating that the limited registration plate expires on the last day of May, that registration fees have been paid, and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year.

County and municipal taxes and fees on the motor vehicle are due on last day of May, giving Purchaser 75 days from the date of purchase to pay the local taxes and fees.

Exempt International Registration Plan vehicles

House Bill 1688 exempts motor vehicles registered under the International Registration Plan (IRP) from the combined motor vehicle registration and property tax system. These vehicles will be treated as other personal property for property tax purposes. The IRP is a registration reciprocity compact among 48 states, D.C., and 10 Canadian Provinces that provides for the payment of license fees on the basis of fleet miles operated in various jurisdictions. Under this plan, the registration fee due is based on the mileage reported in the jurisdictions of travel. The mileage reported determines the percentage to be paid to each jurisdiction based on their fee structure. This mileage is reported at the time of the license plate

renewal and is based on the prior fiscal year reporting period. To determine the property taxes due on the fleet vehicles, the Department of Revenue apportions a fair and reasonable share of the value of the company using property, business, and mileage factors, and allocates the valuations of the property among the local taxing units. Each local taxing unit then applies its tax rate to the apportioned valuation just as it does for any other type of property. The IRP applies to any of the following vehicles: (a) a vehicle having two axles and a gross vehicle weight in excess of 26,000 pounds, (b) a vehicle having three axles or more regardless of weight, or (c) a vehicle when the combination exceeds 26,000 pounds gross vehicle weight and the vehicle travels in two or more jurisdictions.

Interest Credited to Combined Motor Vehicle and Registration Account

House Bill 1688 provides that interest generated by the funds in the Combined Motor Vehicle and Registration Account shall be credited to the Account. This Account was created within the Treasurer's Office, effective January 1, 2006, and holds funds generated by 60% of the first month's interest collected on unpaid taxes on motor vehicles registered under the current staggered system.[2] This interest accrues at the rate of 5%. The North Carolina Association of County Commissioners was given authority to direct the Treasurer to distribute these funds for the purpose of developing and implementing the integrated computer system.

Transfer of Funds in the Combined Motor Vehicle and Registration Account

Current law gives the North Carolina Association of County Commissioners the authority to direct the Treasurer to distribute the funds in the Combined Motor Vehicle and Registration Account to DMV for the purpose of developing and implementing the integrated computer system. HB 1688 deletes this language and adds language that the Office of State Budget and Management will direct the Treasurer to distribute the funds in the Account. However, the funds will not be transferred by OSBM and appropriated by the General Assembly until the Department of Transportation and the North Carolina Association of County Commissioners reach agreement on a project plan for the integrated system. Any funds remaining in the Account after the integrated system has been certified to be in operation, shall be distributed to the local governments on a pro rata basis determined by the first month's interest collected on the unpaid taxes on motor vehicles and paid into the Account by each local government.

EFFECTIVE DATE: Unless otherwise stated in the act, the act becomes effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system is in operation, whichever occurs first.

H1688e3-SMLA

[2] Under the current system, property taxes for the 12-month period that begins the first month following vehicle registration or renewal become due four months after the registration or renewal.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 109

Committee Substitute Favorable 7/27/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H109-CSSV-61 [v.1]

7/31/2007 12:14:27 PM

Short Title: Corporate Opt Out Chg/Budget Rev Changes. (Public)

Sponsors:

Referred to:

February 8, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE NORTH CAROLINA CORPORATIONS A LIMITED OPPORTUNITY TO OPT OUT OF THE NORTH CAROLINA SHAREHOLDER PROTECTION ACT AND THE NORTH CAROLINA CONTROL SHARE ACQUISITION ACT AND TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE PROVISIONS IN THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2007.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 55-9-05 reads as rewritten:

"**§ 55-9-05. Exemptions.**

The provisions of G.S. 55-9-02 shall not be applicable to any corporation that shall be made the subject of a business combination by an other entity ~~if:~~if one or more of the following conditions apply: ~~(i) the~~

(1) The corporation was not a public corporation (as defined in G.S. 55-1-40(18a)) at the time such other entity acquired in excess of ten percent (10%) of the voting ~~shares; (ii) on~~ shares.

(2) On or before September 30, 1990 (or such earlier date as may be irrevocably established by resolution of the board of directors), the board of directors of a corporation to which G.S. 55-9-02 was not applicable on July 1, 1990, (other than a corporation described in G.S. 55-9-05(iii)) adopted a bylaw stating that the provisions of this Article shall not be applicable to the ~~corporation; (iii)~~corporation. Neither the adoption nor failure to adopt a bylaw under this subdivision shall constitute grounds for any cause of action, at law or in equity, against the corporation or any of its directors.

(3) In ~~in~~ the case of a corporation to which G.S. 55-9-02 was not applicable on July 1, 1990, as the result of adoption by its board of directors under G.S. 55-9-05(ii) of a bylaw providing that G.S. 55-9-02 not apply to such corporation, the board of directors of such corporation shall not have rescinded such bylaw on or before September 30, 1990 (or such earlier date as may be irrevocably established by resolution of the board of ~~directors); (iv)~~ directors). Neither the rescission nor failure to rescind a bylaw under this subdivision shall constitute grounds for any cause of action, at law or in equity, against the corporation or any of its directors.

(4) In ~~in~~ the case of a corporation (including its predecessors) which becomes a public corporation for the first time after July 1, 1990, such corporation adopts a bylaw within 90 days of becoming a public corporation stating that the provisions of this Article shall not be applicable to ~~it; (v) in~~ it. Neither the adoption nor failure to adopt a bylaw under this subdivision shall constitute grounds for any cause of action, at law or in equity, against the corporation or any of its directors.

(5) In the case of a newly formed corporation after April 23, 1987, the initial articles of incorporation of the corporation shall provide that the provisions of this Article shall not be ~~applicable; (vi) such~~applicable.

(6) The business combination was the subject of an existing agreement of the corporation on April 23, ~~1987; or (vii) on~~ 1987.

(7) On or after September 1, 2000, and on or before December 31, 2000, the board of directors of a corporation to which G.S. 55-9-02 was applicable on September 1, 2000, adopts a bylaw stating that the provisions of this Article shall not be applicable to the ~~corporation.~~ corporation. Neither the adoption nor failure to adopt a bylaw under this subdivision shall constitute grounds for any cause of action, at law or in equity, against the corporation or any of its directors.

(8) On or after August 1, 2007, and on or before December 31, 2007, the board of directors of a corporation to which G.S. 55-9-02 was applicable on August 1, 2007, adopts a bylaw stating that the provisions of this Article shall not be applicable to the corporation.Neither the adoption ~~or~~ nor failure to adopt a bylaw ~~of the type set forth in G.S. 55-9-05(ii), (iv), or (vii) of this section nor the rescission or failure to rescind a bylaw of the type referred to in G.S. 55-9-05(iii)~~ under this subdivision shall constitute grounds for any cause of action, at law or in equity, against the corporation or any of its directors."

SECTION 2. G.S. 55-9A-09 reads as rewritten:

"**§ 55-9A-09. Exemptions.**

The provisions of this Article shall not be applicable to ~~any~~ a corporation ~~if,~~that meets one or more of the conditions listed in this section:

(1) ~~on~~ On or before September 30, 1990, or such earlier date as may be irrevocably established by resolution of the board of directors, or at any time before the corporation becomes, or after it ceases to be, a covered corporation, the board of directors adopts a bylaw stating that the provisions of this Article shall not be applicable to the ~~corporation; or, in~~ corporation. Neither adoption nor failure to adopt such a bylaw or provision shall constitute grounds for any cause of action against the corporation, or any officer or director of the corporation.

(2) In the case of a corporation formed after August 12, 1987, its initial articles of incorporation provide that this Article shall not be applicable to the corporation; or on or after September 1, 2000, and on or before December 31, 2000, the board of directors of a corporation to which the provisions of this Article were applicable on September 1, 2000, adopts a bylaw stating that the provisions of this Article shall not be applicable to the corporation. Neither adoption nor failure to adopt such a bylaw or provision shall constitute grounds for any cause of action against the corporation, or any officer or director of the corporation.

(3) On or after August 1, 2007, and on or before December 31, 2007, the board of directors of a corporation to which the provisions of this Article were applicable on August 1, 2007, adopts a bylaw stating that the provision of this Article shall not be applicable to the corporation. Neither the adoption nor failure to adopt a bylaw under this subdivision shall constitute grounds for any cause of action against the corporation or any of its officers or directors."

SECTION 3. If House Bill 1473, 2007 Regular Session, becomes law, then Section 24.3 of House Bill 1473, 2007 Regular Session, reads as rewritten:

'SECTION 24.3.(c) This section is effective for taxable years beginning on or after ~~January 1, 2007.~~January 1, 2008.'

SECTION 4.(a) If House Bill 1473, 2007 Regular Session, becomes law, then G.S. 105-522(a)(2), as enacted by Section 31.16.4(c) of House Bill 1473, 2007 Regular Session, reads as rewritten:

'(2) Hold harmless amount. – The sum of the ~~following:~~following distributed to a municipality for the month:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this ~~Chapter to the municipality for a month,~~ Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined ~~under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision.~~ by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount distributed under Article 40 of this Chapter. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. ~~If the difference is negative, the result increases the hold harmless amount.~~'

SECTION 4.(b) If House Bill 1473, 2007 Regular Session, becomes law, then G.S. 105-523(a)(2), as enacted by Section 31.16.4(d) of House Bill 1473, 2007 Regular Session, reads as rewritten:

'(2) Repealed sales tax amount. – The sum of the ~~following:~~following distributed to a county for the month:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed ~~to a county~~ under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined ~~under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision.~~ by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount distributed under Article 40 of this Chapter. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. ~~If the difference is negative, the result increases the hold harmless amount.~~'

SECTION 4.(c) This section becomes effective October 1, 2009, and applies to distributions for months beginning on or after that date.

SECTION 5. If House Bill 1473, 2007 Regular Session becomes law, then G.S. 105-538, as enacted by Section 31.17(b) of House Bill 1473, 2007 Session, reads as rewritten:

'§ 105-538. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B. The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county. Notwithstanding the provisions of G.S. 105-467(c), during the 2008 calendar year a tax levied under this

Article may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 60 days' advance notice of the new tax levy.'

SECTION 6.(a) If House Bill 1473, 2007 Regular Session becomes law, then G.S. 105-164.14(n), as enacted by Section 31.20(b) of House Bill 1473, 2007 Regular Session, reads as rewritten:

'(n) Analytical Services Supplies. – A taxpayer engaged in analytical services in this State is allowed a refund of ~~fifty percent (50%) of the eligible amount of~~ sales and use tax paid by it in this ~~State on~~ State. The amount of the refund is the greater of the following:

(1) Fifty percent (50%) of the eligible amount sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use taxes paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.

(2) Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents and medical supplies.

A request for a refund must be in writing and must include any information and documentation that the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.'

SECTION 6.(b) This section becomes effective July 1, 2007, and applies to purchases made on or after that date.

SECTION 7. If House Bill 1473, 2007 Regular Session becomes law, then G.S. 105-129.95, as enacted by House Bill 1473, 2007 Regular Session, reads as rewritten:

'**§ 105-129.95. Definitions.**

The following definitions apply in this Article:

(1) Costs of construction. – The costs of acquiring and improving land, constructing buildings and other structures, ~~and~~ equipping the ~~facility.~~ facility, and constructing and equipping rail tracks to the railroad intermodal facility that are necessary to access and support facility operations. In the case of property owned or leased by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code.

(2) Eligible railroad intermodal facility. – A railroad intermodal facility whose costs of construction exceed thirty million dollars ($30,000,000).

(3) Intermodal facility. – A facility where freight is transferred from one mode of transportation to another.

(4) Railroad intermodal facility. – An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation.'

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

HOUSE BILL 109:
Corporate Opt Out Changes/Budget Rev Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 31, 2007
Introduced by:	Reps. Wilkins, Setzer, Underhill, Thomas	**Summary by:**	Cindy Avrette Committee Counsel
Version:	PCS to Second Edition H109-CSSV-61		

SUMMARY: The proposed committee substitute for House Bill 109[1] does two things:

- ***It provides North Carolina corporations a limited opportunity to opt out of being subject to the provisions of the North Carolina Shareholder Protection Act ("Shareholder Protection Act") and the North Carolina Control Share Acquisitions Act ("Control Share Act").***
- ***It makes technical and clarifying changes to the revenue provisions of the Current Operations and Capital Improvements Appropriations Act of 2007.***

BILL ANALYSIS: Sections 1 and 2 of the bill provide North Carolina corporations a limited opportunity to opt out of being subject to the provisions of the Shareholder Protection Act and the Control Share Act. This limited opt out is substantially similar to opt outs provided by the North Carolina legislature in the past.

The bill does not automatically exempt a North Carolina corporation from coverage under either the Shareholder Protection Act or the Control Share Act. Instead, the bill provides a corporation the opportunity during a limited period of time (5 months) for its board of directors to consider whether to amend the corporation's bylaws to permit the opting out. Periodically, the North Carolina legislature has adopted such "opt out" periods under the two acts, for instance in 1987, 1990 and 2000. It has been seven years since the last voluntary opt out period was adopted.

The bill also makes the following technical and clarifying changes to the revenue provisions of the Current Operations and Capital Improvements Appropriations Act of 2007:

- Section 3: Section 24.3 of the budget requires the Department of Revenue to include language in its booklets for the individual income tax return that identified the availability of State and federal earned income tax credits. This provision becomes effective for taxable years beginning on or after January 1, 2007. Section 31.4 of the budget enacts a State earned income tax credit, effective for taxable years beginning on or after January 1, 2008. The amendment conforms the effective of Section 24.3 to Section 31.4 by changing the effective date of Section 24.3 to January 1, 2008.
- Section 4: Corrects a calculation in the city hold harmless provisions.
- Section 5: Clarifies that the administrative provisions in Article 39 regarding lump-sum contracts will apply to the local option county sales tax.
- Section 6: Rewrites the sales tax exemption for research supplies to fulfill the intent of providing an incentive to existing companies to increase their work in the State. As written, the provision rewards new businesses to the detriment of existing businesses.

[1] House Bill 109 provided an income tax deduction for volunteer firefighters and EMS workers. The substance of this provision is included in Section 31.24 of House Bill 1473, the Current Operations and Capital Improvements Appropriations Act of 2007.

- Section 7: Clarifies that the costs of construction for purposes of the tax credit for constructing a railroad intermodal facility includes the costs of constructing and equipping rail tracks to the facility that are necessary to access and support facility operations.

H0109e2-SMRB-CSRB-77

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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HOUSE BILL 1786

Committee Substitute Favorable 5/24/07

Third Edition Engrossed 5/24/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1786-CSSUf-64 [v.5]

7/30/2007 4:19:52 PM

Short Title: Regulate Mixed Martial Arts/Fees. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO DEFINE AND REGULATE MIXED MARTIAL ARTS, AND TO AUTHORIZE THE ALCOHOL LAW ENFORCEMENT DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO ESTABLISH AND RAISE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-651 reads as rewritten:

"**§ 143-651. Definitions.**

The following definitions apply in this Article:

(1) Amateur. – A person who is not receiving or competing for and has never received or competed for any purse or other article or thing of value for participating in a match.

(2) Announcer. – Any person who engages in the act of announcing a ~~boxing~~ match.

(3) Boxer. – Any person who engages as a participant in a boxing match.

(4) Boxing match. – A match where the participants engage in the use of full contact boxing techniques (using the fist only), and where the object of a match is to win by decision, knockout (KO), or technical knockout (TKO).

(5) Repealed by Session Laws 2004-124, s. 18.2.(a), effective July 1, 2004.

(6) Contest. – A ~~boxing~~ match in which the participants strive to win.

(7) Contestant. – Any person who engages as a participant in a ~~boxing~~boxing, kickboxing, or mixed martial arts ~~match.~~match, or toughman event.

(7a) Division. – The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety.

(8) Exhibition. – A ~~boxing~~ match where the participants display their ~~boxing~~ skills and technique without necessarily striving to win.

(9) Judge. – A person who has a vote in determining the winner of any match or contest.

(10) Kickboxer. – Any person who engages as a participant in a kickboxing match.

(11) Kickboxing match. – A match in which the participants engage in full contact martial arts fighting techniques using the hands and the feet, and where the object of the match is to win by decision, knockout (KO), or technical knockout (TKO).

(12) Licensee. – Any person, club, corporation, organization, or association to whom a license has been issued pursuant to the provisions of this Article.

(13) Manager. – Any person who controls or administers the ~~boxing~~ affairs of any contestant, and who:

a. By contract, agreement, or other arrangement with any person undertakes or has undertaken to represent in any way the interest of the contestant in any professional ~~boxing~~ contest in which the ~~boxer~~ contestant is to participate ~~as a contestant,~~ and is entitled under that contract, agreement, or arrangement to receive monetary or other compensation for his or her services, without regard to the sources of the compensation. The term "manager" shall not be construed to mean any attorney licensed to practice in this State whose participation in the activities is restricted solely to representing the interests of a professional ~~boxer~~ contestant as a client.

b. Directs or controls the professional ~~boxing~~ activities of any professional ~~boxer.~~ contestant.

c. Receives or is entitled to receive a percentage of the gross purse or gross income of any professional ~~boxing~~ contest.

(14) Match. – Any ~~boxing or kickboxing~~ boxing, kickboxing, or mixed martial arts contest or exhibition, or toughman event, and includes any event, engagement, sparring or practice session, show or program where the public is admitted and in which there is intended to be physical contact, whether an exhibition or contest. This definition does not include training or practice sessions when no admission is charged.

(15) Matchmaker. – A person through whom matches are arranged for participants and who otherwise assists participants in procuring engagement ~~dates for boxing.~~ dates.

(15a) Mixed martial artist. – Any person who engages as a participant in a mixed martial arts match.

(15b) Mixed martial arts. – A form of sporting martial arts that uses a variety of martial arts techniques to deliver blows with the hands, elbows, and any part of the leg below the hip, including the knee and foot, and also uses boxing, wrestling, and grappling techniques.

(16) Natural person. – An individual.

(17) Participant. – Any person who engages in a match or exhibition and performs as a ~~boxer.~~boxer, kickboxer, or mixed martial artist.

(18) Person. – An individual, group of individuals, business, corporation, limited liability company, partnership, or any other individual or collective entity.

(19) Physician. – An individual licensed to practice medicine in this State.

(20) Professional. – Any person who is licensed as a ~~professional boxer under the federal Professional Boxing Safety Act of 1996.~~contestant and receives compensation for participating in matches.

(21) Promoter. – Any person who produces, arranges, stages, holds, or gives any match in North Carolina involving a professional participant.

(22) Referee. – The official who shall enter and remain in the ring for the duration of a match and shall enforce the rules and maintain order in the ring.

(23) Ring official. – Any person who performs an official function for the duration of a match.

(23a) Sanctioned amateur. – A person who competes in a sanctioned amateur match.

(23b) Sanctioned amateur match. – Any ~~boxing or kickboxing~~ match regulated by an amateur sports organization that has been recognized and approved by the Division.

(24) Second. – Any person who will work or be present in the corner of a participant for the duration of a match.

(25) Timekeeper. – Any person who will operate the clock or watch for the duration of a match for the purpose of keeping the official time of the match.

(25a) Toughman contestant. – Any person who competes in a toughman event.

(25b) Toughman event. – An elimination program of matches in which (i) the contestants are not professional boxers, (ii) the finalist receives a purse or other article of value, (iii) the participants engage in the use of full contact boxing techniques, and (iv) the object of each match is to win by decision, knockout (KO), or technical knockout (TKO).

~~(26) Ultimate warrior match. – A match where the participants use any combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques and which combination of techniques is not specifically authorized by and conducted pursuant to this Article.~~

(27) Unarmed Combat. – A match consisting of any combination of boxing, kicking, wrestling, hitting, punching, or other combative contact

techniques which may reasonably be expected to inflict injury to opponents."

SECTION 2. G.S. 143-652.1 reads as rewritten:

"**§ 143-652.1. Regulation of ~~Boxing.~~boxing, kickboxing, mixed martial arts, and toughman events.**

The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall regulate live ~~boxing and kickboxing~~ boxing, kickboxing, and mixed martial arts matches, whether professional, amateur, or sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars ($25.00). The Division shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, and mixed martial arts ~~sanctioned amateur, amateur, and toughman~~ matches and ~~exhibitions~~ exhibitions, whether professional, amateur, or sanctioned amateur, and toughman events in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

(1) Requirements for issuance of licenses and permits required by this Article.
(2) Regulation of ticket sales.
(3) Physical requirements for contestants, including classification by weight and skill.
(4) Supervision of matches and exhibitions by licensed physicians and referees.
(5) Insurance and bonding requirements.
(6) Compensation of participants and licensees.
(7) Contracts and financial arrangements.
(8) Prohibition of dishonest, unethical, and injurious practices.
(9) Facilities.
(10) Approval of sanctioning amateur sports organizations.
(11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996."

SECTION 3. G.S. 143-653 reads as rewritten:

"**§ 143-653. ~~Ultimate warrior~~Unauthorized matches prohibited.**

~~Ultimate warrior matches, whether the participants are professionals or amateurs, are prohibited.~~ No person shall promote, conduct, or engage in ~~ultimate warrior matches.~~an unarmed combat match, whether the participants are professional or amateur, except as authorized by this Article. This section shall not preclude ~~boxing and kickboxing as regulated in this Article or~~ professional wrestling."

SECTION 4. G.S. 143-654(c) reads as rewritten:

"(c) Surety Bond. – An applicant for a promoter's license must submit, in addition to any other forms, documents, or exhibits requested by the Division, a surety bond payable to the Division for the benefit of any person injured or damaged by (i) the promoter's failure to comply with any provision of this Article or any rules adopted by the Division or (ii) the promoter's failure to fulfill the obligations of any contract related

to the holding of a ~~boxing event.~~match. The surety bond shall be issued in an amount to be no less than ~~five~~ ten thousand dollars ~~($5,000).~~($10,000). The amount of the surety bond shall be negotiable upon the sole discretion of the Division. All surety bonds shall be upon forms approved by the Secretary of Crime Control and Public Safety and supplied by the Division."

SECTION 5. G.S. 143-655 reads as rewritten:

"**§ 143-655. Fees; State Boxing Revenue Account.**

(a) License Fees. – The Division shall collect the following license fees:

Announcer	~~$50.00~~$75.00
Contestant	~~$25.00~~$37.50
Judge	~~$50.00~~$75.00
Manager	~~$100.00~~$150.00
Matchmaker	~~$200.00~~$300.00
Promoter	~~$300.00~~$450.00
Referee	~~$50.00~~$75.00
Timekeeper	~~$50.00~~$75.00
Second	~~$25.00.~~$37.50.

The annual license renewal fees shall not exceed the initial license fees.

(b) Permit Fees. – The Division may establish a fee schedule for permits issued under this Article. The fees may vary depending on the seating capacity of the facility to be used to present a match. The fee may not exceed the following amounts:

Seating Capacity	Fee Amount
Less than 2,000	~~$100.00~~$150.00
2,000 – 5,000	~~$200.00~~$300.00
Over 5,000	~~$300.00.~~$450.00.

(b1) Admission Fees. – The Division shall collect a fee in the amount of one dollar and fifty cents ($1.50) per each ticket sold to attend events regulated in this Article.

(c) State Boxing Revenue Account. – There is created the State Boxing Revenue Account within the Department of Crime Control and Public Safety. Monies ~~[moneys]~~ collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

SECTION 6. G.S. 143-656 reads as rewritten:

"**§ 143-656. Contracts and financial arrangements.**

Any contract between licensees and related to a ~~boxing~~ match or exhibition held or to be held in this State must meet the requirements of administrative rules as set forth by the Division. Any contract which does not satisfy the requirements of the administrative rules shall be void and unenforceable. All contracts shall be in writing."

SECTION 7. G.S. 143-657.1 reads as rewritten:

"**§ 143-657.1. Sanctioned amateur matches.**

In addition to the other applicable provisions of this Article, a sanctioned amateur match shall be conducted pursuant to the rules of the sports organization sanctioning the ~~boxing~~ match or exhibition."

SECTION 8. The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall, as soon as practicable, adopt permanent rules to regulate mixed martial arts, as authorized by this act.

SECTION 9. This act is effective when it becomes law and applies to matches held, and licenses and permits issued, on or after that date, except that no license or permit for mixed martial arts shall be issued by the Division until the rules required under Section 8 of this act become effective.

HOUSE BILL 1786:
Regulate Mixed Martial Arts/Fees

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 31, 2007
Introduced by:	Reps. Bordsen, Love	**Summary by:**	Wendy Graf Ray
Version:	PCS to Third Edition H1786-CSSUf-64[v.5]		Committee Counsel

SUMMARY: ***The PCS for House Bill 1786 amends Article 68 of Chapter 143 (Regulation of Boxing) in the following ways:***

- ***Authorizes mixed martial arts (effective when the bill becomes law, except that no matches would be authorized until rules regulating those events are adopted by the Division).***
- ***Increases from $5,000 to $10,000 the amount of the surety bond required from a promoter of an event.***
- ***Increases the license and permit fees authorized under the Article.***
- ***Establishes a new admission fee of $1.50 per ticket sold to an event to be collected by the Division.***
- ***Requires the Division to adopt rules regulating mixed martial arts as soon as practicable.***
- ***Makes clarifying changes throughout the Article to make clear that the statutes cover all sporting events that are authorized and not just boxing.***

CURRENT LAW: Article 68 of Chapter 143 gives the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety the authority to regulate boxing, kickboxing, and toughman events. The Division issues licenses to contestants, as well as announcers, judges, managers, matchmakers, promoters, referees, timekeepers, and seconds, in these events. It also issues permits for each event. The Division is authorized to collect specified fees for licenses and permits.

Under current law, ultimate warrior matches are prohibited. "Ultimate warrior match" is defined as one where participants use any combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques and the combination of techniques is not specifically authorized under Article 68. Mixed martial arts would fall under that definition, and is therefore currently prohibited by law.

BILL ANALYSIS: The PCS for House Bill 1786 amends the law regulating boxing and related sports in the following ways:

Mixed martial arts. The PCS authorizes mixed martial arts, which is currently prohibited under North Carolina law. Mixed martial arts is a form of sporting martial arts that uses a variety of martial arts techniques, as well as boxing, wrestling, and grappling techniques. The Division is directed to adopt rules, as soon as practicable, to regulate mixed martial arts, and while the authorization becomes effective when the bill becomes law, the Division may not issue any licenses or permits for mixed martial arts until those rules become effective.

The PCS makes clear that all other forms of unarmed combat, besides those specifically authorized (boxing, kickboxing, toughman, and mixed martial arts), are prohibited under North Carolina law.

Surety bond. The PCS amends G.S. 143-654(c), which requires an applicant for a promoter's license (required to hold a match) to submit a surety bond payable to the Division for the benefit of any person damaged by the promoter's failure to comply with requirements or fulfill contractual obligations related to the holding of a match. The amount of the bond required is currently no less than $5,000, and the PCS raises the amount to $10,000.

License and permit fees. The PCS increases all of the fees authorized for licenses and permits issued by the Division as indicated in the following chart:

TYPE OF LICENSE OR PERMIT *	CURRENT FEE	FEE UNDER PCS
Announcer	$50.00	$75.00
Contestant	$25.00	$37.50
Judge	$50.00	$75.00
Manager	$100.00	$150.00
Matchmaker	$200.00	$300.00
Promoter	$300.00	$450.00
Referee	$50.00	$75.00
Timekeeper	$50.00	$75.00
Second	$25.00	$37.50
Facility with a seating capacity of less than 2,000	$100.00	$150.00
Facility with a seating capacity of 2,000-5,000	$200.00	$300.00
Facility with a seating capacity of over 5,000	$300.00	$450.00

* Licenses issued by the Division are valid only during the calendar year in which they are issued, except for contestant licenses, which are valid for one year from the date of issuance. A permit is valid only for a single match.

Admission fee. The PCS authorizes the Division to collect a new admission fee of $1.50 per ticket sold to any regulated event.

EFFECTIVE DATE: The act would be effective when it becomes law and would apply to matches held, and licenses and permits issued, on or after that date. However, no license or permit for mixed martial arts would be issued until the Division has permanent rules in place regulating those events.

H1786e3-SMSU-CSSUf-64v5

SENATE FINANCE COMMITTEE
Wednesday, August 01, 2007 at 1 p.m.
Room 544, Legislative Office Building

MINUTES

The Senate Finance Committee met in room 544 of the Legislative Office Building, on Wednesday, August 01, 2007, at 1:00 p.m. Thirty-three members of the committee were present. Senator David Hoyle presided. Nikkha Harper of Fayetteville and Allison Hill of Fuquay-Varina served as pages.

H.B. 1688 – Amend Combined MV Registration and PT System.

Representative Folwell was recognized to explain the bill. Senator Clodfelter and Senator Hoyle moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 1036 – Amend Allocation of TVA Payment.

Representative Haire was recognized to explain the bill. Senator Soles moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 206 – Bronze Star Special Plate Changes.

Representative Cleveland was recognized to explain the bill. Senator Smith moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 679 – Safety/Emission Inspection Changes - AB.

Representative Cole was recognized to explain the bill. Senator Weinstein motioned for a favorable report. The motion carried. A copy of the bill and the summary is attached.

H.B. 1829 – Manufact. Housing Bd./Alt Methods/Crim Checks.

Senator Cowell was recognized to explain the bill. Senators Stevens, Apodaca, and Hunt moved for a favorable report. The motion carried. A copy of the bill and the summary is attached.

H.B. 1595 – Agrarian Growth Zones.

Senator Clodfelter was recognized to explain the bill and moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Apodaca moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 1228 – Stop Light Cameras in Certain Municipalities.

Steve Rose, Research Division staff attorney, was recognized to explain the bill and answer questions. Senator Goodall moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Dannelly moved for a favorable report and

the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 769 – Unified Carrier Registration/CDL Changes.

Representative Cole was recognized to explain the bill. Senator Jenkins moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Hoyle moved for a favorable report and the motion carried. A copy of the proposed committee substitute and the summary is attached.

H.B. 1005 – Bonding Requirements for License Plate Agents.

Representative Cole was recognized to explain the bill. Senator Jenkins moved to adopt the proposed committee substitute for discussion. The motion carried. Senator Jenkins offered an amendment and Senator Hoyle moved for its adoption. Senator Clodfelter offered a perfecting amendment. Senator Soles moved for its adoption. Senator Rand moved to adopt the proposed committee substitute as amended and the motion carried. A copy of the proposed committee substitute, the amendments, and the summary is attached.

H.B. 1785 – Fire-Safe Cigarette Act.

Representative Insko was recognized to explain the bill. Senator Clodfelter was recognized to offer an amendment and moved for its adoption. The motion carried. Senator Hoyle offered a perfecting amendment and Senator Dannelly moved to adopt it. The motion carried. Senator Dannelly moved to roll the amendments into the bill and report it out favorably as a proposed committee substitute. The motion carried. Ernest Grants, NC Jaycee Burn Center, was recognized to laud the favorable report.

The meeting adjourned at 2:00 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected: H1005, H1688, H206, and H1595 have been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on **Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	August 1, 2007	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 206	Bronze Star Special Plate Changes.	Representative Cleveland
HB 679	Safety/Emission Inspection Changes.-AB	Representative Cole
HB 769	Unified Carrier Registration/CDL Changes.	Representative Carney Representative Allen
HB 1005	Bonding Requirements for License Plate Agents.	Representative Cole
HB 1036	Amend Allocation of TVA Payment.	Representative Haire
HB 1228	Stop Light Cameras in Certain Municipalities.	Representative Gibson, III
HB 1595	Agrarian Growth Zones.	Representative Gibson, III Representative Daughtridge, Jr. Representative Owens, Jr. Representative Wainwright
HB 1688	Amend Combined MV Registration and PT System.	Representative Folwell
HB 1785	Fire-Safe Cigarette Act.	Representative Cotham Representative Glazier Representative Insko
HB 1829	Manufact. Housing Bd/Alt. Methods/Crim Checks.	Representative Harrison

Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Senate Finance Committee
Wednesday, August 1, 2007, 1:00 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Bills

HB 206	Bronze Star Special Plate Changes.	Rep. Cleveland
HB 679	Safety/Emission Inspection Changes.-AB	Rep. Cole
HB 769	Unified Carrier Registration/CDL Changes.	Rep. Carney Rep. Allen
HB 1005	Bonding Requirements for License Plate Agents.	Rep. Cole
HB 1036	Amend Allocation of TVA Payment.	Rep. Haire
HB 1228	Stop Light Cameras in Certain Municipalities.	Rep. Gibson
HB 1595	Agrarian Growth Zones.	Rep. Gibson Rep. Daughtridge Rep. Owens Rep. Wainwright
HB 1688	Amend Combined MV Registration and PT System.	Rep. Folwell
HB 1785	Fire-Safe Cigarette Act.	Rep. Cotham Rep. Glazier Rep. Insko
HB 1829	Manufact. Housing Bd/Alt. Methods/Crim Checks.	Rep. Harrison

Adjournment

VISITOR REGISTRATION SHEET

Senate Finance Committee — August 1, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Cansler	BSCA
[illegible]	[illegible] Assn.
John Bowdish	AstraZeneca
Anne Barland	NCEL
Susan Valauri	Nationwide
TOMMY SUTER	WYETH

VISITOR REGISTRATION SHEET

Senate Finance Committee — August 1, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alison Roach	DMV
Will Williamson	DMV
Sandy Sands	WLSR
Bill Rustin	AEP
Elizabeth Patterson	NC Alliance for Health
Alex Miller	CNCC
Pam Seamans	NC Alliance for Health
Rose Williams	NC DOI
Pam Meyer	NCACC
Jim Blackburn	County Commissioners Association
Paul Sherman	NCFB

VISITOR REGISTRATION SHEET

Senate Finance Committee — August 1, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Judy McConnell	JOG
Cam Cover	BPMHL
Joyce Peters	HP Assoc
Scott Proescholdbell	DHHS - OPH
Allan Buchanan	NC DOI / OSFM
Angie Gregg	NC DOI / OSFM
Jan Parker	OSFM/NCDOI
Cathy Lohr	NC Assn of Fire Chiefs
Bruce Cairns, MD	NC Jaycee Burn Center
Elvert Tyler	NC Jaycee Burn Center
Chere Foster	NCVCE

VISITOR REGISTRATION SHEET

Senate Finance Committee — August 1, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bob Sloan	NCFA
Preston Howard	MCIC
K. F. Warren	RFD
R L Fruitbelt	RFD
Timothy L. Woods	RFD
D M Barnes	Poyner Spruill
Patrick Buffkin	Nelson Mullins
Frank Gray	NCMHI
Kenneth Dalton	NCRMA
Jim Nesbitt	NDO

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

August 1, 2007 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John R Mitchell	Raleigh Fire
Ivon L Johnson	Raleigh Fire
DAVID P. RITCHIE	RALEIGH FIRE DEPT.
Phillip C. Wesselhoft	Raleigh Fire Dept
JOHN McGRATH	RALEIGH FIRE DEPARTMENT
BARRY D. SPAIN	RALEIGH FIRE DEPT.
G. MICHAEL DAVIS	RALEIGH FIRE DEPT.
Lemuel O. Hubbard	Raleigh Fire Department

VISITOR REGISTRATION SHEET

Senate Finance Committee — August 1, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	SSI
[signature]	NAWC
[signature]	DAQ / DENR
Mike Abraczinskas	DENR - DAQ
Brian Phillips	DENR - DAQ
David Bolin	NCDOR
Emily Atkinson	Capstrat
Charlie Diehl	NC Trucking Association
Tom Vitaglione	CHILD FATALITY TASK FORCE
[signature]	BSP
[signature]	WRA

VISITOR REGISTRATION SHEET

Senate Finance Committee — August 1, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bill Carswell	CATS
Johanna Reese	DOT
Stan Pace	Verizon
Mildred Spearman	NCDOC
Andrea Wright	Verizon
Debbie Brewer	NC DMV Lic & Theft
Gordon Zeigler	NC DMV Lic & Theft
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Kenneth Johnson	IGOINC
Bob Pajewski	IGOINC
[illegible]	JD, PC, PP

VISITOR REGISTRATION SHEET

Senate Finance Committee — August 1, 2007

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chip Killian	Nelson Mullins
Cassandra White	Gov. Office
Wayne Goodwin	NC DOI
Roger Bone	Bone & Assoc
Jim Johnson	BSA
JoAnne Sanford	BSA
Gene Ainsworth	A & A
John Poteat	NCFB
Kathy Hawke	Progress Energy

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, August 01, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #2) **769** Unified Carrier Registration/CDL Changes.

Draft Number:	70614
Sequential Referral:	~~Appropriations/Base Budget~~
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1005** Bonding Requirements for License Plate Agents.

Draft Number:	60409
Sequential Referral:	None
Recommended Referral:	~~None~~ Appropriations
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #2) **1228** Stop Light Cameras in Certain Municipalities.

Draft Number:	30532
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **1595** Agrarian Growth Zones.

Draft Number:	80500
Sequential Referral:	None

Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #2) **1785** Fire-Safe Cigarette Act.

Draft Number:	50774
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 5

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, August 01, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **206** Bronze Star Special Plate Changes.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #2) **679** Safety/Emission Inspection Changes.-AB
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1036** Amend Allocation of TVA Payment.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1688** Amend Combined MV Registration and PT System.
Sequential Referral: None
Recommended Referral: None

H.B. **1829** Manufact. Housing Bd/Alt. Methods/Crim Checks.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 5

Committee Clerk Comments:

(b) Every dealer who has made application for temporary registration plates or markers shall maintain in permanent form a record of all temporary registration plates or markers delivered to him, and shall also maintain in permanent form a record of all temporary registration plates or markers issued by him, and in addition thereto, shall maintain in permanent form a record of any other information pertaining to the receipt or the issuance of temporary registration plates or markers that the Division may require. Each record shall be kept for a period of at least one year from the date of entry of such record. Every dealer shall allow full and free access to such records during regular business hours, to duly authorized representatives of the Division and to peace officers.

(c) Every dealer who issues temporary registration plates or markers shall also issue a temporary registration certificate upon a form furnished by the Division and deliver it with the registration plate or marker to the owner.

(d) A dealer shall:

(1) Not issue, assign, transfer, or deliver temporary registration plates or markers to anyone other than a bona fide purchaser or owner of a vehicle which he has sold.

(2) Not issue a temporary registration plate or marker without first obtaining from the purchaser or owner a written application for titling and registration of the vehicle and the applicable fees.

(3) Within 10 working days, mail or deliver the application and fees to the Division or deliver the application and fees to a local license agency for processing. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract.

(4) Not deliver a temporary registration plate to anyone purchasing a vehicle that has an unexpired registration plate that is to be transferred to the purchaser.

(5) Not lend to anyone, or use on any vehicle that he may own, any temporary registration plates or markers.

A dealer may issue temporary markers, without obtaining the written application for titling and registration or collecting the applicable fees, to nonresidents for the purpose of removing the vehicle from the State.

(e) Every dealer who issues temporary plates or markers shall write clearly and indelibly on the face of the temporary registration plate or marker:

(1) The dates of issuance and expiration;

(2) The make, motor number, and serial numbers of the vehicle; and

(3) Any other information that the Division may require.

It shall be unlawful for any person to issue a temporary registration plate or marker containing any misstatement of fact or to knowingly write any false information on the face of the plate or marker.

(f) If the Division finds that the provisions of this section or the directions of the Division are not being complied with by the dealer, ~~he~~ the Division may suspend, after a hearing, the right of a dealer to issue temporary registration plates or markers. Nothing

in this section shall be deemed to require a dealer to collect or receive property taxes from any person.

(g) Every person to whom temporary registration plates or markers have been issued shall permanently destroy such temporary registration plates or markers immediately upon receiving the limited registration plates or the annual registration plates from the Division: Provided, that if the limited registration plates or the annual registration plates are not received within 30 days of the issuance of the temporary registration plates or markers, the owner shall, notwithstanding, immediately upon the expiration of such 30-day period, permanently destroy the temporary registration plates or markers.

(h) Temporary registration plates or markers shall expire and become void upon the receipt of the limited registration plates or the annual registration plates from the Division, or upon the rescission of a contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of issuance, depending upon whichever event shall first occur. No refund or credit or fees paid by dealers to the Division for temporary registration plates or markers shall be allowed, except in the event that the Division discontinues the issuance of temporary registration plates or markers or unless the dealer discontinues business. In this event the unissued registration plates or markers with the unissued registration certificates shall be returned to the Division and the dealer may petition for a refund. Upon the expiration of the 30 days from the date of issuance, a second 30-day temporary registration plate or marker may be issued by the dealer upon showing the vehicle has been sold, a temporary lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that the lien may be perfected.

(i) A temporary registration plate or marker may be used on the vehicle for which issued only and may not be transferred, loaned, or assigned to another. In the event a temporary registration plate or marker or temporary registration certificate is lost or stolen, the owner shall permanently destroy the remaining plate or marker or certificate and no operation of the vehicle for which the lost or stolen registration certificate, registration plate or marker has been issued shall be made on the highways until the regular license plate is received and attached thereto.

(j) The Commissioner of Motor Vehicles shall have the power to make such rules and regulations, not inconsistent herewith, as he shall deem necessary for the purpose of carrying out the provisions of this section.

(k) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 shall apply in like manner to temporary registration plates or markers as is applicable to nontemporary plates."

SECTION 2. Part 5 of Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-79.1A. Use of limited registration plates on motor vehicles.**

(a) The Division or its authorized agent shall issue a limited registration plate upon receipt of an application for title and registration fees from a dealer, who is authorized to issue temporary registration plates or markers to owners of vehicles pursuant to G.S. 20-79.1, or from any other person. The limited registration plate must

be clearly and visibly designated as "temporary" and shall expire on the last day of the second month following the date of application of the limited registration plate.

(b) Notwithstanding subsection (a) of this section, the Division or its authorized agent shall issue an annual registration plate upon receipt of an application for title, registration fees, and property taxes from the dealer or any other person."

SECTION 3. G.S. 105-330.4(a), as amended by Section 3 of S.L. 2005-294, reads as rewritten:

"**§ 105-330.4. Due date, interest, and enforcement remedies.**

(a) **(Effective until July 1, 2010)** Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be due each year on the following dates:

(1) For a vehicle registered under the staggered system, taxes shall be due on the first day of the fourth month following the date the registration expires or on the first day of the fourth month following the last day of the month in which the new registration is applied for.

(2) For a vehicle newly registered under the annual system, taxes shall be due on the first day of the fourth month following the date the new registration is applied for. For a vehicle whose registration is renewed under the annual system, taxes shall be due on May 1 following the date the registration expired.

(a) **(Effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first)** Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) are due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) are due each year on the date a new registration is applied for or the fifteenth day of the month following the month in which the registration renewal sticker expired pursuant to G.S. 20-66(g).

(a1) Notwithstanding subsection (a) of this section, taxes on a classified motor vehicle for which the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, are due on the last day of the second month following the date on which the limited registration is applied for."

SECTION 4. G.S. 105-330.5, as amended by Section 6 of S.L. 2005-294, is amended by adding a new subsection to read:

"(a2) For classified motor vehicles where the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, the Property Tax Division's notice shall contain a statement that registration fees have been paid pursuant to G.S. 20-79.1 or G.S. 20-79.1A and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year."

SECTION 5. G.S. 105-330.5(b), as amended by Section 6 of S.L. 2005-294, reads as rewritten:

"(b) When the combined tax and registration notice required by subsection (a) or (a2) of this section is prepared, the Property Tax Division of the Department of Revenue or a third-party contractor shall mail a copy of the notice, with appropriate instructions for payment, to the motor vehicle owner. The Department shall establish a fee equal to the actual cost of printing and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may retain a fee for collecting these taxes and fees. The fee retained by the collecting authority shall be an amount equal to at least one-third of the compensation paid for registration renewals conducted by contract agents under G.S. 20-63(h). The Property Tax Division shall establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month. Each collecting authority shall provide a weekly financial report containing information required by the Property Tax Division to the taxing units and Division of Motor Vehicles to enable them to account for payments received."

SECTION 6. G.S. 105-330.1(b) reads as rewritten:

"(b) Exceptions. – The following motor vehicles are not classified under subsection (a) of this section:

(1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
(2) Manufactured homes, mobile classrooms, and mobile offices.
(3) Semitrailers or trailers registered on a multiyear basis.
(4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.
(5) Repealed by Session Laws 2000, c. 140, s. 75(a). (1991, c. 624, s. 1; 1991 (Reg. Sess., 1992), c. 961, s. 3; 1993, c. 485, s. 18; c. 543, s. 4; 1993 (Reg. Sess., 1994), c. 745, s. 1; 2000-140, s. 75(a).)
(6) Motor vehicles registered under the International Registration Plan."

SECTION 7.(a) G.S. 105-330.10 reads as rewritten:

"**§ 105-330.10. (Effective until July 1, 2010) Disposition of interest.**

Sixty percent (60%) of the first month's interest collected on unpaid taxes pursuant to G.S. 105-330.4 shall be transferred on a monthly basis to the Combined Motor Vehicle and Registration Account created within the Treasurer's Office. Interest generated by the funds in the Combined Motor Vehicle and Registration Account shall be credited to the Account. ~~The North Carolina Association of County Commissioners~~The Office of State Budget and Management shall direct the Treasurer to distribute the funds in the Account to the Division of Motor Vehicles for the purpose of developing and implementing an integrated computer system within the Division of Motor Vehicles that would allow for the combined assessment, billing, and collection of property taxes on motor vehicles and the issuance of registration plates. Funds in the Account shall not be transferred by the Office of State Budget and Management and appropriated by the General Assembly until the Department of Transportation and the

North Carolina Association of County Commissioners reach agreement on a project plan for the integrated system. The Treasurer shall report to the Revenue Laws Study Committee semiannually with the first report due by April 30, 2006. The report shall contain a detailed description of the amount of moneys transferred to the Account and distributed from the Account. Any funds remaining in the Account after the integrated computer system has been certified to be in operation shall be distributed to the local governments on a pro rata basis determined by the first month's interest collected on the unpaid taxes on classified motor vehicles and paid into the Account by each local government."

SECTION 7.(b) This section is effective when it becomes law.

SECTION 8. Unless otherwise stated, this act becomes effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.

HOUSE BILL 1688:
Amend Combined MV Registration and PT System

BILL ANALYSIS

Committee:	House Finance	**Date:**	July 31, 2007
Introduced by:	Rep. Folwell	**Summary by:**	Martha Walston
Version:	Third Edition		Committee Counsel

SUMMARY: House Bill 1688 does the following:

- ***Creates a limited registration plate designed and issued by the DMV. This plate will be designated as "temporary" and issued upon receipt of an application of title and payment of registration fees. The plate expires on the last day of the second month following the date of application of the limited registration plate.***
- ***Authorizes licensed motor vehicle dealers to issue a limited registration plate to the purchaser of a motor vehicle***
- ***Authorizes other persons to obtain a limited registration plate from the DMV or an authorized agent.***
- ***Exempts motor vehicles registered under the International Registration Plan from the special class of motor vehicles listed under the combined motor vehicle registration and property tax system.***
- ***Provides that the interest generated by the funds in the Combined Motor Vehicle and Registration Account located in the Treasurer's Office shall be credited to the Account. These funds will not transferred by the Office of State Budget and Management and appropriated by the General Assembly until the DOT and the NC Association of County Commissioners reach agreement on a project plan for the integrated computer system.***
- ***Provides that any funds remaining in the Account after the system is certified to be in operation will be distributed to the local governments on a pro rata basis.***
- ***Makes technical and conforming changes to the combined motor vehicle registration and property tax system that is to go into effect July 1, 2010, or when the DMV and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collect for motor vehicles is in operation, whichever occurs first.***

CURRENT LAW: When a person buys a new automobile from a dealer, the purchaser either transfers a registration plate or obtains a new plate. If the purchaser obtains a new plate, the dealer is authorized by statute to provide him with a 30-day temporary plate.[1] Before issuing the plate, the dealer must obtain from the owner a written application for titling and registration and the applicable fees. Within 10 working days, the dealer must then send the application and fees to the DMV or local license agency for processing. The temporary registration plate expires upon receipt of the annual registration plate from the DMV, upon rescission of a contract to purchase a motor vehicle, or upon expiration of the 30 days from date of issuance of the temporary plate, whichever occurs first. Some dealers have contracted with DMV to obtain the annual registration plate for the purchaser. In this case, the purchaser pays the dealer a fee for this service instead of going to the DMV or local license agency himself to obtain the annual registration plate.

[1] G.S. 20-79.1, DMV will issue temporary plates to a licensed dealer who applies for at least 25 such plates and pays a $1.00 fee for each plate. The dealer must maintain a permanent record of all temporary plates delivered to him and issued by him.

Under the combined system, which goes into effect July 1, 2010, or when the integrated computer system is in place, property taxes on a motor vehicle are due at the time of registration or renewal of registration. In the above scenario when a person purchases a new vehicle from a dealer and obtains the annual plate from the dealer, the dealer would be required to collect property taxes from the purchaser.

BILL ANALYSIS:

Limited Registration Plate

House Bill 1688 creates a new limited registration plate which would allow purchasers of a motor vehicle from a dealer or any other person up to 90 days in some cases to pay property tax on the vehicle. A dealer would not be required to collect the property tax from a purchaser unless the purchaser asked the dealer to obtain the annual registration plate on the vehicle.

Scenario #1

Purchaser buys a car from Dealer on March 15. Dealer is authorized by DMV to issue the temporary 30-day plate and the proposed limited plate.

Purchaser fills out an application for titling and registration of the vehicle and pays the titling and registration fees to Dealer. Dealer then provides the purchaser with the temporary plate and the purchaser drives the vehicle off the lot.

Dealer submits the titling and registration fees to DMV and obtains a limited plate for the purchaser. This limited plate expires on the last day of May.

The Property Tax Division within the Department of Revenue mails a notice to Purchaser indicating that the limited plate expires on the last day of May, that registration fees have been paid and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year.

County and municipal taxes and fees on the motor vehicle are due on last day of May, giving Purchaser 75 days from the date of purchase to pay the local taxes and fees.

Scenario #2

Purchaser buys a car from a private citizen on March 15, and goes to the DMV or its authorized agent to apply for a title and pay registration fees. The DMV or its authorized agent provides the purchaser with a limited registration plate which will expire on the last day of May.

The Property Tax Division within the Department of Revenue mails a notice to Purchaser indicating that the limited registration plate expires on the last day of May, that registration fees have been paid, and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year.

County and municipal taxes and fees on the motor vehicle are due on last day of May, giving Purchaser 75 days from the date of purchase to pay the local taxes and fees.

Exempt International Registration Plan vehicles

House Bill 1688 exempts motor vehicles registered under the International Registration Plan (IRP) from the combined motor vehicle registration and property tax system. These vehicles will be treated as other personal property for property tax purposes. The IRP is a registration reciprocity compact among 48 states, D.C., and 10 Canadian Provinces that provides for the payment of license fees on the basis of fleet miles operated in various jurisdictions. Under this plan, the registration fee due is based on the mileage reported in the jurisdictions of travel. The mileage reported determines the percentage to be paid to each jurisdiction based on their fee structure. This mileage is reported at the time of the license plate

renewal and is based on the prior fiscal year reporting period. To determine the property taxes due on the fleet vehicles, the Department of Revenue apportions a fair and reasonable share of the value of the company using property, business, and mileage factors, and allocates the valuations of the property among the local taxing units. Each local taxing unit then applies its tax rate to the apportioned valuation just as it does for any other type of property. The IRP applies to any of the following vehicles: (a) a vehicle having two axles and a gross vehicle weight in excess of 26,000 pounds, (b) a vehicle having three axles or more regardless of weight, or (c) a vehicle when the combination exceeds 26,000 pounds gross vehicle weight and the vehicle travels in two or more jurisdictions.

Interest Credited to Combined Motor Vehicle and Registration Account

House Bill 1688 provides that interest generated by the funds in the Combined Motor Vehicle and Registration Account shall be credited to the Account. This Account was created within the Treasurer's Office, effective January 1, 2006, and holds funds generated by 60% of the first month's interest collected on unpaid taxes on motor vehicles registered under the current staggered system.[2] This interest accrues at the rate of 5%. The North Carolina Association of County Commissioners was given authority to direct the Treasurer to distribute these funds for the purpose of developing and implementing the integrated computer system.

Transfer of Funds in the Combined Motor Vehicle and Registration Account

Current law gives the North Carolina Association of County Commissioners the authority to direct the Treasurer to distribute the funds in the Combined Motor Vehicle and Registration Account to DMV for the purpose of developing and implementing the integrated computer system. HB 1688 deletes this language and adds language that the Office of State Budget and Management will direct the Treasurer to distribute the funds in the Account. However, the funds will not be transferred by OSBM and appropriated by the General Assembly until the Department of Transportation and the North Carolina Association of County Commissioners reach agreement on a project plan for the integrated system. Any funds remaining in the Account after the integrated system has been certified to be in operation, shall be distributed to the local governments on a pro rata basis determined by the first month's interest collected on the unpaid taxes on motor vehicles and paid into the Account by each local government.

EFFECTIVE DATE: Unless otherwise stated in the act, the act becomes effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system is in operation, whichever occurs first.

H1688e3-SMLA

[2] Under the current system, property taxes for the 12-month period that begins the first month following vehicle registration or renewal become due four months after the registration or renewal.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 1036

Committee Substitute Favorable 7/19/07

Short Title: Amend Allocation of TVA Payment. (Public)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ALLOCATION AMONG LOCAL GOVERNMENTS OF THE TENNESSEE VALLEY AUTHORITY PAYMENT IN LIEU OF TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-458 reads as rewritten:

"**§ 105-458. Apportionment of payments in lieu of taxes between local units.**

The payments received by the State and local governments from the Tennessee Valley Authority in lieu of taxes under section 13 of the Act of Congress creating it, and as amended, shall be apportioned between the local governments in which the property is owned or an operation is carried on, on the basis of ~~the percentage of loss of taxes to each,~~each local government's percentage of the total value of the Authority's property in the State, determined as hereinafter provided: Provided, however, that the minimum annual payment to any local government from said fund, including the amounts paid direct to said local government by the Authority, shall not be less than the amount of annual actual tax loss to such local government based upon the two-year average on said property next prior to it being taken over by the Authority."

SECTION 2. G.S. 105-459 reads as rewritten:

"**§ 105-459. Determination of amount of taxes lost by virtue of T.V.A. operation of property; proration of funds.**

The Department of Revenue shall determine each year, on the basis of current tax laws, the ~~total taxes that would be due to both the State of North Carolina and the local governments~~allocation of the Authority's valuation among the local governments in the same manner as if the property owned ~~and/or~~or operated by the Authority were owned ~~and/or~~or operated by a privately owned public ~~utility: Provided, however, in making said calculations the Department of Revenue shall use the tax rate fixed by the local government unit and taxing district involved for the tax year next preceding such calculations.~~utility. The Department of Revenue and the Treasurer of the State of North Carolina shall then prorate the funds received from the Authority by the State and local

governments between the local governments upon the basis of the foregoing calculations."

SECTION 3. G.S. 105-461 reads as rewritten:

"**§ 105-461. Duty of county accountant, etc.**

The county accountant or other proper officer of each local government to which this Subchapter is applicable ~~shall:~~

~~(1) Certify to the Department of Revenue and the Treasurer of the State of North Carolina the tax rate fixed by the governing body of such local government immediately upon the fixing of the same:~~

~~(2)~~ ~~Certify~~ shall certify each month to the Treasurer of the State of North Carolina a statement of the amount received by the local government direct from the Authority.

No local government shall be entitled to receive its distributive share of said fund from the Treasurer of the State of North Carolina until the foregoing information has been properly furnished. If any such local government shall fail to furnish the information herein required within 10 days from and after receipt by it from the Department of Revenue of request for the same, forwarded by registered mail, then and in that event it shall be barred from participating in the benefits provided for the period for which the same is requested."

SECTION 4. This act becomes effective July 1, 2007.

HOUSE BILL 1036:
Amend Allocation of TVA Payment

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Rep. Haire	**Summary by:**	Trina Griffin
Version:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1036 amends the allocation of payments made by the Tennessee Valley Authority to the State and local governments. The allocation will be made on the basis of each local government's percentage of the total value of the TVA property in the State (instead of on the basis of the percentage of loss of taxes to each local government.) In addition, when calculating the allocation of the TVA's valuation among the local governments, the Department of Revenue will no longer use the tax rate fixed by the local government.***

CURRENT LAW: Pursuant to federal law, the Tennessee Valley Authority (TVA) annually makes payments to the State and local governments in lieu of property taxes. These payments are apportioned between the local governments in which the property is owned or an operation is carried on, on the basis of the percentage of loss of taxes to each local government. The minimum annual payment to any local government cannot be less than the local government's annual actual tax loss based upon the two-year average on the property next prior to it being taken over by TVA.

Each year the Department of Revenue must determine the total taxes that would be due to both the State and the local governments in the same manner as if the property were owned and operated by a privately owned utility.[1] The amount is calculated based on the tax rate fixed by the local government.

BILL ANALYSIS: House Bill 1036 would apportion the payments made by TVA between the local governments on the basis of each local government's percentage of the total value of the TVA's property in the State. Each year the Department of Revenue will determine the allocation of the TVA's valuation among the local governments as if the property were owned or operated by a privately owned utility. The tax rate fixed by the local government will no longer be used in making this calculation. In the past, as local governments in the mountains dropped their tax rate as the value of property appreciated, the lower rate resulted in a lower payment from TVA. This was because the lower tax rate was applied to the book value of TVA property.

TVA property is located in the following North Carolina counties: Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Mitchell, Swain, and Watauga.[2] TVA property is also located in the towns of Murphy in Cherokee County and Bryson City in Swain County.

EFFECTIVE DATE: July 1, 2007.

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[1] DOR determines the true value of utilities using the following:

- The market value of the company's capital stock and debt.
- The book value of the company's system property as reflected in the books of account kept under the regulations of the appropriate federal or state regulatory agency and what it would cost to replace or reproduce the system property, less a reasonable allowance for depreciation.
- Gross receipts and operation income of the company.
- Any other information that in the judgment of the Department has a bearing on the true value of the company's system property.

[2] The counties of Cherokee, Swain, and Graham have the most TVA property.

BACKGROUND: The Tennessee Valley Authority (TVA) was created by Congress in 1933. This federal corporation is the largest public power company in the U.S. and manages the nation's fifth largest river. Beginning in July, 1940, federal law required the TVA to pay a percentage of their gross proceeds to State and local governments annually "in order to render financial assistance to those States and local governments in which the power operations of the Corporation [TVA] are carried on and in which the Corporation [TVA] has acquired properties previously subject to State and local taxation." Since 1948, payment has been 5% of the gross proceeds. These proceeds are derived from the sale of power by TVA for the preceding fiscal year. These payments are in lieu of taxation. The payments are apportioned among the States in the following manner:

One-half of the payment is apportioned by paying to each State the percentage thereof which the gross proceeds of the power sales by the TVA within the state during the preceding fiscal year bear to the total gross proceeds from all power sales by the TVA

The remaining one-half is apportioned by paying to each State the percentage thereof which the book value of the power property held by the TVA within the State at the end of the preceding fiscal year bears to the total book value of all the property held by the TVA.

Martha Walston, counsel to House Finance, substantially contributed to this summary.

H1036e2-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 2

HOUSE BILL 206
Committee Substitute Favorable 7/24/07

Short Title: Bronze Star Special Plate Changes. (Public)

Sponsors:

Referred to:

February 15, 2007

A BILL TO BE ENTITLED

AN ACT TO DISTINGUISH BETWEEN SPECIAL PLATES ISSUED TO BRONZE STAR RECIPIENTS FOR MERITORIOUS SERVICE OR FOR VALOR IN COMBAT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4 is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(16a) Bronze Star Combat Recipient. – Issuable to a recipient of the Bronze Star Medal for valor in combat. The plate shall bear the emblem of the Bronze Star with a "Combat V" emblem and the words "Bronze Star." To be eligible for this plate, the applicant must provide documentation that the medal was issued for valor in combat.

...."

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

HOUSE BILL 206:
Bronze Star Special Plate Changes

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Rep. Cleveland	**Summary by:**	Trina Griffin
Version:	Second Edition		Committee Counsel

SUMMARY: House Bill 206 would authorize the Division of Motor Vehicles to develop a new registration plate for recipients of the Bronze Star Medal for valor in combat. The plate would require the $10 special registration fee that is credited to the Special Registration Plate Account but would not require at least 300 applications.

The 2nd edition clarifies that the plate for a Bronze Star Combat Recipient is a new plate, which is slightly different from the current Bronze Star Recipient Plate.

CURRENT LAW: The Division of Motor Vehicles is authorized to issue more than 164 special license plates. As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The Division may issue one free registration plate to a recipient of the Legion of Valor[2] award, a 100% disabled veteran, or an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee of $28 and the additional special registration plate fee of $10.

The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $1,000,000 is annually appropriated to provide operating assistance for ten Visitor Centers.[3] The Centers are located in Brunswick, Camden, Carteret, Caswell, Columbus, Macon, McDowell, Transylvania, Tyrell, and Watauga Counties.[4] The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

The cost of some special plates includes a fee in addition to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

A Bronze Star Recipient may receive a Bronze Star special plate upon payment of the regular registration fee and the $10 special registration plate fee without satisfying the 300 application requirement. This plate bears the emblem of the Bronze Star and the words "Bronze Star".

BILL ANALYSIS: House Bill 206 authorizes DMV to issue a new plate to a recipient of the Bronze Star Medial for valor in combat. The plate will be similar to the current Bronze Star recipient plate, except that it will also have a "Combat V" emblem. The applicant must provide documentation that the medal was issued for valor in combat and pay both the regular registration fee and the $10 special registration plate fee. The applicant does not have to meet the $300 application requirement.

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[1] Aside from the three plates available free of charge, three special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Purple Heart Recipient, and the Silver Star Recipient.

[2] The Legion of Valor plate is issuable to a recipient of one of the following: Congressional Medal of Honor, Distinguished Service Cross, Navy Cross, or Air Force Cross.

[3] There are 12 Visitors' Centers. The two centers that do not receive State funding are located in Dare County.

[4] Each Visitor's Center receives $100,000.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: The Bronze Star Medal was established in 1944, retroactive to December 7, 1941. It is a United States Armed Forces individual military decoration and is the fourth highest award for bravery, heroism or meritorious service. The medal is awarded to any person who, while serving in any capacity in or with the military of the U.S. after December 6, 1941, distinguished himself or herself by heroic or meritorious achievement or service, not involving participation in aerial flight, while engaged in any of the following:

- An action against an enemy of the United States
- Military operations involving conflict with an opposing foreign force
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

A Valor or ("V") device is attached to the Bronze Star Medal if the award resulted from an act of combat heroism.

CURRENT LAW:

BILL ANALYSIS:

EFFECTIVE DATE:

BACKGROUND:

H0206e2-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 679

Committee Substitute Favorable 6/21/07
Committee Substitute #2 Favorable 7/19/07

Short Title: Safety/Emission Inspection Changes.-AB (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO CHANGE ARTICLE 3A OF CHAPTER 20, SAFETY AND EMISSIONS INSPECTION PROGRAMS, TO ALLOW FOR ELECTRONIC INSPECTION PROCESSES AND AUTHORIZATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-66 reads as rewritten:

"**§ 20-66. Renewal of vehicle registration.**

(a) Annual Renewal. – The registration of a vehicle must be renewed annually. To renew the registration of a vehicle, the owner of the vehicle must file an application with the Division and pay the required registration fee. The Division may receive and grant an application for renewal of registration at any time before the registration expires.

(b) Method of Renewal. – When the Division renews the registration of a vehicle, it must issue a new registration card for the vehicle and either a new registration plate or a registration renewal sticker. The Division may renew a registration plate for any type of vehicle by means of a renewal sticker.

(b1) Repealed by Session Laws 1993, c. 467, s. 2.

(c) Renewal Stickers. – A registration renewal sticker issued by the Division must be displayed on the registration plate that it renews in the place prescribed by the Commissioner and must indicate the period for which it and the registration plate on which it is displayed are valid. Except where physical differences between a registration renewal sticker and a registration plate render a provision of this Chapter inapplicable, the provisions of this Chapter relating to registration plates apply to registration renewal stickers.

(d), (e) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, § 5.

(f) Repealed by Session Laws 1993, c. 467, s. 2.

(g) When Renewal Sticker Expires. – The registration of a vehicle that is renewed by means of a registration renewal sticker expires at midnight on the last day

of the month designated on the sticker. It is lawful, however, to operate the vehicle on a highway until midnight on the fifteenth day of the month following the month in which the sticker expired.

The Division may vary the expiration dates of registration renewal stickers issued for a type of vehicle so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division implements registration renewal for a type of vehicle by means of a renewal sticker, it may issue a registration renewal sticker that expires at the end of any monthly interval.

(h) Repealed by Session Laws 2004-167, s. 3, as amended by Session Laws 2004-199, s. 59, effective January 1, 2006.

(i) Property Tax Consolidation. – When the Division receives an application under subsection (a) for the renewal of registration before the current registration expires, the Division shall grant the application if it is made for the purpose of consolidating the property taxes payable by the applicant on classified motor vehicles, as defined in G.S. 105-330. The registration fee for a motor vehicle whose registration cycle is changed under this subsection shall be reduced by a prorated amount. The prorated amount is one-twelfth of the registration fee in effect when the motor vehicle's registration was last renewed multiplied by the number of full months remaining in the motor vehicle's current registration cycle, rounded to the nearest multiple of twenty-five cents (25¢).

(j) Inspection Prior to Renewal of Registration. – The Division shall not renew the registration of a vehicle unless it has a current safety or emissions inspection.

(k) Return of Registration Plates Upon Expiration. – Registration plates that are not renewed shall be surrendered to the Division within 120 days of expiration."

SECTION 2. G.S. 20-183.2(c) reads as rewritten:

"(c) Definitions. – The following definitions apply in this Part:

(1) Electronic inspection authorization. – An inspection authorization that is generated electronically through the electronic accounting system that creates a unique nonduplicating authorization number assigned to the vehicle's inspection receipt upon successful passage of an inspection. The term 'electronic inspection authorization' shall include the term 'inspection sticker' during the transition period to use of electronic inspection authorizations.

~~(1)~~(2) Emissions county. – A county listed in G.S. 143-215.107A(c) or designated by the Environmental Management Commission pursuant to G.S. 143-215.107A(d) and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.

~~(2)~~(3) Federal installation. – An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

SECTION 3. G.S. 20-183.4 reads as rewritten:

"**§ 20-183.4. License required to perform safety inspection; qualifications for license.**

(a) License Required. – A safety inspection must be performed by one of the following methods:

(1) At a station that has a safety inspection station license issued by the Division and by a mechanic who is employed by the station and has a safety inspection mechanic license issued by the Division.

(2) At a place of business of a person who has a safety self-inspector license issued by the Division and by an individual who has a safety inspection mechanic license issued by the Division.

(b) Station Qualifications. – An applicant for a license as a safety inspection station must meet all of the following requirements:

(1) Have a place of business that has adequate facilities, space, and equipment to conduct a safety inspection. A place of business designated in a station license that has been suspended or revoked cannot be the designated place for any other license applicant during the period of the suspension or revocation, unless the Division finds that operation of the place of business as an inspection station during this period by the license applicant would not defeat the purpose of the suspension or revocation because the license applicant has no connection with the person whose license was suspended or revoked or because of another reason. A finding made by the Division under this subdivision must be set out in a written statement that includes the finding and the reason for the finding.

(2) Regularly employ at least one mechanic who has a safety inspection mechanic license.

(3) Designate the individual who will be responsible for the day-to-day operation of the station. The individual designated must be of good character and have a reputation for honesty.

(4) Have equipment and software to transfer information on safety inspections to the Division by electronic means. During the initial implementation of the electronic inspection process, the vendor selected by the Division shall provide the equipment and software at no cost to a station that holds a license on October 1, 2008.

(c) Mechanic Qualifications. – An applicant for a license as a safety inspection mechanic must meet all of the following requirements:

(1) Have successfully completed an eight-hour course approved by the Division that teaches students about the safety equipment a motor vehicle is required to have to pass a safety inspection and how to conduct a safety ~~inspection.~~inspection using equipment to electronically transmit the vehicle information and inspection results.

(2) Have a drivers license.

(3) Be of good character and have a reputation for honesty.

(d) Self-Inspector Qualifications. – An applicant for a license as a safety self-inspector must meet all of the following requirements:

(1) Operate a fleet of at least 10 vehicles that are subject to a safety inspection.
(2) Regularly employ or contract with an individual who has a safety inspection mechanic license and who will perform a safety inspection on the vehicles that are part of the self-inspector's fleet."

SECTION 4. G.S. 20-183.4A reads as rewritten:

"**§ 20-183.4A. License required to perform emissions inspection; qualifications for license.**

(a) License Required. – An emissions inspection must be performed by one of the following methods:

(1) At a station that has an emissions inspection station license issued by the Division and by a mechanic who is employed by the station and has an emissions inspection mechanic license issued by the Division.
(2) At a place of business of a person who has an emissions self-inspector license issued by the Division and by an individual who has an emissions inspection mechanic license.

(b) Station Qualifications. – An applicant for a license as an emissions inspection station must meet all of the following requirements:

(1) Have a license as a safety inspection station.
(2) Repealed by Laws 2000-134, s. 15, effective January 1, 2006.
(2a) Have equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.
(3) Have equipment and software to transfer information on emissions inspections to the Division by electronic means. During the initial implementation of the electronic inspection process, the vendor selected by the Division shall provide the software at no cost to a station that holds a license on October 1, 2008.
(4) Regularly employ at least one mechanic who has an emissions inspection mechanic license.

(c) Mechanic Qualifications. – An applicant for a license as an emissions inspection mechanic must meet all of the following requirements:

(1) Have a license as a safety inspection mechanic.
(2) Repealed by Laws 2000-134, s. 15, effective January 1, 2006.
(2a) Have successfully completed an eight-hour course approved by the Division that teaches students about the causes and effects of the air pollution problem, the purpose of the emissions inspection program, the vehicle emission standards established by the United States Environmental Protection Agency, the emission control devices on vehicles, how to conduct an emissions inspection using equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written

test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-Inspector Qualifications. – An applicant for a license as an emissions self-inspector must meet all of the following requirements:

(1) Have a license as a safety self-inspector.

(2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.

(3) Repealed by Laws 2000-134, s. 15, effective January 1, 2006.

(3a) Have, or have a contract with a person who has, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.

(4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet."

SECTION 5. G.S. 20-183.4C(a) reads as rewritten:

"(a) Inspection. – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

(1) A new vehicle must be inspected before it is sold at retail in this State. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.

(2) A used vehicle must be inspected before it is offered for sale at retail in this State by a ~~dealer at a location other than a public auction.~~ dealer. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.

~~(3) A used vehicle that is offered for sale at retail in this State by a dealer at a public auction must be inspected before it is offered for sale unless it has an inspection sticker that was put on the vehicle under this Part and does not expire until at least nine months after the date the vehicle is offered for sale at auction.~~

(4) A new or used vehicle acquired by a resident of this State from a ~~person~~ outside the State must be inspected within 10 days after the vehicle is registered with the Division.

(5) A vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected within 10 days after the vehicle is registered with the Division.

~~(5a) If the registration of a vehicle is transferred from a county that is not an emissions county to an emissions county, the vehicle must be inspected in accordance with this Part within 60 days of the transfer of registration.~~

(6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the ~~inspection sticker~~registration on the vehicle ~~expires, unless another subdivision of this section requires it to be inspected sooner.~~expires.

(7) A vehicle that is required to be inspected in accordance with this Part may be inspected 90 days prior to midnight of the last day of the month as designated by the vehicle registration sticker.

(8) A new or used vehicle acquired from a retailer in this State and registered with the Division with a new registration or a transferred registration must be inspected in accordance with this Part when the current registration expires.

(9) A used vehicle acquired from a private sale in this State must be inspected in accordance with this Part within 30 days after the vehicle is registered with the Division or when the current registration expires if it has not received a passing inspection within the previous 12 months.

(10) An unregistered vehicle must be inspected within 30 days after the vehicle is registered with the Division or not later than 30 days after a transferred registration expires.

(11) A person who owns a vehicle located outside of this State when its emissions inspection becomes due may obtain an emissions inspection in the jurisdiction where the vehicle is located, in lieu of a North Carolina emissions inspection, as long as the inspection meets the requirements of 40 C.F.R. § 51."

SECTION 6. G.S. 20-183.4D reads as rewritten:

"**§ 20-183.4D. Procedure when a vehicle is inspected.**

(a) Receipt. – When a safety inspection mechanic or an emissions inspection mechanic inspects a vehicle, the mechanic must give the person who brought the vehicle in for inspection an inspection receipt. The inspection receipt must state the date of the inspection, identify the mechanic performing the inspection, identify the station or self-inspector where the inspection was performed, and list the components of the inspection performed and indicate for each component whether the vehicle passed or failed. A vehicle that fails a component of an inspection may be repaired at any repair facility chosen by the owner or operator of the vehicle.

(b) ~~Sticker.~~Electronic Inspection Authorization. – When a vehicle that is subject to a safety inspection only passes the safety inspection, the safety inspection mechanic who performed the inspection must ~~put an inspection sticker on the windshield of~~issue an electronic inspection authorization to the vehicle at the place designated by the Division. When a vehicle that is subject to both a safety inspection and an emissions inspection passes both inspections or passes the safety inspection and has a waiver for the emissions inspection, the emissions mechanic performing the inspection must ~~put an inspection sticker on the windshield of~~issue an electronic inspection authorization to the vehicle at the place designated by the Division.

~~(c) Content of Sticker. An inspection sticker issued for a vehicle that is subject to a safety inspection only must be a different color from an inspection sticker issued for a vehicle that is subject to both a safety and an emissions inspection. An inspection sticker must indicate when it expires, must be printed with a unique serial number and an official program seal, and must be counterfeit resistant. The side of an inspection~~

~~sticker that is readable from the interior of a vehicle must contain the following information:~~

~~(1) The date the inspection was performed.~~

~~(2) The odometer reading when the inspection was performed.~~

~~(3) The signature, initials, or other identification of the mechanic who performed the inspection and put the sticker on the windshield.~~

~~(d) When Sticker Expires. An inspection sticker put on a vehicle that did not have an inspection sticker issued under this Part when it was brought in for inspection expires at midnight on the last day of the twelfth month after the month the inspection sticker is put on the vehicle. An inspection sticker put on a vehicle that had an inspection sticker that was put on under this Part when it was brought in for inspection expires as follows:~~

~~(1) If the expiration date of the inspection sticker the vehicle had when it was brought in for inspection is less than 12 full months from the date of the inspection, the inspection sticker expires at midnight on the last day of the twelfth month after the month the inspection sticker is put on the vehicle.~~

~~(2) If the expiration date of the inspection sticker the vehicle had when it was brought in for inspection is 12 or more months from the date of the inspection, the inspection sticker expires one year after the expiration date of the inspection sticker the vehicle had when it was brought in for inspection, regardless of whether there are 12 months in this period.~~

(e) When Electronic Inspection Authorization Expires. – An electronic inspection authorization issued under this Part expires at midnight of the last day of the month designated by the vehicle registration sticker of the following year."

SECTION 7. G.S. 20-183.5 reads as rewritten:

"**§ 20-183.5. When a vehicle that fails an emissions inspection may obtain a waiver from the inspection requirement.**

(a) **(For amendment to subsection (a) effective January 1, 2006, see notes.)** Requirements. – The Division may issue a waiver for a ~~vehicle~~ vehicle, excluding a vehicle owned or being held for retail sale by a motor vehicle dealer, that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection but fails the analysis of exhaust emissions or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is ~~seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is~~ two hundred dollars ~~($200.00) if the vehicle is a 1981 or newer model.~~($200.00).

(3) Is reinspected and again fails the inspection because it passes the visual inspection but fails the analysis of exhaust emissions or the

analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § ~~51.360.~~51.360, or as designated by the Division.

(b) Procedure. – To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a waiver is issued must present the waiver to the self-inspector or inspection station performing the inspection to obtain an ~~inspection sticker.~~electronic inspection authorization.

(c) Repairs. – The following repairs and their costs cannot be considered in determining whether the cost of repairs made to a vehicle equals or exceeds the waiver amount:

(1) Repairs covered by a warranty that applies to the vehicle.

(2) Repairs needed as a result of tampering with an emission control device of the vehicle.

(3) ~~If the vehicle is a 1981 or newer model, repairs~~ Repairs made by an individual who is not professionally engaged in the business of repairing vehicles.

(4) OBD diagnostics without corresponding repairs.

(d) ~~Sticker Expiration.~~Electronic Inspection Authorization. – An ~~inspection sticker put on~~ electronic inspection authorization issued to a vehicle after the vehicle receives a waiver from the requirement of passing the emissions inspection expires at the same time it would if the vehicle had passed the emissions inspection."

SECTION 8. G.S. 20-183.5A reads as rewritten:

"**§ 20-183.5A. When a vehicle that fails a safety inspection because of missing emissions control devices may obtain a waiver.**

(a) Requirements. – The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails a safety inspection because it does not have one or more emissions control devices.

(2) Has documented repairs within the previous calendar year to replace missing emissions control devices costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is ~~seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is~~ two hundred dollars ($200.00) if the vehicle is a ~~1981~~1996 or newer model.

(b) Procedure. – To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the

documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a waiver is issued must present the waiver to the self-inspector or inspection station performing the inspection to obtain an ~~inspection sticker.~~electronic inspection authorization.

(c) Repairs. – The following repairs and their costs cannot be considered in determining whether the cost of repairs made to a vehicle equals or exceeds the waiver amount:

(1) Repairs covered by a warranty that applies to the vehicle.

(2) Repairs needed as a result of tampering with an emission control device of the vehicle.

(3) ~~If the vehicle is a 1981 or newer model, repairs~~ Repairs made by an individual who is not professionally engaged in the business of repairing vehicles.

(d) Sticker Expiration. – An inspection sticker put on a vehicle after the vehicle receives a waiver from the requirement of passing the safety inspection expires at the same time it would if the vehicle had passed the safety inspection."

SECTION 9. G.S. 20-183.5A(d) reads as rewritten:

"(d) ~~Sticker~~Electronic Inspection Authorization Expiration. – An ~~inspection sticker put on~~ electronic inspection authorization issued to a vehicle after the vehicle receives a waiver from the requirement of passing the safety inspection expires at the same time it would if the vehicle had passed the safety inspection."

SECTION 10. G.S. 20-183.6 is repealed.

SECTION 11. G.S. 20-183.6A(a) reads as rewritten:

"(a) Division. – The Division is responsible for administering the safety inspection and the emissions inspection programs. In exercising this responsibility, the Division must:

(1) Conduct performance audits, record audits, and equipment audits of those licensed to perform inspections to ensure that inspections are performed properly.

(2) Ensure that Division personnel who audit license holders are knowledgeable about audit procedures and about the requirements of both the safety inspection and the emissions inspection programs.

(3) Perform an emissions inspection on a vehicle when requested to do so by a vehicle owner so the owner can compare the result of the inspection performed by the Division with the result of an inspection performed at an emissions inspection station.

(4) Investigate complaints about a person licensed to perform inspections and reports of irregularities in performing inspections.

(5) Establish written procedures for the issuance of ~~inspection stickers~~ electronic inspection authorizations to persons licensed to perform ~~inspections.~~electronic inspection authorizations.

(6) Submit information and reports to the federal Environmental Protection Agency as required by 40 C.F.R. Part 51.

(b) License Holders. – A person who is licensed by the Division under this Part must post the license at the place required by the Division and must keep a record of inspections performed. The inspection record must identify the vehicle that was inspected, indicate the type of inspection performed and the date of inspection, and contain any other information required by the Division. A self-inspector or an inspection station must send its records of inspections to the Division in the form and at the time required by the Division. An auditor of the Division may review the inspection records of a person licensed by the Division under this Part during normal business hours."

SECTION 12. G.S. 20-183.7 reads as rewritten:

"**§ 20-183.7. Fees for performing an inspection and ~~putting an inspection sticker on~~ issuing an electronic inspection authorization to a vehicle; use of civil penalties.**

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an ~~inspection sticker,~~ electronic inspection authorization, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an ~~inspection sticker:~~electronic inspection authorization:

Type	Inspection	~~Sticker~~ Authorization
Safety Only	~~$ 8.25~~$12.75	$0.85
Emissions and Safety	23.75	6.25.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an ~~inspection sticker~~ electronic inspection authorization applies when an ~~inspection sticker is put on~~ electronic inspection authorization is issued to a vehicle. ~~The fee for an inspection sticker does not apply to a replacement inspection sticker for use on a windshield replaced by a business registered with the Division pursuant to G.S. 20-183.6.~~ The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only

inspection set out in this subsection may not be increased or decreased. The ~~sticker~~ authorization fees set out in this subsection may not be increased or decreased.

(b) Self-Inspector. – The fee for an inspection does not apply to an inspection performed by a self-inspector. The fee for ~~putting an inspection sticker on~~ issuing an electronic inspection authorization to a vehicle applies to an inspection performed by a self-inspector.

(c) Fee Distribution. – Fees collected for ~~inspection stickers~~ electronic inspection authorizations are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Emissions Program Account established in subsection (d) of this section, the Telecommunications Account established in subsection (d1) of this section, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environment and Natural Resources:

Recipient	Safety Only ~~Sticker~~ Electronic Authorization	Emissions and Safety ~~Sticker~~ Electronic Authorization
Highway Fund	.55	.55
Emissions Program Account	.00	3.00
Telecommunications Account	.00	1.75
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	.65

(d) Emissions Program Account. – The Emissions Program Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to fund the vehicle emissions inspection and maintenance program.

(d1) Telecommunications Account. – The Telecommunications Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to provide equipment and telecommunications services associated with the vehicle safety and emissions inspection and maintenance program.

(e) Civil Penalties. – Civil penalties collected under this Part shall be credited to the Highway Fund as nontax revenue.

(f) Inspection Stations Required to Post Fee Information. – The Division shall approve the form and style of one or more standard signs to be used to display the information required by this subsection. The Division shall require that one or more of the standard signs be conspicuously posted at each inspection station in a manner reasonably calculated to make the information on the sign readily available to each person who presents a motor vehicle to the station for inspection. The sign shall include the following information:

(1) The maximum and minimum amounts of the inspection fee authorized by this section.
(2) The amount of the inspection fee charged by the inspection station and a statement that clearly indicates that the amount of the inspection fee is determined by the inspection station, that the inspection fee is retained by the inspection station to compensate the station for performing the inspection, and that the inspection fee is not paid to the State.
(3) The amount of the ~~sticker~~ electronic inspection authorization fee, if the motor vehicle passes the inspection, a statement that the ~~sticker~~ electronic inspection authorization fee is paid to the State, and a brief summary of the purposes for which the ~~sticker~~ electronic inspection authorization fee is collected.
(4) The total fee to be charged if the motor vehicle passes the inspection.
(5) A statement that a vehicle that fails an inspection may be reinspected at the same station within 30 days of the inspection without payment of another inspection fee.

(g) Information on Receipt. – The information set out in subdivisions (1) through (5) of subsection (f) of this section shall be set out in not smaller than 12 point type and shall be shown graphically in the form of a pie chart on the inspection receipt.

(h) Subsections (f) and (g) of this section apply only to inspection stations that perform both emissions and safety inspections."

SECTION 13. G.S. 20-183.7B reads as rewritten:

"**§ 20-183.7B. Acts that are Type I, II, or III safety violations.**

(a) Type I. – It is a Type I violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without performing a safety inspection of vehicle.
(2) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle after performing a safety inspection of the vehicle and determining that the vehicle did not pass the inspection.
(3) Allow a person who is not licensed as a safety inspection mechanic to perform a safety inspection for a self-inspector or at a safety station.
(4) ~~Sell~~ Sell, issue, or otherwise give an ~~inspection sticker~~electronic inspection authorization to another, other than as the result of a vehicle inspection in which the vehicle passed the inspection.
(5) Be unable to account for five or more ~~inspection stickers~~electronic inspection authorizations at any one time upon the request of an officer of the Division.
(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.
(7) Transfer an ~~inspection sticker~~electronic inspection authorization from one vehicle to another.

(8) Conduct a safety inspection of a vehicle without driving the vehicle and without raising the vehicle and without opening the hood of the vehicle to check equipment located therein.

(9) Solicit or accept anything of value to pass a vehicle other than as provided in this Part.

(b) Type II. – It is a Type II violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without driving the vehicle and checking the vehicle's braking reaction, foot brake pedal reserve, and steering free play.

(2) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without raising the vehicle to free each wheel and checking the vehicle's tires, brake lines, parking brake cables, wheel drums, exhaust system, and the emissions equipment.

(3) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without raising the hood and checking the master cylinder, horn mounting, power steering, and emissions equipment.

(4) Conduct a safety inspection of a vehicle outside the designated inspection area.

(5) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle with inoperative equipment, or with equipment that does not conform to the vehicle's original equipment or design specifications, or with equipment that is prohibited by any provision of law.

(6) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without performing a visual inspection of the vehicle's exhaust system.

(7) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without checking the exhaust system for leaks.

(8) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle that is required to have any of the following emissions control devices but does not have the device:

a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(9) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle after failing to inspect four or more of following:
a. Emergency brake.
b. Horn.
c. Headlight high beam indicator.
d. Inside rearview mirror.
e. Outside rearview mirror.
f. Turn signals.
g. Parking lights.
h. Headlights – operation and lens.
i. Headlights – aim.
j. Stoplights.
k. Taillights.
l. License plate lights.
m. Windshield wiper.
n. Windshield wiper blades.
o. Window tint.

(10) Impose no fee for a safety inspection of a vehicle or the issuance of a safety ~~inspection sticker~~ electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. – It is a Type III violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:
(1) Fail to post a safety inspection station license issued by the Division.
(2) Fail to send information on safety inspections to the Division at the time or in the form required by the Division.
(3) Fail to post all safety information required by federal law and by the Division.
(4) Fail to put the required information on an ~~inspection sticker or~~ inspection receipt in a legible manner using ink.
(5) Issue a receipt that is signed by a person other than the safety inspection mechanic.
(6) Place an incorrect expiration date on an ~~inspection sticker.~~electronic inspection authorization.
(7) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle after having failed to inspect three or fewer of the following:
a. Emergency brake.
b. Horn.
c. Headlight high beam indicator.
d. Inside rearview mirror.
e. Outside rearview mirror.
f. Turn signals.

g. Parking lights.
h. Headlights – operation and lens.
i. Headlights – aim.
j. Stoplights.
k. Taillights.
l. License plate lights.
m. Windshield wiper.
n. Windshield wiper blades.
o. Window tint.

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

SECTION 14. G.S. 20-183.8 reads as rewritten:

"**§ 20-183.8. Infractions and criminal offenses for violations of inspection requirements.**

(a) Infractions. – A person who does any of the following commits an infraction and, if found responsible, is liable for a penalty of up to fifty dollars ($50.00):

(1) Operates a motor vehicle that is subject to inspection under this Part on a highway or public vehicular area in the State when the vehicle has not been inspected in accordance with this Part, as evidenced by the vehicle's lack of a current ~~inspection sticker~~electronic inspection authorization or otherwise.

(2) Allows an ~~inspection sticker~~electronic inspection authorization to be ~~put on~~ issued to a vehicle owned or operated by that person, knowing that the vehicle was not inspected before the ~~sticker~~ electronic inspection authorization was ~~attached~~ issued or was not inspected properly.

(3) ~~Puts~~ Issues an ~~inspection sticker~~ electronic inspection authorization on a vehicle, knowing or having reasonable grounds to know that an inspection of the vehicle was not performed or was performed improperly. A person who is cited for a civil penalty under G.S. 20-183.8B for an emissions violation involving the inspection of a vehicle may not be charged with an infraction under this subdivision based on that same vehicle.

(4) Alters the original certified configuration or data link connectors of a vehicle in such a way as to make an emissions inspection by analysis of data provided by on-board diagnostic (OBD) equipment inaccurate or impossible.

(b) Defenses to Infractions. – Any of the following is a defense to a violation under subsection (a) of this section:

(1) The vehicle was continuously out of State for at least the 30 days preceding the date the ~~inspection sticker~~electronic inspection authorization expired and a current ~~inspection sticker~~ electronic

inspection authorization was obtained within 10 days after the vehicle came back to the State.

(2) The vehicle displays a dealer license plate or a transporter plate, the dealer repossessed the vehicle or otherwise acquired the vehicle within the last 10 days, and the vehicle is being driven from its place of acquisition to the dealer's place of business or to an inspection station.

(3) Repealed by Session Laws 1997-29, s. 5.

(4) The charged infraction is described in subdivision (a)(1) of this section, the vehicle is subject to a safety inspection or an emissions inspection and the vehicle owner establishes in court that the vehicle was inspected after the citation was issued and within 30 days of the expiration date of the inspection sticker that was on the vehicle or the electronic inspection authorization was issued to the vehicle when the citation was issued.

(c) Felony. – A person who does any of the following commits a Class I felony:

(1) Forges an inspection ~~sticker.~~sticker or inspection receipt.

(2) Buys, sells, issues, or possesses a forged inspection ~~sticker.~~sticker or electronic inspection authorization.

(3) Buys, sells, issues, or possesses an ~~inspection sticker~~electronic inspection authorization other than as the result of either of the following:

a. Having a license as an inspection station, a self-inspector, or an inspection mechanic and obtaining the ~~inspection sticker~~ electronic inspection authorization from the Division through an electronic authorization vendor in the course of business.

b. A vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(4) Solicits or accepts anything of value in order to pass a vehicle that fails a safety or emissions inspection.

(5) Fails a vehicle for any reason not authorized by law."

SECTION 15. G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions violations.**

The Division shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is ~~one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and~~ two hundred fifty dollars ~~($250.00) if the vehicle is a 1981 or newer model~~

~~vehicle.~~($250.00). As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this section has been paid."

SECTION 16. G.S. 20-183.8C reads as rewritten:

"**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

(a) Type I. – It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) ~~Put~~ Issue an emissions ~~inspection sticker~~ electronic inspection authorization on a vehicle without performing an emissions inspection of the vehicle.

(1a) ~~Put~~ Issue an emissions ~~inspection sticker on~~ electronic inspection authorization to a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions ~~inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result,~~ inspection by changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year, or using data provided by the on-board diagnostic (OBD) equipment of another vehicle to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) ~~Sell~~ Sell, issue, or otherwise give an ~~inspection sticker~~electronic inspection authorization to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(5) Be unable to account for five or more ~~inspection stickers~~ electronic inspection authorizations at any one time upon the request of an auditor of the Division.

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

(7) Transfer an ~~inspection sticker~~ electronic inspection authorization from one vehicle to another.

(b) Type II. – It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access to an emissions analyzer or to equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(2) Keep ~~inspection stickers and other~~ compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.

(3) ~~Put~~ Issue a safety ~~inspection sticker~~ electronic inspection authorization or an emissions ~~inspection sticker~~ electronic inspection authorization on a vehicle that is required to have one of the following emissions control devices but does not have it:
a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(4) ~~Put~~ Issue a safety ~~inspection sticker~~electronic inspection authorization or an emissions ~~inspection sticker~~ electronic inspection authorization on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.

(5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions ~~inspection sticker~~ electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. – It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(3) Fail to post emissions information required by federal law to be posted.

~~(4) Fail to put the required information on an inspection sticker in a legible manner using ink.~~

(5) Fail to put the required information on an inspection receipt in a legible manner.

~~(6) Fail to maintain a maintenance log for an emissions analyzer or for equipment to analyze data provided by on-board diagnostic (OBD) equipment.~~

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

SECTION 16.1. The Division may utilize the vendor currently providing services for the emissions stations to help implement the provisions of this act.

SECTION 16.2. The Division shall report on the progress of implementing this act to the Joint Legislative Transportation Oversight Committee by May 1, 2008.

SECTION 17. This act becomes effective October 1, 2008, and applies to offenses committed on or after that date.

HOUSE BILL 679:
Safety/Emission Inspection Changes.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Rep. Cole	**Summary by:**	Trina Griffin
Version:	Third Edition		Committee Counsel

SUMMARY: House Bill 679 does the following:

- ***Aligns the date of a vehicle inspection with the date of registration renewal.***
- ***Requires that a vehicle pass inspection before the registration may be renewed.***
- ***Moves the safety inspection stations to an electronic reporting system like the emissions inspection stations.***
- ***Increases the safety inspection fee from $8.25 to $12.75.***
- ***Amends the statutes governing waiver of inspection requirements.***

This bill would become effective October 1, 2008.

CURRENT LAW: Safety and emissions inspections are evidenced by a sticker placed on a vehicle's windshield.

BILL ANALYSIS: House Bill 679 establishes a new electronic safety and emissions vehicle inspection process. DMV will no longer issue a sticker to go on the windshield. Instead the customer will receive a receipt showing successful completion of the inspection. The fee for issuing an electronic inspection authorization for safety only will increase from $8.25 to $12.75. **(Section 12).**

Section 1 of the bill requires a vehicle to have a current safety or emissions inspection prior to renewal of registration, and requires registration plates that are not renewed to be surrendered within 120 days of expiration.

Section 2 of the bill defines "electronic inspection authorization."

Section 3 of the bill requires applicants for a license as a safety inspection station to have equipment and software to transfer information on safety inspections to DMV electronically, and requires an applicant for a safety inspection mechanic license to have training in use of the system. The equipment and software will be provided a no cost to a licensed safety inspection station during the initial implementation of the electronic inspection process. The station must hold a license on October 1, 2008.

Section 4 of the bill specifies that during the initial implementation of the electronic inspection process, the vendor selected by the Division must provide the software at no cost to an emissions inspection station that holds a license on October 1, 2008.

Section 5 of the bill requires sellers of new and used vehicles to be given a receipt certifying compliance with the electronic inspection process, and provides deadlines for inspection of vehicles acquired by various specified methods.

Section 6 of the bill authorizes electronic safety and emissions inspections, and eliminates the requirement for an inspection sticker. This section provides that inspections shall expire at midnight of the last day of the month of the month designated by the vehicle registration sticker of the following year.

Sections 7 of the bill provides that a vehicle (except a vehicle owned or being held for retail sale by a motor vehicle dealer) may obtain a waiver from the emissions inspection if the vehicle meets all of the following requirements:

- Fails the analysis part of an emission inspection
- Has documented repairs costing at least $200 to correct the failure. (currently repairs of $75 if the vehicle is a pre-1981 model and $200 if the vehicle is a 1981 or newer model)
- Is reinspected and again fails the analysis part of the inspection
- Meets any other waiver criteria required by federal regulations or designated by DMV.

Section 8 of the bill provides that a vehicle may obtain a waiver from a safety inspection if it meets all of the following requirements:

- Fails a safety inspection because it does not have an emissions control device.
- Has documented repairs costing $200 if the vehicle is a 1996 or newer model (currently repairs of $75 if the vehicle is a pre-1981 model and $200 if the vehicle is a 1981 or newer model.)

Section 9 provides that an electronic inspection authorization issued to a vehicle that received a waiver expires the same time it would if the vehicle had passed the safety inspection.

Section 10 is a conforming change. It repeals G.S. 20-183.6, which currently requires businesses that replace windshields to register with DMV to get inspection stickers.

Section 11 of the bill makes conforming changes.

Sections 13-16 of the bill make conforming changes.

EFFECTIVE DATE: This act becomes effective October 1, 2008, and applies to offenses committed on or after that date.

Giles Perry, counsel to House Transportation, and Martha Walston, counsel to House Finance, substantially contributed to this summary.

H0679e3-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 679 (Third Edition)

SHORT TITLE: Safety/Emission Inspection Changes.-AB

SPONSOR(S): Representative Cole

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:	$0	$1,302,067	$1,736,089	$1,736,089	$1,736,089
Estimated revenues generated from increased compliance for vehicle emissions and safety inspections; these revenues are credited to various accounts, as prescribed by law – see "Assumptions and Methodology."					
EXPENDITURES:					
DMV IT System	$441,560				
DMV Contract w/ Vendor	$1,800,000	$1,800,000	$1,800,000	$1,800,000	$1,800,000
* DMV's contract for communications equipment to be installed at current inspection stations is estimated at $11,611,000. DMV anticipates paying $1,800,000 over 6.5 years for this equipment and service.					
LPA Reimbursement (stickers to stations)	-	($80,066)	($106,755)	($106,755)	($106,755)
Safety & Emission Stickers Purchased	-	($258,972)	($345,296)	($345,296)	($345,296)
TOTAL DMV COST:	$2,241,560	$1,460,962	$1,460,962	$1,460,962	$1,460,962
**This total sums the new costs and savings; this amount does not include the new revenues shown above since those revenues go into various accounts and it is not known how much of the funds will be available to DMV to offset these new costs.					
Fee increase paid by customers to stations for *safety-only inspections*	$12,959,676	$12,959,676	$12,959,676	$12,959,676	$12,959,676
Judicial	No significant impact anticipated; however, the exact amount cannot be determined.				
Correction					
PRISON BEDS (cumulative):	Minimal impact anticipated.				
POSITIONS (cumulative):	0	0	0	0	0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation, Division of Motor Vehicles (DMV); Judicial Branch; Corrections.

EFFECTIVE DATE: October 1, 2008.

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY: This act amends G.S. 20-183.4 to require that vehicle inspection stations' personnel transmit information on safety and emissions inspections to the Division of Motor Vehicles (DMV) electronically. The safety inspection stations will be required to have the appropriate communications equipment necessary to transmit information electronically provided by a vendor contracted by the Division of Motor Vehicles. This act requires that an electronic authorization will occur in lieu of a physical sticker affixed to the vehicle's windshield. That electronic authorization information will be maintained and connected to the Vehicle Identification Database managed by DMV through contractual services.

A vehicle's safety inspection and registration term will expire together during the same month annually and the inspection must be completed prior to a vehicle registration renewal is allowed.

Effective October 1, 2008, the fee amount charged to customers for a safety-only inspection will be increased from $8.25 to $12.75. This fee is the inspection station's payment for inspection services paid for by the customer.

The third edition (House committee substitute) makes the following changes to the second:

- Modifies proposed G.S. 20-183.4(b)(4) (safety inspections) to:
    1. Provide that the station must have software as well as equipment, and
    2. Provide that during the initial implementation of the electronic inspection process, the vendor must provide the equipment and software at no cost to a station that holds a license on October 1, 2008.
- Modifies proposed amendments to G.S. 20-183.4A(b)(3) (emissions inspections) to:
    1. Provide that the station must have software as well as equipment, and
    2. Provide that during the initial implementation of the electronic inspection process, the vendor must provide the software (but not equipment) at no cost to a station that holds a license on October 1, 2008.
- Modifies proposed amendments to G.S. 20-183.4C(a) by providing that an out-of-state emissions inspection is allowed for a vehicle located outside NC when its inspection becomes due as long as the inspection meets specified federal standards.
- Authorizes the Division of Motor Vehicles (DMV) to utilize its current emissions vendor to implement the act and requires DMV to report by May 1, 2008, on its progress in implementing the act to the Joint Legislative Transportation Oversight Committee.
- Makes technical corrections by updating the version of G.S. 20-183.4A being amended.
- Makes technical and conforming changes to G.S. 20-183.7 and GS 20-183.7B.
- Changes the effective date from January 1, 2009 to October 1, 2008.

ASSUMPTIONS AND METHODOLOGY:

I. ELECTRONIC INSPECTION AUTHORIZATION

Department of Transportation, Division of Motor Vehicles:

- There will be a contract by DMV and the vendor to provide the current inspection stations with electronic communications equipment necessary for electronic stickers and upgrade the vendor's existing system. The Division and current vendor for emission inspections transmissions estimate this amount to be $11,611,000. This analysis assumes contract with the vendor to cost $1,800,000 beginning in FY2007-2008 and would continue for approximately 6.5 years. The Division intends to pay the vendor out of receipts generated by emissions

inspections and paid into the "Telecommunications" account established in law and paid for through fees by the customer. That account currently generates $1.75 per emissions inspection, of which $1.30 covers the cost to transmit current data from emissions inspections stations. The difference of .45 cents will be used to fund the contract with the vendor to automate the safety-only inspections.

- There will be costs associated with information technology upgrades and reprogramming for the proposed changes to the VID system managed by DMV. Most of the IT charges will occur in the first year in anticipation of issuing electronic authorizations for vehicle inspections in October 2008. The above costs show 75% of the one time charges in FY2007-2008 for 25% of those charges in FY2008-2009.
- There will be savings to DMV for discontinuing the purchase of the paper stickers from a vendor. This represents a savings of $345,296 annually for no longer purchasing the paper stickers. The FY2008-2009 amount above is prorated based on October 2008 effective date.
- There will be savings to DMV for discontinuing the reimbursement to local tag agents for the provision of the paper stickers to the inspection stations. The DMV will no longer reimburse license plate agents at $1.43 per transaction for this service. The annual savings is $106,755 and the prorated amount is reflected in FY2008-2009 based on the October 1, 2008 effective date.
- It is assumed that the compliance rate for vehicle emissions and safety-only inspections will increase as a result of linking the requirement for the inspection to the vehicle registration. DMV estimates that compliance will increase to 97% for both inspections. This will result in increased revenues of approximately $1,736,089 annually. Those fees go into the Highway Fund, Emissions Program, Telecommunication Account, Volunteer Rescue/EMS, Rescue Squad Workers Relief fund, and Division of Air Quality.
- The increase in the inspection fee amount from $8.25 to $12.75 will be borne by the customer who will pay the amount to the inspection station; there will be no fiscal impact to the DMV for this fee increase. DMV estimates that 97% compliance for safety-only inspections would produce 2,879,928 vehicles inspected annually; the increase in the fee of $4.50 would generate $12,959,676 for safety inspection stations.

II. Infractions & Criminal Offenses

By amending G.S. 20-183.8 to accommodate the proposed electronic inspection authorization process, H.B. 679 alters the scope of infractions and offenses for violations of inspection requirements. Specifically, the inclusion of electronic inspection authorizations, inspection receipts, or issuance thereof, expands several (subdivisions (1) through (3)) Class I felony offenses within subsection (c):

(c)(1): Makes it a Class I felony to forge an inspection receipt.

(c)(2): Makes it a Class I felony to issue a forged inspection sticker, or to buy, sell, issue, or possess a forged electronic inspection authorization.

(c)(3): Makes it a Class I felony to buy, sell, issue, or possess an electronic inspection authorization, other than through certain means/conditions.

However, based on the small number of charges and convictions under current G.S. 20-183.8(c)(2) – twenty-one (21) defendants charged in CY 2006, and no (0) convictions in FY 2004/05 – and present lack of offense codes for offenses under subdivisions (c)(1) and (c)(3), Fiscal Research does not anticipate a significant number of additional criminal charges or convictions due to this legislation.[1]

[1] The Administrative Office of the Courts currently does not maintain offense codes for the offenses listed in G.S. 20-183.8 (c)(1) or (c)(3); such lack of offense code may indicate that these offenses are infrequently charged and infrequently result in conviction.

Similarly, because this proposal would require an individual to obtain a current inspection for vehicle registration, the Division of Motor Vehicles expects the number of infractions (G.S. 20-183.8) and civil penalty assessments (G.S. 20-183.8A) to decrease by an unknown amount; however, the numbers of Type I, II, or III violations (sections 13 and 16) for which civil penalties may be assessed under G.S. 20-183.8B are expected to remain constant. **Consequently, the proposed changes should not have a significant impact on Corrections or the Courts.**

SOURCES OF DATA: Department of Transportation, Division of Motor Vehicles; N.C. Sentencing and Policy Advisory Commission; and the Administrative Office of the Courts.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Lisa Hollowell and Bryce Ball

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 26, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1829

Short Title:	Manufact. Housing Bd/Alt. Methods/Crim Checks.	(Public)
Sponsors:	Representative Harrison.	
Referred to:	Judiciary I.	

April 19, 2007

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA MANUFACTURED HOUSING BOARD TO USE ALTERNATIVE METHODS FOR CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR LICENSURE UNDER THE LAWS REGULATING MANUFACTURED HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-143.10A(b) reads as rewritten:

"(b) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. ~~The~~Applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Each applicant is required to pay the designated service for the cost of the criminal record report. In the alternative, the Board ~~shall be responsible for providing~~may provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential."

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

HOUSE BILL 1829:
Manufact. Housing Bd/Alt. Methods/Crim Checks

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Rep. Harrison	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 1829 would allow the North Carolina Manufactured Housing Board to accept criminal record reports conducted by private reporting services if the reporting service is designated by the Board to provide criminal record reports. The applicant for licensure by the Board would be responsible for paying the designated service for the cost of the report.

CURRENT LAW: The North Carolina Manufactured Housing Board requires that a person applying for licensure as a manufactured home manufacturer, dealer, salesperson, or set-up contractor consent to a criminal history record check. The Board must ensure that the State and national criminal history of an applicant is checked, and is responsible for providing the North Carolina Department of Justice with the applicant's fingerprints, a consent form signed by the applicant, and any additional information required by the N.C. Department of Justice. Currently a fingerprint card is submitted with the application for licensure.

The Board may charge the applicant a fee to cover the cost of the criminal record check. This fee is $55.

ANALYSIS: House Bill 1829 would allow the Board to accept criminal record reports that an applicant obtained from reporting services designated by the Board. The applicant would be required to pay the designated reporting service for the cost of the report. The report would be submitted with the application for licensure.

The North Carolina Real Estate Commission has similar authority to accept criminal record checks from designated reporting services.

EFFECTIVE DATE: The bill is effective when it becomes law.

Martha Walston, counsel to House Finance, substantially contributed to this summary.

H1829e1-SMSV

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 1829 (First Edition)

SHORT TITLE: Manufact. Housing Bd/Alt. Methods/Crim Checks.

SPONSOR(S): Representative Harrison

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
REVENUES:					
NC Manufactured Housing Board	**No net change assumed for either the Housing Board or the Department of Justice. See Assumptions and Methodology, p. 2.**				
Department of Justice					
EXPENDITURES:					
NC Manufactured Housing Board	**No additional costs anticipated.**				
Department of Justice					
POSITIONS (cumulative):	**None.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N.C. Manufactured Housing Board; Department of Justice.

EFFECTIVE DATE: Effective when it becomes law.

BILL SUMMARY: Those applying to the North Carolina Manufactured Housing Board for licensure as a manufactured home manufacturer, dealer, salesperson, or set-up contractor must consent to a criminal history record check. The Board ensures that the applicant's State and national criminal histories are checked, and provides the N.C. Department of Justice with the applicant's fingerprints, a consent form signed by the applicant, and any additional information required (a fingerprint card is submitted with the application). The Board charges a fee of $55 to cover the cost of the criminal record check, $38 of which is remitted to the Department of Justice (see Assumptions and Methodology).

H.B. 1829 amends G.S. 143-143.10A(b) to specify that applicants obtain criminal record reports from reporting services designated by the Board. The applicant is required to pay the designated service for the cost of the report, which is submitted with the application for licensure. However, the bill also provides that the Board may alternatively provide an applicant's fingerprints, signed consent form, and other required information to the North Carolina Department of Justice to perform a criminal record check.

Source: Adapted from Bill Summary (H1829e1-SMLA) and Bill Digest H.B. 1829 (04/18/0200)

ASSUMPTIONS AND METHODOLOGY: Presently, the Board charges a fee of $55 to cover the cost of a criminal record check - $38 is remitted to the Department of Justice (SBI) and the remaining $17 is retained by the Board to cover associated costs. The State Bureau of Investigation (SBI) incurs the following costs for background checks conducted for non-criminal justice agencies:

NC Fingerprint Check:	$14
National Fingerprint Check:	$24 ($2 to DOJ, $22 remitted to the FBI)
Total:	$38

Costs to the SBI per state and national check average $19.46, not including overhead or equipment ($16 retained for administrative costs).[1]

In FY 2006-07, 398 new licenses were issued by the Board (a decrease of approx. 13% from FY06 and 35% from FY07). It is not known exactly how many record checks will be obtained from designated reporting services, in lieu of checks conducted by the Department of Justice. However, because fee proceeds largely offset the costs incurred by both the Department of Justice and the Manufactured Housing Board for record checks, no net change in revenues or expenditures is expected. Any decrease in the number of record checks (workload) will be accompanied by a decrease in fee proceeds.

SOURCES OF DATA: N.C. Manufactured Housing Board; Department of Justice.

TECHNICAL CONSIDERATIONS: Criminal histories received from SBI/FBI are confidential documents, which are reviewed by the Board and then separated from applications and locked in a secure location. However, it is unclear whether histories obtained from reporting services and submitted with applications are also confidential.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and Jean Sandaire

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: June 11, 2007

Signed Copy Located in the NCGA Principal Clerk's Offices

[1] "Study of the Cost of Providing Criminal Records Checks." Office of State Budget and Management. March 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1595

Committee Substitute Favorable 5/24/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1595-CSSVx-65 [v.2]

8/1/2007 12:30:55 AM

Short Title: Economic Development Modifications. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT, TO CLARIFY URBAN PROGRESS ZONES AND AGRARIAN GROWTH ZONES, TO ALLOW MORE THAN ONE AGRARIAN GROWTH ZONE IN A COUNTY, TO CLARIFY WHEN THE LAST REPORT IS DUE FOR THE REPEALED LEE ACT CREDITS, TO MAKE TECHNICAL CHANGES CONCERNING THE TAX CREDITS FOR GROWING BUSINESSES; TO PROVIDE FOR PUBLICATION, MONITORING, AND REPORTING ON ECONOMIC DEVELOPMENT INCENTIVE CLAWBACKS; AND TO REQUIRE CLAWBACK PROVISIONS IN LOCAL ECONOMIC DEVELOPMENT AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-7.1(b)(4) reads as rewritten:

"(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

...

(4) A county or city may ~~acquire or construct one or more "shell buildings", which are structures of flexible design adaptable for use by a variety of industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building pursuant to subsection (c) of this section.~~acquire, construct, convey, or lease a building suitable for industrial or commercial use."

SECTION 2. G.S. 143B-437.09(a) reads as rewritten:

"(a) Urban Progress Zone Defined. – An urban progress zone is an area that meets all of the following conditions:

(1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, ~~or parts thereof,~~ in the most recent federal decennial ~~census that meets all conditions in this subsection.~~census.

~~(1)~~(2) All ~~land within the zone~~ of the area is located in whole within the primary corporate limits of a municipality with a population ~~of more than~~ in excess of 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

~~(2)~~(3) Every census tract and census block group that ~~composes part of the zone~~ comprises the area meets at least one of the following conditions:

a. ~~More~~ It has a population that meets the poverty level threshold. The population of a census tract or census block group meets the poverty level threshold if more than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. ~~At~~ It is located adjacent to a census tract or census block group whose population meets the poverty level threshold and at least fifty percent (50%) of the ~~area of the portion that is within the primary corporate limits of the municipality~~ part of it that is included in the area is zoned as ~~nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level.~~nonresidential. No more than thirty-five percent (35%) of the area of a zone may consist of census tracts or census block groups that satisfy this condition only.

c. It has a population that has a poverty level that is greater than the poverty level of the population of the State and a per capita income that is at least ten percent (10%) below the per capita income of the State according to the most recent federal decennial census, and it has experienced a major plant closing and layoff within the past ten years. A census tract or census block group has experienced a major plant closing and layoff if one of its industries has closed one or more facilities in the census tract or census block group resulting in a layoff of at least 3,000 employees working in the census tract or census block group and if the number of employees laid off is greater than seven percent (7%) of the population of the municipality according to the most recent federal decennial census.

~~(3) The area of the zone zoned as nonresidential does not exceed thirty-five percent (35%) of the total area of the zone.~~"

SECTION 3. G.S. 143B-437.10 reads as rewritten:

"**§ 143B-437.10. Agrarian growth zone designation.**

(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that meets all of the following conditions:

(1) It is comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial ~~census that meets all conditions in this subsection. A county may have no more than one agrarian growth zone.~~ census.

~~(1)~~(2) All ~~land within the zone~~ of the area is located in whole within a county that has no municipality with a population in excess of ~~10,000.~~10,000 according to the most recent annual population estimates certified by the State Budget Officer.

~~(2)~~(3) Every census tract and census block group that ~~composes part of the zone~~comprises the area has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

~~(3) The area of the zone less the smallest census tract included in the zone does not exceed five percent (5%) of the total area of the county in which the zone is located.~~

(b) Limitation and Designation. – The area of a county that is included in one or more agrarian growth zones shall not exceed five percent (5%) of the total area of the county. Upon application of a county, the Secretary of Commerce shall make a written determination whether an area is an agrarian growth zone that satisfies the conditions ~~and limitations~~ of subsection (a) of this section. The application shall include all of the information listed in this subsection. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all ~~urban progress~~ agrarian growth zones with a description of their boundaries.

(1) A map showing the census tracts and block groups that would comprise the zone.

(2) A detailed description of the boundaries of the area that would comprise the zone.

(3) A certification regarding the size of the proposed zone.

(4) Detailed census information on the county and the proposed zone.

(5) A resolution of the board of county commissioners requesting the designation of the area as an agrarian growth zone.

(6) Any other material required by the Secretary of Commerce.

(c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of this section, a parcel of property that is located partially within an agrarian growth zone is considered entirely within the zone if all of the following conditions are satisfied:

(1) At least fifty percent (50%) of the parcel is located within the zone.

(2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.

(3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary."

SECTION 4. G.S. 105-129.2A(d) reads as rewritten:

"(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by April 1, ~~2001.~~2001, and the last report due by June 1, 2007."

SECTION 5. G.S. 105-129.2A(a) reads as rewritten:

"(a) Sunset. – This Article is repealed ~~effective~~ for business activities that occur in taxable years beginning on or after January 1, 2007."

SECTION 6. Article 10 of Chapter 143B of the General Statutes is amended by adding the following new sections to read:

"**§ 143B-435.1. Clawbacks.**

(a) Clawback Defined. – For the purpose of this Article, a clawback is a requirement that all or part of an economic development incentive will be returned or forfeited if the recipient business does not fulfill its responsibilities under the incentive law, contract, or both.

(b) Findings. – The General Assembly finds that in order for a clawback to be effective, there must be monitoring and reporting regarding the business' performance of its responsibilities and a mechanism for obtaining repayment if the clawback requiring the return of previously disbursed funding is triggered. Clawback provisions are essential to protect the State's investment in a private business and ensure that the public benefits from the incentive will be secured.

(c) Catalog. – The Department of Commerce shall catalog all clawbacks in State and federal programs it administers, whether provided by statute, by rule, or under a contract. The catalog must include a description of each clawback, the program to which it applies, and a citation to its source. The Department shall publish the catalog on its web site and update it every six months.

(d) Report. – The Department of Commerce shall report to the Revenue Laws Study Committee by April 1 and October 1 of each year on all clawbacks that have been triggered under programs it administers and its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid.

SECTION 7. G.S. 158-7.1 is amended by adding a new subsection to read:

"(h) Each economic development agreement entered into between a private enterprise and a city or county shall clearly state their respective responsibilities under the agreement. Each agreement shall contain provisions regarding remedies for a breach of those responsibilities on the part of the private enterprise. These provisions shall include a provision requiring the recapture of sums appropriated or expended by the city or county upon the occurrence of events specified in the agreement. Events that would require the city or county to recapture funds would include the creation of fewer jobs than specified in the agreement, a lower capital investment than specified in the agreement, and failing to maintain operations at a specified level for a period of time specified in the agreement."

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

HOUSE BILL 1595:
Economic Development Modifications

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Reps. Gibson, Owens, Daughtridge, Wainwright	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to Second Edition H1595-CSSVx-65		

SUMMARY: ***In April, the Senate passed S1199 titled "Economic Development Modifications." This bill is currently in House Finance. The provisions of that bill have been incorporated into a proposed committee substitute for House Bill 1595 with a couple of additions. The Proposed Committee Substitute for House Bill 1595 does the following:***

- ***Clarifies in the Local Development Act a local government's authority to acquire, construct, convey, or lease buildings for industrial or commercial use.***
- ***Clarifies certain criteria for urban progress zones. It also expands the urban progress zones to address districts that have experienced massive layoffs.****
- ***Amends the provision providing how population is determined for agrarian growth zones and allows more than one agrarian growth zone in a county.***
- ***Requires a final Bill Lee Act report by the Department of Commerce on June 1, 2007, which is consistent with the Act's repeal.***
- ***Clarifies the effective date for tax credits available under the new Article 3J, Tax Credits for Growing Businesses.***
- ***Provides for publication, monitoring, and reporting on economic development incentive clawbacks.****
- ***Requires clawback provisions in local economic development agreements.****

CURRENT LAW & BILL ANALYSIS:

Section 1: Authority to Acquire, Construct, Convey, or Lease Certain Buildings

The Local Development Act of 1925 authorizes counties and cities to undertake specific economic development activities to be funded by the levy of property taxes and by the allocation of other revenues whose use is not otherwise restricted by law. Among those activities is the acquisition, construction, conveyance, or lease of "shell buildings," which are structures of flexible design adaptable for use by a *variety* of industrial or commercial businesses.

In light of a concern that the term "shell building" implies or is limited to buildings for general, nonspecific use only, this section eliminates that term. It clarifies that a local government may acquire, construct, convey, or lease any building for industrial or commercial use, regardless of whether the local government has a specific business entity in mind when it acquires, constructs, conveys, or leases a building.

* These provisions were not in S1199 when it passed the Senate.

Section 2: Clarification of Criteria for Urban Progress Zones

As mentioned above, Article 3J provides enhanced tax credits in "urban progress zones," which were designed to replace the development zones adopted under the Bill Lee Act. Development zones were intended to be areas of high poverty within cities. Over the years, it became clear that the development zones often included areas that were neither high poverty nor particularly urban. Under Article 3J, the intent is for UP zones to be more narrowly focused and subject to more stringent guidelines with respect to poverty.

An urban progress zone is an area comprised of one or more contiguous census tracts, census block groups, or both, or parts thereof, in the most recent federal decennial census that meets all of the following conditions:

(1) All land within the zone is located in whole within the primary corporate limits of a municipality with a population of more than 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

(2) Every census tract and census block group that composes part of the zone meets at least one of the following conditions:

a. More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. At least fifty percent (50%) of the area of the portion that is within the primary corporate limits of the municipality is zoned as nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level.

(3) The area of the zone zoned as nonresidential does not exceed thirty-five percent (35%) of the total area of the zone.

The current wording states that the area zoned as nonresidential may not exceed 35% of the total area of the zone. However, the original intent was not to limit zones to only those areas that have less than 35% nonresidential development, but rather to restrict the size of the zone that did not meet the poverty requirements. According to the Department of Commerce, the current wording makes it very difficult to create a workable zone, and they have requested that the statute be revised to more accurately reflect the original intent when the act passed last year.

Under the bill, that portion of the zone which is required to be at least 50% nonresidential and be adjacent to a tract or block group of which at least 20% of the population is at or below poverty level, cannot exceed 35% of the total area of the zone. Section 2 also rewrites the definition for clarity.

This section also expands the urban progress zone definition to address districts that have experienced massive layoffs.

Section 3: Agrarian Growth Zone Changes

In 2006, the General Assembly created a new package of State tax incentives to replace the Bill Lee Act for most taxpayers. As part of that package, the new Article 3J replaced development zones with urban progress (UP) zones and created a new type of zone called an agrarian growth (AG), which provides those areas with the same benefits provided to UP zones.

An AG zone must satisfy all of the following conditions:

1. It must be composed of contiguous census tracts or block groups located within a single county **that does not have any municipality with a population in excess of 10,000.**

2. Each census tract or block group in the zone must have more than 20% of its population below the poverty level.
3. The area of the zone, less its smallest census tract, may not exceed 5% of the total area of the county.

Section 3 would specify that the population estimate must be based on the most recent annual population estimates certified by the State Budget Officer. This is the same basis for determining population for qualification as an UP zone. This change would make the two statutes consistent with regard to determining population. Section 3 also removes the restriction that a county have no more than one agrarian growth zone, but maintains the overall 5% cap. That is, the area of a county included in one or more agrarian growth zones may not exceed 5%.

Section 4: Final Bill Lee Act Report by Department of Commerce

The Department of Commerce is required to make biennial reports on tax equity and the impact of the Bill Lee Act. With limited exception applicable to four specific industries, the Bill Lee Act is repealed effective for business activities that occur on or after January 1, 2007. Section 4 of the bill requires the Department of Commerce to provide a final report on June 1, 2007. Since there are only a few specific businesses that may continue to take Bill Lee credits until 2010, an study of those credits after 2007 would not be representative of the credits' impact or equity.

Section 5: Clarify Effective Date of Article 3J

The repeal of the Bill Lee Act applies to "business activities" occurring on or after January 1, 2007. The effective date of Article 3J, Tax Credits for Growing Businesses, is for "taxable years" beginning on or after January 1, 2007. Section 5 of the bill clarifies the effective date for Article 3J to avoid any possible gap where, for example, a business with its taxable year beginning on July 1 engaged in otherwise eligible "business activities" after January 1, 2007.

Section 6: Monitoring of Clawbacks

This section would require the Department of Commerce to publish, monitor, and report on economic development incentive clawbacks. Specifically, it must catalog all clawbacks in the State and federal programs it administers, including a description of each clawback, the program to which it applies, and a citation to its source. The report must be published and updated every six months.

Section 7: Clawback Provisions in Economic Development Agreements

This section would require economic development agreements entered into between a local government and a private enterprise to contain clawback provisions allowing the local government to recapture amounts appropriated or expended if certain events occur. These events must be specified in the agreement and would include the creation of fewer jobs, the investing of less capital, or the failure to maintain operations at a specified level.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1228

Corrected Copy 4/3/07
Committee Substitute Favorable 7/24/07
Committee Substitute #2 Favorable 7/26/07
Fifth Edition Engrossed 7/27/07
PROPOSED SENATE COMMITTEE SUBSTITUTE H1228-CSSVf-64 [v.2]

8/1/2007 9:55:45 AM

Short Title: Stop Light Cameras in Certain Municipalities. (Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN INCREASE IN THE PENALTY SET FOR A RED LIGHT VIOLATION DETECTED BY A CAMERA; TO REQUIRE THAT THE CLEAR PROCEEDS OF EACH PENALTY COLLECTED BE TRANSFERRED TO THE LOCAL SCHOOL BOARD; TO DEFINE WHAT AMOUNTS MAY BE DEDUCTED FROM EACH PENALTY BY A MUNICIPALITY TO ARRIVE AT THE AMOUNT OF CLEAR PROCEEDS FROM EACH CIVIL PENALTY THAT MUST BE TRANSFERRED TO THE LOCAL SCHOOL BOARD; AND TO PERMIT A COLLECTION ASSISTANCE FEE TO BE COLLECTED FROM THE RESPONSIBLE PARTY IF THE CIVIL PENALTY IS NOT PAID WITHIN A SPECIFIED TIME.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-300.1(c) reads as rewritten:

"**§ 160A-300.1. Use of traffic control photographic systems.**

...

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner

of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 30 days after the date of personal service or mailing of notification of the violation, furnishes the officials or agents of the municipality which issued the citation either of the following:

a. An affidavit stating the name and address of the person or company who had the care, custody, and control of the vehicle.

b. An affidavit stating that the vehicle involved was, at the time, stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information.

(1a) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of ~~fifty dollars ($50.00)~~ seventy-five dollars ($75.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state when the penalty is due and the manner in which the violation may be ~~challenged, and the~~challenged. The owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within 30 days after the date the citation is served or mailed, ~~the time period specified on the citation,~~ the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.

(5) The clear proceeds from the citations issued pursuant to an ordinance authorized by this section shall be paid to the local school board. For the purposes of determining the clear proceeds derived from the citations, the following expenses, not to exceed ten percent (10%) of the civil penalty assessed pursuant to subdivision (2) of this subsection, are authorized to be deducted from each civil penalty

assessed pursuant to the provisions of subdivision (2) of this subsection:

a. The cost of materials and postage directly related to the printing and mailing of the first and second notices sent to the owner and, if necessary, the driver of the vehicle.

b. The cost of computer services directly related to the production and mailing of the notices described in sub-subdivision a. of this subdivision.

(6) The municipality may assess a collection assistance fee against the owner and, if necessary, driver of the vehicle under the conditions in this subdivision. Amounts collected must be credited first to the payment of the civil penalty and then to collection assistance fee. The conditions are as follows:

a. The civil penalty has not been paid within 30 days after the personal service or first-class mailing of a second notice that the penalty is due. The second notice must be served or mailed no sooner than 30 days after the day the first notice was served or mailed and must contain a notice stating that a collection assistance fee will be assessed if the penalty is not paid within 30 days after the service or mailing of the second notice, the date when the collection assistance fee will be assessed, and the amount of the collection assistance fee. The collection assistance fee shall not exceed twenty percent (20%) of the civil penalty assessed pursuant to subdivision (2) of this subsection.

b. Collection assistance fees shall be placed in a separate fund that may be used only for the purpose of paying for the costs of collection expended to collect civil penalties that remain unpaid 30 days after the service or mailing of the second notice required pursuant to sub-subdivision a. of this subdivision."

SECTION 2. G.S. 160A-300.1(d) reads as rewritten:

"(d) This section applies only to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Greensboro, Greenville, High Point, Locust, Lumberton, Newton, Rocky Mount, and Wilmington, to the Towns of Chapel Hill, Cornelius, Huntersville, Matthews, Nags Head, Pineville, and Spring Lake, and to the municipalities in Union County."

SECTION 3. Section 1 of this act applies to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Locust, and Rocky Mount and to the municipalities in Union County."

SECTION 4. This act becomes effective September 1, 2007, and applies to offenses committed on or after that date.

HOUSE BILL 1228:
Stop Light Cameras in Certain Municipalities

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Rep. Gibson	**Summary by:**	Trina Griffin
Version:	PCS to Fifth Edition H1228-CSSVf-64		Committee Counsel

SUMMARY: The 5th Edition of House Bill 1228 is a local act applicable to the Cities of Albemarle, Fayetteville, Locust, Monroe, and Rocky Mount and to the Towns of Marshville and Wingate.[1] It amends the legislation authorizing the use of cameras to identify and penalize persons who violate the red light statute. The bill raises the civil penalty, changes provisions regarding notice to the violator, specifies the deductions a municipality may make from the civil penalty in arriving at the amount that must be paid to the local school board as required by the North Carolina Constitution, and authorizes the assessment of a collection assistance fee that may collected from a violator in certain circumstances.

The Proposed Committee Substitute would also make this act applicable to the cities of Charlotte and Durham and to all municipalities in Union County.[2]

CURRENT LAW: G.S. 160A-300.1 authorizes certain municipalities to use traffic control photographic systems to enforce the State law prohibiting a driver from entering an intersection when a traffic light is emitting a steady red signal.[3] The owner is notified of the violation and must pay the civil penalty of $50.00 in the time specified by the ordinance. If the penalty is not paid within the time specified, it is increased to $100.00, and the right to contest the citation is forfeited. (The municipality is required to establish a nonjudicial administrative hearing process to allow the citation and penalty to be contested.) There is no provision in the statute regarding the constitutional requirement that the clear proceeds of such penalties must be paid to the local school board. (Article IX, Section 7.)

BILL ANALYSIS: House Bill 1228 amends G.S. 160A-300.1(c) as follows:

- Raises the civil penalty from $50.00 to $75.00.
- Requires the citation to state when the penalty is due.
- Specifies that the increase in the civil penalty and the loss of appeal rights occurs if payment is not made within 30 days after the citation is served or mailed.
- Specifies that the clear proceeds must be paid to the local school board, subject only to deductions for costs of materials and postage directly related to the printing and mailing of required notices and computer services directly related to the production and mailing of the notices. The deductions may not exceed 10% of the $75.00 civil penalty.
- Authorizes the assessment of a "collection assistance fee," not to exceed 20% of the $75.00 civil penalty, if the civil penalty has not been paid 30days after a second notice.

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[1] The City of Monroe and the Towns of Marshville and Wingate are located in Union County.

[2] The other municipalities in Union County are: Hemby Bridge, Indian Trail, Lake Park, Marvin, Mineral Springs, Stallings, Unionville, Waxhaw, Weddington, and Wesley Chapel.

[3] G.S. 20-158.

- Requires the proceeds from the collection assistance fee to be placed in a separate fund to be used only for collection expenses related to civil penalties that remain unpaid after the second notice.

EFFECTIVE DATE: Effective September 1, 2007, and applies to offenses committed on or after that date.

BACKGROUND: There are 20 municipalities, plus all the municipalities in Union County, authorized to operate "red light camera" systems. Most of the ordinances do not specify that the clear proceeds of the penalties must go to the local school board, pursuant to Article IX, Section 7 of the North Carolina Constitution. A few do specify this, but allow virtually all costs of operating the system to be deducted in order to arrive at the clear proceeds owed the school board. These costs include lease or purchase of the traffic control and photographic system, paying the contractor to operate the system, and any administrative costs incurred by the municipality to operate the system. In practice, all municipalities operating a system deducted all of these costs. The result was that very little was left for the school boards, but the municipalities incurred virtually no cost to operate the systems.

In 2006, the North Carolina Court of Appeals decided the case of *Shavitz v. City of High Point,* 177 N.C. App. 465 (2006), holding that the deduction of these operating costs was a violation of Article IX, Section 7 of the State Constitution, and ordering the City of High Point to pay the Guilford County schools approximately $1.5 million wrongfully withheld. The city filed a Petition for Discretionary Review with the North Carolina Supreme Court. On June 28, 2007, the Court denied that petition.

Steve Rose, counsel to House JI, substantially contributed to this summary.

H1228e5-SMSV-CSSVf-64

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 769

Committee Substitute Favorable 4/2/07

Committee Substitute #2 Favorable 4/17/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H769-CSSVf-67 [v.1]

8/1/2007 12:33:06 PM

Short Title: Unified Carrier Registration/CDL Changes. (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO ENSURE COMPLIANCE WITH MOTOR CARRIER AND COMMERCIAL DRIVERS LICENSE PROVISIONS OF CHAPTER 20 OF THE GENERAL STATUTES AND TO AUTHORIZE THE COMMISSIONER OF MOTOR VEHICLES TO ENTER INTO THE UNIFIED MOTOR CARRIER REGISTRATION AGREEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.4(l) reads as rewritten:

"(l) Disqualification ~~for Testing Positive in a~~ Based on Drug or Alcohol Test. – Upon receipt of notice of a positive drug or alcohol test, or of refusal to participate in a drug or alcohol test, pursuant to G.S. 20-37.19(c), the Division ~~shall~~ must disqualify a ~~driver~~ CDL holder from operating a commercial motor vehicle until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. § 382.503."

SECTION 2. G.S. 20-37.19(c) reads as rewritten:

"(c) The employer of any employee or applicant who tests positive or of any employee who refuses to participate in a drug or alcohol test required under 49 C.F.R. Part 382 and 49 C.F.R. Part 655 ~~shall~~ must notify the Division ~~of Motor Vehicles~~ in writing within five business days following the employer's receipt of confirmation of a positive drug ~~test.~~or alcohol test or of the employee's refusal to participate in the test. The notification ~~shall~~ must include the driver's name, address, drivers license number, social security number, and results of the drug or alcohol ~~test.~~test or documentation from the employer of the refusal by the employee to take the test."

SECTION 3. G.S. 20-382 reads as rewritten:

"§ 20-382. ~~Registration of for-hire interstate motor carriers and verification that their for-hire vehicles are insured.~~**For-hire motor carrier registration, insurance verification, and temporary trip permit authority.**

(a) UCRA. – The Commissioner may enter into the Unified Carrier Registration Agreement (UCRA), established pursuant to Section 4305 of Public Law 109-73, and into agreements with jurisdictions participating in the UCRA to exchange information for any audit or enforcement activity required by the UCRA. Upon entry into the UCRA, the requirements set under the UCRA apply to the Division. If a requirement set under the UCRA conflicts with this section, the UCRA controls. Rules adopted to implement this section must ensure compliance with mandates of the Federal Motor Carrier Safety Administration and the United States Department of Transportation.

(a1) Carrier Registration. – A ~~for-hire~~ motor carrier may not operate a for-hire motor vehicle in interstate commerce in this State unless the motor carrier has complied with all of the following requirements:

(1) Registered its operations with ~~the Division by doing~~ its base state.

(1a) Done one of the following:

a. ~~Filing~~ Filed a copy of the certificate of authority issued to it by the United States Department of Transportation allowing it to ~~operate~~ transport regulated items in this State and any amendments to that authority.

b. ~~Certifying~~ Certified to the Division that it carries only items that are not regulated by the United States Department of Transportation.

(2) Verified, in accordance with subsection (b) ~~or (c)~~ of this section, that it has insurance for each for-hire motor vehicle it operates.

(3) Paid the fees set in G.S. 20-385.

(b) Insurance ~~Verification for Federally Regulated Motor Carriers.~~ Verification. – A ~~for-hire~~ motor carrier that operates a for-hire motor vehicle in interstate commerce in this ~~State,~~ State and is regulated by the United States Department of ~~Transportation, and designates this State as its registration state must obtain a receipt from the Division verifying that each for-hire motor vehicle the motor carrier operates in any jurisdiction is insured. To obtain a receipt, the motor carrier must apply annually to the Division during the application period and state the number of for-hire motor vehicles the motor carrier intends to operate in each jurisdiction during the next calendar year. The certificate of authority issued to the motor carrier by the United States Department of Transportation is proof that the motor carrier has insurance for its for-hire motor vehicles.~~

~~The motor carrier must keep a copy of the receipt in each of its for-hire motor vehicles. The motor carrier may transfer the receipt from one for-hire motor vehicle to another as long as the total number of for-hire motor vehicles operated in any jurisdiction and in all jurisdictions does not exceed the number stated on the receipt.~~

~~A motor carrier may operate more for-hire motor vehicles in a jurisdiction than stated in its most recent annual application only if the motor carrier files another application with the Division and obtains a receipt stating the increased number. A~~

~~motor carrier that obtains a receipt for an increased number of for-hire motor vehicles must put a copy of the new receipt in each of its for-hire motor vehicles. The new receipt replaces rather than supplements the previous receipt.~~Transportation must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured in accordance with the requirements set by the United States Department of Transportation. A motor-carrier that operates a for-hire motor vehicle in interstate commerce in this State and is exempt from regulation by the United States Department of Transportation must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured in accordance with the requirements set by the North Carolina Utilities Commission.

(c) Trip Permit. – ~~Insurance Verification for Nonregulated Motor Carriers. – A for-hire motor carrier that operates a for-hire motor vehicle in interstate commerce in this State and is exempt from regulation by the United States Department of Transportation must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured. To do this, the motor carrier must obtain annually for each for-hire motor vehicle a cab card approved by the Commissioner and a North Carolina identification stamp issued by the Division. To obtain an identification stamp, the motor carrier must apply annually to the Division during the application period for an identification stamp for each for-hire motor vehicle the motor carrier intends to operate in this State during the next 12-month period beginning February 1.~~

~~The motor carrier must place the identification stamp on the cab card and keep the cab card in the for-hire motor vehicle for which it was issued. An identification stamp is issued for a specific for-hire motor vehicle and is not transferable from one for-hire motor vehicle to another.~~

~~A motor carrier may operate in this State a for-hire motor vehicle for which it did not obtain an identification stamp during the most recent annual application period only if it obtains for that vehicle either a cab card and identification stamp or an emergency permit. A motor carrier may obtain an additional identification stamp after the close of the annual application period by filing an application for it with the Division. An identification stamp issued after the close of the annual application period expires the same date as one issued during the annual application period.~~

A motor carrier that is not registered as required by this section may obtain an emergency trip permit by filing an application for it with the Division. An emergency trip permit allows the motor carrier to operate a for-hire motor vehicle in this State for a period not to exceed 10 days. ~~without a cab card and identification stamp between the time the motor carrier has applied for an identification stamp and the time the Division issues the identification stamp.~~"

SECTION 4. G.S. 20-382.2(a)(2) is repealed.

SECTION 5. G.S. 20-385 reads as rewritten:

"**§ 20-385. Fee schedule.**

~~(a)~~ ~~Amounts.~~ – The fees listed in this section apply to a motor carrier. These fees are in addition to any fees required under the Unified Carrier Registration Agreement.

~~(1) Verification by a for-hire motor carrier of insurance for each for-hire motor vehicle operated in this State $ 1.00~~

(2)	Application by an intrastate motor carrier for a certificate of exemption	~~45.00~~$45.00
(3)	Certification by an interstate motor carrier that it is not regulated by the United States Department of Transportation	45.00
(4)	Application by an interstate motor carrier for an ~~Emergency~~ emergency trip permit	18.00

~~(b) Reciprocal Agreements. The fee set in subdivision (a)(1) of this section does not apply to the verification of insurance by an interstate motor carrier regulated by the United States Department of Transportation if the Division had a reciprocal agreement on November 15, 1991, with another state by which no fee is imposed. The Division had reciprocal agreements as of that date with the following states: California, Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Pennsylvania, Texas, and Vermont.~~"

SECTION 6. If the Commissioner of Motor Vehicles enters into the Unified Carrier Registration Agreement, the Agreement must specify the date on which any fees required under the Agreement become effective in this State. The date must ensure adequate time to implement the fee provisions.

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 769:
Unified Carrier Registration/CDL Changes

BILL ANALYSIS

Committee:	Senate Ref to Finance. If fav, re-ref to Appropriations/Base Budget	**Date:**	August 1, 2007
Introduced by:	Reps. Allen, Carney	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS to Third Edition H769-CSSVf-67		

SUMMARY: ***House Bill 769 amends the statutes relating to commercial drivers and licenses and motor carriers as follows:***

- ***Requires the Division of Motor Vehicles (DMV) to disqualify a commercial driver's license (CDL) holder from operating a commercial motor vehicle when DMV receives notice that the driver refused to participate in a drug or alcohol test, as required by federal law. (Current law requires DMV to disqualify a driver from operating a commercial motor vehicle only when the driver tests positive on a test.)***
- ***Requires an employer to notify DMV if an employee or applicant tests positive on a drug or alcohol test or if an employee refuses to take the test. It would not require an employer to notify DMV if an applicant refuses to participate in a drug or alcohol test. (Current law only requires an employer to notify DMV if an employee tests positive.)***
- ***Authorizes the Commissioner of Motor Vehicles to enter into the Unified Motor Carrier Registration Agreement.***

This bill is in Senate Finance because it authorizes fees to be assessed under the Unified Motor Carrier Registration Agreement.

The Proposed Committee Substitute deletes a provision that would have removed limitations on administrative decisions regarding emissions violations heard by DMV and makes clarifying changes.

BILL ANALYSIS: The PCS for House Bill 769 amends the motor vehicle statutes relating to commercial drivers licenses and motor carriers in the following ways:

Disqualification to drive a commercial vehicle for refusing drug or alcohol test. **Sections 1 and 2** add language to the statute that requires an employer to notify DMV when an employee refuses to participate in a required drug or alcohol test. Upon receiving this notification, DMV must disqualify a CDL holder from operating a commercial motor vehicle until the Division receives proof that the driver has successfully completed a substance abuse assessment and recommended treatment, as required by federal law. (Currently these provisions only apply when the CDL holder takes and fails a drug or alcohol test. This allows a driver to refuse to take the test, quit his or her job, and work for another company.)

Unified Motor Carrier Registration Agreement. **Sections 3 through 6** amend statutes pertaining to regulation of for-hire motor carriers in interstate commerce. It gives the Commissioner the authority to enter into the Unified Carrier Registration Agreement (UCRA) established by federal law in 2005. Upon entering the UCRA, the DMV would abide by its requirements, and motor carriers would be allowed to operate in North Carolina if registered under the Unified Carrier Registration Act. No state is currently participating in the UCRS, because the fee structure has not been approved. However, a fee structure is anticipated by next year. In order to participate in the UCRA and collect fees, North Carolina

must first have authorizing legislation. The UCRA applies to all motor carriers required to register with the United States Department of Transportation, including private, for-hire, and exempt[1] motor carriers, as well as brokers, freight forwarders, and leasing companies. Exempt carriers and interstate motor carrier applying for an emergency permit will continue to pay the applicable State fees in addition to the UCRS fees.[2] The UCRA does not apply to intrastate motor carriers. Fees collected under the UCRA and distributed to North Carolina go into the Highway Fund.

BACKGROUND: Prior to January 1, 2007, a number of states, including North Carolina, were participating in the Single State Registration System (SSRS). Under the SSRS, only regulated for-hire motor carriers were covered, and the carriers were required to register in each of the states in which they wished to travel. The SSRS distributed the applicable fees to each state. On January 1, 2007, Congress repealed the SSRS. This meant that North Carolina could no longer collect the $1.00 fee from a for-hire carrier.

EFFECTIVE DATE: When it becomes law.

Martha Walston, counsel to House Finance, substantially contributed to this summary.

H0769e3-SMSV

[1] Exempt interstate motor carriers are those that carry items in their natural state such as produce.
[2] Under current law, there is a $45 fee for an exempt interstate motor carrier and an $18 fee for an interstate motor carrier emergency permit.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H D

HOUSE BILL 1005*

Committee Substitute Favorable 5/17/07

PROPOSED SENATE COMMITTEE SUBSTITUTE H1005-CSSV-66 [v.2]

8/1/2007 12:45:32 PM

Short Title: Various Transportation Changes/Study. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT RECOMMENDATIONS ON DEBT CAPACITY INCLUDE RECOMMENDATIONS RELATED TO DEBT SUPPORTED BY THE GENERAL FUND, THE HIGHWAY FUND, AND THE HIGHWAY USE FUND; TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO REVIEW THE STIP PLANNING AND DEVELOPMENT PROCESS; TO DIRECT THE OFFICE OF STATE BUDGET AND MANAGEMENT TO STUDY LONG-TERM ECONOMIC, MOBILITY, AND INFRASTRUCTURE NEEDS; TO ENACT CERTAIN BRIDGE CONSTRUCTION GUIDELINES; AND TO REQUIRE COMPLIANCE WITH CERTAIN FEDERAL GUIDELINES FOR TRANSPORTATION PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 142-101(d) reads as rewritten:

"(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee's recommendations shall include recommendations on debt capacities for debt supported by the General Fund, the Highway Fund, and the Highway Trust Fund. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt."

SECTION 2. The Department shall review the State Transportation Improvement Program (STIP) project planning, development, and prioritization process

to determine any needed legislation to address congestion, mobility, and transportation infrastructure needs to meet established transportation network performance targets, and shall study alternative funding sources. The Department shall report their findings and recommendations to the Joint Legislative Transportation Oversight Committee by October 1, 2007.

SECTION 3. The Office of State Budget and Management shall conduct a study to develop a statewide logistics plan to address long-term economic, mobility, and infrastructure needs. The study shall include, but not be limited to, all of the following:

1. Identification of priority commerce needs.
2. Transportation infrastructure, including multi-modal solutions, to support key industries vital to the State's long-term economic growth.
3. Input from State agencies and the private sector.
4. A timetable for meeting any identified needs.

The Office of State Budget and Management shall report its findings to the Joint Legislative Transportation Oversight Committee not later than April, 1, 2008. Of the funds appropriated to the Department of Transportation from the Highway Fund, the Department may use up to one million dollars ($1,000,000) to pay for this study.

SECTION 4. Article 2A of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7D. Bridge construction guidelines.**

A bridge crossing rivers and streams in watersheds shall be constructed to accommodate the hydraulics of a flood water level equal to the water level projected for a 100-year flood for the region in which the bridge is built. The bridge shall be built without regard for the riparian buffer zones as designated by the Department of Environment and Natural Resources, Division of Water Quality. No Memorandums of Agreement may be made between Departments to bypass this construction mandate. No agency rules shall be enacted contrary to this section."

SECTION 5. Article 2A of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7E. Compliance with federal guidelines for transportation projects.**

The Department may continue to use the Merger '01 process provided the relevant portions of P.L.109-59, Section 6002, (SAFETEA-LU), are incorporated to ensure the Department as the recipient agency is the co-lead agency with the United States Department of Transportation, delegating all other federal, state, or local agencies as participating or cooperating agencies. The Department's designation as a co-lead agency shall inure to the Department the authority to determine the purpose and need of a project and to determine viable alternatives. Any conflict between cooperating or participating agencies and the Department shall be resolved by the Department in favor of the completion of the project in conflict."

SECTION 6. This act becomes effective when it becomes law.

HOUSE BILL 1005:
Various Transportation Changes/Studies.

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Rep. Cole	**Summary by:**	Trina Griffin
Version:	PCS to Second Edition H1005-CSSV-66		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1005 contains various transportation-related provisions.***

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 1005 does the following:

- Requires the Debt Affordability Advisory Committee to include in its annual report, recommendations on the debt capacity for debt supported by the General Fund, the Highway Fund, and the Highway Trust Fund.
- Requires DOT to review TIP process and study alternative funding for TIP projects.
- Directs OSBM to develop logistics plan for state, including commerce needs and transportation infrastructure.
- Requires DOT to construct bridges to accommodate 100-year flood.
- Establishes DOT as lead agency on construction projects that involve other state agencies, as provided by federal law.

EFFECTIVE DATE: This act is effective when it becomes law.

H1005e2-SMSV-CSSV-66

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1005*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1005-ASV-23 [v.1]

Date _____,2007

Comm. Sub. [NO]
Amends Title [YES]
Second Edition

Senator
~~Representative~~ _____

moves to amend the bill on page 1, line 6 by inserting the following after the semi-colon:
"TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION AND THE OFFICE OF STATE PERSONNEL TO DEVELOP A PILOT PROGRAM TO ADDRESS TALENT MANAGEMENT NEEDS; TO EXEMPT DEPARTMENT OF TRANSPORTATION EMPLOYEES FROM THE STATE PERSONNEL ACT;";

and on page 2, lines 5-6, by inserting the following between the lines:

"SECTION 3. The Department of Transportation and the Office of State Personnel are authorized to develop and implement a pilot program to address talent management needs, including the recruiting and retention of critical talent, driving employee performance, and developing managers and senior agency leadership. The Department of Transportation and its employees are exempt from the classification and compensation rules established by the State Personnel Commission pursuant to G.S. 126-4 (1) through (4); G.S. 126-4(5) only as it applies to hours and days of work, vacation and sick leave; G.S. 126-4 (6) only as it applies to promotions; G.S. 126-4 (10) only as it applies to the prohibition of the establishment of incentive pay programs; and Article 2 Chapter 126 of the General Statutes, except for G.S. 126-7.1

These exemptions shall be used to develop organizational classification and compensation innovations that will enhance the efficiency of the operations. The Office of State Personnel shall assist the Department of Transportation in the development and implementation of talent management programs that make the most appropriate use of the exemptions. The Department of Transportation and the Office of State Personnel shall report jointly to the Governor, the Joint Legislative Committee on Governmental Operations, and the Joint Legislative Transportation Oversight Committee by January 1,

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1005*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1005-ASV-23 [v.1]

2008, on their talent management strategy and the implementation of any proposed pilot program.";

and renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1005 DATE August 1, 2007

S. B. No. _____ Amendment No. 2
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Clodfelter
)
Sen.)

H 1005 - ASV-23

1 moves to amend the ~~bill~~ on page 1, line 18

2 ( ) WHICH CHANGES THE TITLE

3 by adding the following sentence at the

4 end of that line to read:

5

6 "These exemptions apply only to the

7 pilot program."

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SIGNED Daniel G. Clodfelter

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 1785

Committee Substitute Favorable 6/6/07

Committee Substitute #2 Favorable 7/3/07

Short Title: Fire-Safe Cigarette Act. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CIGARETTE FIRE SAFETY BY ADOPTING A CIGARETTE FIRE-SAFETY STANDARD.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 92.

"Fire-Safety Standard and Firefighter Protection Act.

"**§ 58-92-1. Title.**

This Article shall be known and may be cited as the "Fire-Safety Standard and Firefighter Protection Act."

"**§ 58-92-5. Findings.**

The General Assembly finds:

(1) Cigarettes are the leading cause of fire deaths in this State and the nation.

(2) Each year in the United States, 700-900 persons are killed due to cigarette fires, and 3,000 are injured in fires ignited by cigarettes, while in this State, there were 2,916 cigarette-related fires in North Carolina during the period 2001-2006.

(3) A high proportion of the victims of cigarette fires are nonsmokers, including senior citizens and young children.

(4) Cigarette-caused fires result in billions of dollars of property losses and damages in the United States and millions of dollars in this State.

(5) Cigarette fires unnecessarily jeopardize firefighters and result in avoidable emergency response costs for municipalities.

(6) In 2004, New York State implemented a cigarette fire-safety regulation requiring cigarettes sold in that state to meet a fire-safety performance standard; in 2005, Vermont and California enacted

cigarette fire-safety laws directly incorporating New York's regulation into statute; and, in 2006, Illinois, New Hampshire, and Massachusetts joined these states in enacting such laws.

(7) In 2005, Canada implemented the New York State fire-safety standard contained in the other state laws, becoming the first nation to have a cigarette fire-safety standard.

(8) New York State's cigarette fire-safety standard is based upon decades of research by the National Institute of Standards and Technology, congressional research groups, and private industry.

(9) This cigarette fire-safety standard minimizes costs to the State and minimally burdens cigarette manufacturers, distributors, and retail sellers, and, therefore, should become law in this State.

(10) It is therefore fitting and proper for this State to adopt the cigarette fire-safety standard that is in effect in New York State to reduce the likelihood that cigarettes will cause fires and result in deaths, injuries, and property damages.

"**§ 58-92-10. Definitions.**

For the purposes of this Article:

(1) "Agent" means any person authorized by the Department of Revenue to pay the excise tax on packages of cigarettes.

(2) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, other than leaf tobacco.

(3) "Commissioner" means the Commissioner of Insurance.

(3a) "Consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer), for the purpose of evaluating consumer acceptance of such cigarettes.

(4) "Manufacturer" means:

a. Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer;

b. The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

c. Any entity that becomes a successor of an entity described in sub-subdivision a. or b. of this subdivision.

(5) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in G.S. 58-92-15(a6) for all test trials used to certify cigarettes in accordance with this Article.

(6) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.

(7) "Retail dealer" means any person, other than a manufacturer or distributor, engaged in selling cigarettes or tobacco products.

(8) "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales.

(9) "Sell" means to sell, or to offer or agree to do the same.

(10) "Distributor" means any person other than a manufacturer who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person, or a distributor as defined in G.S. 105-113.4(3)a.

"**§ 58-92-15. Test method and performance standard.**

(a) Except as provided in subsection (g) of this section, no cigarettes may be sold or offered for sale in this State or offered for sale or sold to persons located in this State unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the Commissioner in accordance with G.S. 58-92-20, and the cigarettes have been marked in accordance with G.S. 58-92-25.

(a1) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(a2) Testing shall be conducted on 10 layers of filter paper.

(a3) No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(a4) The performance standard required by this section shall only be applied to a complete test trial.

(a5) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International

Organization for Standardization (IOS) or other comparable accreditation standard required by the Commissioner.

(a6) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19.

(a7) This section does not require additional testing if cigarettes are tested consistent with this Article for any other purpose.

(a8) Testing performed or sponsored by the Commissioner to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

(b) Each cigarette listed in a certification submitted pursuant to G.S. 58-92-20 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column, or 10 millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(c) A manufacturer of a cigarette that the Commissioner determines cannot be tested in accordance with the test method prescribed in subsection (a1) of this section shall propose a test method and performance standard for the cigarette to the Commissioner. Upon approval of the proposed test method and a determination by the Commissioner that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection (a3) of this section, the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to G.S. 58-92-20. If the Commissioner determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this Article, and the Commissioner finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire-safety standards of that state's law or regulation under a legal provision comparable to this section, then the Commissioner shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this State, unless the Commissioner demonstrates a reasonable basis why the alternative test should not be accepted under this Article. All other applicable requirements of this section shall apply to the manufacturer.

(d) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years and shall make copies of these reports available to the Commissioner and the Attorney General upon written request. Any manufacturer who fails to make copies of these reports available within 60 days of receiving a written request shall be subject to a civil penalty not to exceed ten

thousand dollars ($10,000) for each day after the sixtieth day that the manufacturer does not make such copies available.

(e) The Commissioner may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in subsection (a3) of this section.

(f) The Commissioner shall review the effectiveness of this section and report every three years to the General Assembly the Commissioner's findings, and if appropriate, recommendations for legislation to improve the effectiveness of this Article. The report and legislative recommendations shall be submitted no later than June 30 following the conclusion of each three-year period.

(g) The requirements of subsections (a) through (a8) of this section shall not prohibit:

(1) Distributors or retail dealers from selling their existing inventory of cigarettes on or after the effective date of this Article if the distributor or retail dealer can establish that all taxes owed on the cigarettes pursuant to Article 2A of Chapter 105 of the General Statutes have been paid prior to the effective date of this Article and the distributor or retail dealer can establish that the inventory was purchased prior to the effective date in comparable quantity to the inventory purchased during the same period of the prior year.

(2) The sale of cigarettes solely for the purpose of consumer testing.

(h) The Commissioner shall implement this Article in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

(i) No local government may pass any ordinance changing the performance standard set forth in this section.

"**§ 58-92-20. Certification and product change.**

(a) Each manufacturer shall submit to the Commissioner a written certification attesting both of the following:

(1) Each cigarette listed in the certification has been tested in accordance with G.S. 58-92-15.

(2) Each cigarette listed in the certification meets the performance standard set forth in G.S. 58-92-15.

(b) Each cigarette listed in the certification shall be described with the following information:

(1) Brand or trade name on the package.

(2) Style, such as light or ultralight.

(3) Length in millimeters.

(4) Circumference in millimeters.

(5) Flavor, such as menthol or chocolate, if applicable.

(6) Filter or nonfilter.

(7) Package description, such as soft pack or box.

(8) Marking pursuant to G.S. 58-92-25.

(9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test.

(10) The date that the testing occurred.

(c) Certifications shall be made available to the Attorney General for purposes consistent with this Article and the Commissioner for the purposes of ensuring compliance with this section.

(d) Each cigarette certified under this section shall be recertified every three years.

(e) For each certification form, a manufacturer shall pay to the Commissioner a fee of two hundred fifty dollars ($250.00). The Commissioner may annually adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this Article.

(f) There is established in the State treasury a separate, nonreverting fund to be known as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund." The fund shall consist of all certification fees submitted by manufacturers and shall, in addition to any other monies made available for such purpose, be available to the Commissioner solely to support processing, testing, enforcement, and oversight activities under this Article.

(g) If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this Article, that cigarette shall not be sold or offered for sale in this State until the manufacturer retests the cigarette in accordance with the testing standards set forth in G.S. 58-92-15 and maintains records of that retesting as required by G.S. 58-92-15. Any altered cigarette which does not meet the performance standard set forth in G.S. 58-92-15 may not be sold in this State.

"**§ 58-92-25. Marking of cigarette packaging.**

(a) Cigarettes that are certified by a manufacturer in accordance with G.S. 58-92-20 shall be marked to indicate compliance with the requirements of G.S. 58-92-15. The marking shall be in eight-point type or larger and consist of one of the following:

(1) Modification of the product UPC Code to include a visible mark printed at or around the area of the UPC Code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC.

(2) Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap.

(3) Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this Article.

(b) A manufacturer shall use only one marking and shall apply this marking uniformly for all packages, including, but not limited to, packs, cartons, and cases and brands marketed by that manufacturer.

(c) The Commissioner shall be notified as to the marking that is selected.

(d) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the Commissioner for approval. Upon receipt of the request, the Commissioner shall approve or disapprove the marking offered, except that the Commissioner shall approve:

(1) Any marking in use and approved for sale in New York pursuant to the New York Fire Safety Standards for Cigarettes, or

(2) The letters "FSC," which signifies Fire Standards Compliant, appearing in eight-point type or larger and permanently printed, stamped, engraved, or embossed on the package at or near the UPC Code.

(d1) Proposed markings shall be deemed approved if the Commissioner fails to act within 10 business days of receiving a request for approval.

(e) No manufacturer shall modify its approved marking unless the modification has been approved by the Commissioner in accordance with this section.

(f) Manufacturers certifying cigarettes in accordance with G.S. 58-92-20 shall provide a copy of the certifications to all distributors and agents to which they sell cigarettes and shall also provide sufficient copies of an illustration of the package marking utilized by the manufacturer pursuant to this section for each retail dealer to which the distributors or agents sell cigarettes. Distributors and agents shall provide a copy of these package markings received from manufacturers to all retail dealers to which they sell cigarettes. Distributors, agents, and retail dealers shall permit the Commissioner, the Secretary of Revenue, the Attorney General, and their employees to inspect markings of cigarette packaging marked in accordance with this section.

"**§ 58-92-30. Penalties.**

(a) A manufacturer, distributor, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of G.S. 58-92-15, shall be subject to a civil penalty not to exceed one hundred dollars ($100.00) for each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty against any such person or entity exceed one hundred thousand dollars ($100,000) during any 30-day period.

(b) A retail dealer who knowingly sells or offers to sell cigarettes in violation of G.S. 58-92-15 shall be subject to a civil penalty not to exceed one hundred dollars ($100.00) for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed twenty-five thousand dollars ($25,000) for sales or offers to sell during any 30-day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to G.S. 58-92-20 shall be subject to a civil penalty of at least seventy-five thousand dollars ($75,000) but not to exceed two hundred fifty thousand dollars ($250,000) for each such false certification.

(d) Any person violating any other provision in this Article shall be subject to a civil penalty for a first offense not to exceed one thousand dollars ($1,000), and for a

subsequent offense subject to a civil penalty not to exceed five thousand dollars ($5,000) for each such violation.

(e) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by G.S. 58-92-15 shall be subject to forfeiture as contraband under the same procedures as G.S. 75D-5 or G.S. 113-412. Cigarettes forfeited pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette forfeited pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(f) In addition to any other remedy provided by law, the Commissioner or Attorney General may file an action in the superior court for a violation of this Article, including petitioning for injunctive relief or to recover any costs or damages suffered by the State because of a violation of this Article, including enforcement costs relating to the specific violation and attorneys' fees. Each violation of this Article or of rules or regulations adopted under this Article constitutes a separate civil violation for which the Commissioner or Attorney General may obtain relief.

(g) Whenever any law enforcement personnel or duly authorized representative of the Commissioner shall discover any cigarettes that have not been marked in the manner required by G.S. 58-92-25, such personnel is hereby authorized and empowered to seize and take possession of such cigarettes. Such cigarettes shall be turned over to the Department of Revenue and shall be forfeited to the State. Cigarettes seized pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette seized pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(h) Any penalty imposed under this Article shall be payable to the Commissioner.

(i) A violation of this Article constitutes a civil offense only and is not a crime.

"**§ 58-92-35. Implementation.**

(a) The Commissioner may adopt rules, pursuant to Chapter 150B of the General Statutes, necessary to effectuate the purposes of this Article.

(b) The Department of Revenue in the regular course of conducting inspections of distributors, agents, and retail dealers, as authorized under the Tobacco Products Tax Act, Article 2A of Chapter 105 of the General Statutes, may inspect such cigarettes to determine if the cigarettes are marked as required by G.S. 58-92-25. If the cigarettes are not marked as required, the Department of Revenue shall notify the Commissioner.

"**§ 58-92-40. Inspection.**

To enforce the provisions of this Article, the Attorney General, the Department of Revenue, and the Commissioner, their duly authorized representatives, and other law enforcement personnel may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale is hereby directed and required to give the Attorney General, the Department of Revenue, and the Commissioner, their duly

authorized representatives, and other law enforcement personnel the means, facilities, and opportunity for the examinations authorized by this section.

"**§ 58-92-45. Disposition of penalties.**

The clear proceeds of civil penalties and forfeitures provided for in this Article shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"**§ 58-92-50. Sale outside the State.**

Nothing in this Article shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of G.S. 58-92-15 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this State.

"**§ 58-92-55. Preemption.**

This Article does not apply if a federal reduced cigarette ignition propensity standard that preempts this Article is enacted and becomes effective, but such inapplicability does not affect any liability for forfeiture or penalties accrued prior to the effective date of the federal law."

SECTION 2. This act becomes effective on January 1, 2009.

HOUSE BILL 1785: Fire-Safe Cigarette Act

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 1, 2007
Introduced by:	Reps. Insko, Glazier, Cotham	**Summary by:**	Trina Griffin
Version:	Third Edition		Committee Counsel

SUMMARY: HB 1785 would enact model legislation, the Fire-Safety Standard and Firefighter Protection Act, which would be applied to cigarettes. The purpose of the legislation is to reduce the likelihood that cigarettes will cause fires and result in deaths, injuries, and property damages. Specifically, the bill does the following:

- ***Prohibits the sale of cigarettes in the State unless the cigarettes meet certain test and performance standards.***
- ***Requires manufacturers to certify to the Commissioner of Insurance that the cigarettes meet these standards.***
- ***Requires that cigarettes meeting these standards be marked to indicate compliance.***
- ***Requires manufacturers to pay a $250 fee for each certification form submitted to the Commissioner.***
- ***Authorizes Commissioner to impose penalties as follows: (a) failure to provide test reports to the Commissioner and Attorney General upon request, (b) sale of cigarettes that do not meet performance standards, (c) making a false certification, or (d) any other violation of the Act.***

The bill is in Senate Finance because of the fee provision in G.S. 58-92-20(e).

CURRENT LAW: Model legislation requiring the use of fire-safe cigarettes has been enacted in New York, California, Vermont, and Canada. Other states that have passed legislation are: Kentucky, Massachusetts, Minnesota, Maryland, Illinois, Iowa, Montana, New Hampshire, New Jersey, Oregon, and Utah. New York was the first state to require that cigarettes sold and manufactured in the state be fire-safe.[1]

BILL ANALYSIS: House Bill 1785 adopts the Model Legislation, known as the Fire-Safety and Firefighter Protection Act, and codifies the legislation within the Insurance Chapter of the General Statutes. The bill provides for the following:

Findings (§ 58-92-5)

The findings state that the leading cause of fire deaths in this State and the nation are cigarettes, that several states and Canada have enacted cigarette fire-safety laws, and that it is "fitting and proper for this State to adopt the cigarette fire-safety standard that is in effect in New York State to reduce the likelihood that cigarettes will cause fires and result in death, injuries, and property damages."

Definitions (§ 58-92-10)

The Bill defines the following words: agent, cigarette, commissioner, consumer testing, manufacturer, quality control and quality assurance program, repeatability, retail dealer, sale, sell, and distributor. The proposed committee substitute deletes a portion of the language defining cigarettes, because this language has been deleted from the states that have enacted the model act.

[1] According to the Coalition for Fire-Safe Cigarettes, the states of California, Illinois, New Hampshire, New York, Oregon, and Vermont do not require fees.

Test Method and Performance Standard (§ 58-92-15) (Certification and Product Change (§ 58-92-20), and Marking of Cigarette Packaging (§ 58-92-25)

No cigarette may be sold or offered for sale in the State unless it has been tested, meets the performance standards of the tests, and is accompanied by a written certification filed by the manufacturer and marked to indicate compliance. An exception to the testing requirement would allow the sale of existing inventory by a wholesale or retail dealer if the dealer can establish that the cigarette tax has been paid or if the sale of cigarettes is solely for the purpose of consumer testing.

Testing requirements

- Testing must be done under the American Society of Testing and Materials (ASTM) "Standard Test Method for Measuring the Ignition Strength of Cigarettes".
- Testing must be conducted using 10 layers of filter paper.
- No more than 25% of cigarettes may exhibit full-length burns.
- Performance standards shall be applied only to a complete test trial (consists of 40 replicate tests).
- Written certifications of testing by manufacturers shall be based on testing by laboratories accredited by the International Organization for Standardization (ISO) or comparable standard required by the Commissioner.

A manufacturer of a cigarette that the Commissioner determines cannot be tested under the above test methods shall propose a test method to the Commissioner for approval.

Certification

Each manufacture must submit to the Commissioner a written certification that the cigarette has been tested and meets the performance standards required by the Act. The certification must include the cigarette's brand name, style, length and circumference, flavor, filter or non-filter, package description, marking under the Act, name, address, and telephone number of the laboratory, and date of testing.

Markings

Cigarettes certified under the Act must be marked in 8 point type or larger to indicate compliance. Only one marking may be used for all packages, including packs, cartons, cases, and brands. The Commissioner must be notified of the marker and approve the marking.

Fees (§58-92-20(e))

A manufacturer must pay the Commissioner a $250 fee for each certification form, and each cigarette must be recertified every three years. The fees are deposited into a nonreverting fund established in the State treasury. This fund, known as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund" will be available to the Commissioner solely to support processing, testing, enforcement and oversight activities under the Article. The Commissioner is given the authority to annually adjust the fee to ensure that it defrays the actual costs to support the above activities.

Civil Penalties (§§ 58-92-15(d) and 58-92-30)

The Article authorizes the Commissioner to impose the following civil penalties:

- Failure of a manufacturer to provide copies of test reports of cigarettes sold in the State to the Commissioner and Attorney General within 60 days of receiving a written request – not to exceed $10,000 for each day after the 60th day of receiving the request.
- Knowingly selling or offering to sell cigarettes that do not meet the testing standards – not to exceed $100 for each pack. For retail dealers, the penalty may not exceed $25,000 for sales or

offers to sell during a 30-day period. For any other person, the penalty may not exceed $100,000 during any 30-day period.

- A false certification knowingly made by a business engaged in the manufacture of cigarettes – at least $75,000 for each false certification, not to exceed $250,000 for each false certification.
- Violation of any other provision of the Article – not to exceed $1,000 for the first offense and $5,000 for each subsequent offense.

The clear proceeds of the above penalties are to be remitted to the Civil Penalty and Forfeiture Fund.[2]

Cigarettes sold or offered for sale that do not comply with the performance standard are subject to forfeiture. The Commissioner or Attorney General may also file an action in superior court for a violation of the Article including injunctive relief, recovery of costs or damages incurred by the State.

Reporting Requirements

- Each manufacturer must maintain reports of all tests conducted on cigarettes offered for sale for a period of three years and make copies available to the Commissioner and Attorney General.
- The Commissioner must report every three years to the General Assembly on findings as to the effectiveness of the test method and performance standard for cigarette fire safety and make recommendations if needed.

Implementation and Inspection

The Article authorizes the Commissioner to adopt rules and authorizes the Attorney General, Department of Revenue, and Commissioner and other law enforcement personnel to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale.

Exemptions

- The Article does not prohibit the manufacture or sale of cigarettes that do not meet the test methods and performance standards, if the cigarettes will be stamped for sale in another state or are packaged for sale outside the United States.
- The Article does not apply if a federal reduced cigarette ignition propensity standard that preempts this Article is enacted.

EFFECTIVE DATE: January 1, 2009.

Martha Walston, counsel to House Finance, substantially contributed to this summary.

H1785e3-SMSV

[2] Appropriations from this Fund shall be made to the State Public School Fund for allotment by the State Board of Education, on behalf of the counties, to local school administrative units on a per pupil basis for maintaining free public schools.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1785

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1785-ARC-74 [v.2]

Date _____,2007

Comm. Sub. [NO]
Amends Title [YES]
Third Edition

Senator _____

moves to amend the bill on page 1. line 18, by rewriting line 3 to read:

"CIGARETTE FIRE-SAFETY STANDARD AND TO CLARIFY THE STOCKHOLDER REQUIREMENTS FOR A BEHAVIORAL HEALTH PROFESSIONAL CORPORATION.";

and on page 9, by rewriting the line to read:

"SECTION 2.(a). G.S. 55B-14(c)(4) reads as rewritten:

'(c) A professional corporation may also be formed by and between or among:

. . .

(4) A physician, ~~or~~ a licensed psychologist, a licensed clinical social worker, or each of them~~both,~~ and a certified clinical specialist in psychiatric and mental health nursing, ~~a licensed clinical social worker,~~ a licensed marriage and family therapist, a licensed professional counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.'

SECTION 2.(b). The formation of any professional corporation prior to the effective date of this is hereby validated.

SECTION 3. Section 1 of this act becomes effective on January 1, 2009. the remainder of the act is effective when it becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1785

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1785-ARC-74 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1785

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(to be filled in by
Principal Clerk)

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NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1785

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1785-ARC-74 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1785 DATE August 1, 2007

S. B. No. _____ Amendment No. 2

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Hayle

Sen.) H1785-ARC-74

1 moves to amend ~~the bill~~ on page 1, line 19

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "2009" and substituting

4 "2010".

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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

SENATE FINANCE COMMITTEE
Wednesday, August 01, 2007
During Senate Recess
Senate Floor, Legislative Building

MINUTES

The Senate Finance Committee met on the Senate floor of the Legislative Building, on Wednesday, August 01, 2007, at 5:45 p.m. Thirteen members of the committee were present. Senator David Hoyle presided.

H.B. 1395 – Electric Suppliers/Electricities Assignments.

Senator Hoyle was recognized to explain the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill is attached.

The meeting adjourned at 5:50 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Wednesday, August 01, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #2) **1395** Electric Suppliers/Electricities Assignment.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 3

HOUSE BILL 1395

Committee Substitute Favorable 7/18/07
Committee Substitute #2 Favorable 7/31/07

Short Title: Electric Suppliers/Electricities Assignment. (Public)

Sponsors:

Referred to:

April 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO CONSIDER DIFFERENCES BETWEEN ELECTRIC MEMBERSHIP CORPORATIONS AND CITIES NOT RESOLVED PURSUANT TO G.S. 160A-331.2(B), AS ENACTED BY S.L. 2005-150.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-331.2 reads as rewritten:

"**§ 160A-331.2. Agreements of electric suppliers.**

(a) The General Assembly finds and determines that, in order to avoid the unnecessary duplication of electric facilities and to facilitate the settlement of disputes between cities that are primary suppliers and other electric suppliers, it is desirable for the State to authorize electric suppliers to enter into agreements pursuant to which the parties to the agreements allocate to each other the right to provide electric service to premises each would not have the right to serve under this Article but for the agreement, provided that no agreement between a city that is a primary supplier and another electric supplier shall be enforceable by or against an electric supplier that is subject to the territorial assignment jurisdiction of the North Carolina Utilities Commission until the agreement has been approved by the Commission. The Commission shall approve an agreement entered into pursuant to this section unless it finds that such agreement is not in the public interest. Such agreements may allocate the right to serve premises by reference to specific premises, geographical boundaries, or amounts of unspecified load to be served, but no agreement shall affect in any way the rights of other electric suppliers who are not parties to the relevant agreement. The provisions of this section apply to agreements relating to electric service inside and outside the corporate limits of a city.

~~(b) During the period beginning June 1, 2005, and ending May 31, 2007, electric membership corporations and cities that own and maintain their own electric distribution lines shall undertake good faith negotiations concerning the provision of~~

~~future electric services within areas outside of the corporate limits of such cities as of June 1, 2005, and the development of agreements relating to the provision of electric services, the location of lines, and the areas within which electric services may be provided by such electric suppliers. To the extent such negotiations produce any agreements between the affected electric suppliers, such agreements shall be submitted to the North Carolina Utilities Commission for approval under this section. To the extent such negotiations do not produce an agreement and disputes among the suppliers remain as of May 31, 2007, such disputes shall be resolved pursuant to the provisions of G.S. 7A-38.3C(i).~~

(c) To the extent negotiations undertaken pursuant to subsection (b) of this section, as enacted by S.L. 2005-150, have not resulted in an agreement between a negotiating electric membership corporation and a negotiating city by May 31, 2007, jurisdiction shall immediately lie in the North Carolina Utilities Commission to resolve all issues related to those negotiations. Either party to the negotiations may petition the Commission to exercise the jurisdiction conferred in this subsection upon the filing of a petition and the payment of a filing fee of five hundred dollars ($500.00). In reaching its decision, the Commission shall include consideration of the public convenience and necessity. The Commission shall not consider rate differentials between the involved city and the involved electric membership corporation.

(d) Notwithstanding an order of the Commission issued pursuant to subsection (c) of this section:

(1) Any electric membership corporation or city may furnish electric service to any consumer who desires service from that electric membership corporation or city at any premises being served by another electric membership corporation or city, or at premises which another electric membership corporation or city has the right to serve pursuant to subsection (c) of this section, upon agreement of the affected electric membership corporation or city, subject to approval by the Commission.

(2) The Commission shall have the authority and jurisdiction, after notice to all affected electric membership corporations and cities and after a hearing, if a hearing is requested by any affected electric membership corporation or city, or any other interested party, to order any electric membership corporation or city which may reasonably do so to furnish electric service to any consumer who desires service from that electric membership corporation or city at any premises being served by another electric membership corporation or city pursuant to subsection (c) of this section or subdivision (1) of this subsection, or which another electric membership corporation or city has the right to serve pursuant to subsection (c) of this section or subdivision (1) of this subsection, and to order the other electric membership corporation or city to cease and desist from furnishing electric service to such premises, upon finding that service to the consumer by the electric membership corporation or city which is then furnishing service, or

which has the right to furnish service to those premises, is or will be inadequate or undependable, or that the rates, conditions of service, or service regulations, applied to such consumer, are unreasonably discriminatory.

(e) Assignments or reassignments made or approved by the Commission pursuant to subsection (c) or (d) of this section shall be deemed to be service area agreements approved pursuant to subsection (a) of this section."

SECTION 2. G.S. 117-10.2 reads as rewritten:

"**§ 117-10.2. Restriction on municipal service.**

Except as otherwise provided in this section, no electric membership corporation shall furnish electric service to, or within the limits of, any incorporated city or town, except pursuant to a franchise that may be granted under the provisions of G.S. 117-10.1, or as permitted under G.S. 160A-331, ~~160A-331.1,~~ 160A-331.2, 160A-332, and 160A-333. In addition, an electric membership corporation may furnish electric service to, or within the limits of, any incorporated city or town if the city or town and all electric suppliers, including public utilities, other electric membership corporations and other cities or towns, then furnishing electric service to or within such city or town consent thereto in writing."

SECTION 3. G.S. 117-10.3 and G.S. 160A-331.1 are repealed. Agreements previously entered into pursuant to G.S. 117-10.3 and G.S. 160A-331.1 shall not be affected by this repeal.

SECTION 4. G.S. 7A-38.3C is repealed. Any disputes submitted to the Public Staff of the North Carolina Utilities Commission pursuant to G.S. 7A-38.3C(i) are transferred to the North Carolina Utilities Commission to be considered by the Commission pursuant to G.S. 160A-331.2(c), as enacted by this act, and the Commission shall exercise its jurisdiction upon payment of the filing fee required by that subsection by the petitioner.

SECTION 5. This act is effective when it becomes law.

SENATE FINANCE COMMITTEE
Thursday, August 2, 2007 at 4:45 p.m.
Senate Floor, Legislative Building

MINUTES

The Senate Finance Committee met on the Senate Floor in the Legislative Building, on Thursday, August 2, 2007, at 4:45 p.m. Eighteen members of the committee were present. Senator David Hoyle presided.

H.B. 726 – Amend Electrolysis Practice Act/Fees.-AB.

Senator Dorsett was recognized to explain the bill. Senator Kerr moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 4:50 p.m.

Senator Dan Clodfelter, Cochair

Senator David Hoyle, Cochair

Senator John Kerr, Cochair

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Daniel G. Clodfelter, Co-Chair
Senator David W. Hoyle, Co-Chair
Senator John H. Kerr III, Co-Chair

Thursday, August 02, 2007

Senator HOYLE,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **726** Amend Electrolysis Practice Act/Fees.AB
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:

Sen Hoyle 4:50p
Sen. Dorsett rec to explain
Sen Kerr moves

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H **3**

HOUSE BILL 726

Committee Substitute Favorable 7/31/07
Third Edition Engrossed 8/1/07

Short Title: Amend Electrolysis Practice Act/Fees.-AB (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT ALLOWING THE NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS TO PROVIDE FOR THE LICENSURE OF LASER HAIR PRACTITIONERS AND LASER HAIR PRACTITIONER INSTRUCTORS UPON MEETING CERTAIN REQUIREMENTS ESTABLISHED BY THE BOARD AND AUTHORIZING THE BOARD TO CHARGE FEES RELATED TO THOSE CERTIFICATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88A-2 reads as rewritten:

"**§ 88A-2. Purpose.**

The purpose of this Chapter is to ensure minimum standards of competency, to protect the public from misrepresentation of status by persons who hold themselves out to be ~~"certified electrologists",~~'licensed electrologists' or 'licensed laser hair practitioners' and to provide the public with safe care by the mandatory licensing of ~~electrologists.~~electrologists and laser hair practitioners."

SECTION 2. G.S. 88A-3 is amended by adding the following new subdivisions to read:

"**§ 88A-3. Definitions.**

As used in this Chapter, unless the context requires otherwise:

...

(5) 'Laser hair practitioner' means a person who engages in laser, light source, or pulsed-light treatments for the removal of hair.

(6) 'Laser, light source, or pulsed-light treatments' means the use of laser or pulsed-light devices for nonablative procedures for the removal of hair.

(7) 'Laser, light source, or pulsed-light devices' means a device used exclusively in the nonablative procedure for the removal of hair."

SECTION 3. G.S. 88A-4 reads as rewritten:

"**§ 88A-4. Unlawful practice.**

(a) ~~Effective January 31, 1994, it~~It shall be unlawful to engage in the practice of electrolysis or laser, light source, or pulsed-light treatments in this State without a license.

(b) Any person practicing electrology or laser, light source, or pulsed-light treatments for the purpose of hair removal or hair reduction in this State without being licensed by the Board shall be guilty of a Class I felony and may be assessed a civil penalty of up to five thousand dollars ($5,000) for each offense. Any other violation of this Chapter shall be a Class 2 misdemeanor."

SECTION 4. G.S. 88A-9(b) reads as rewritten:

"(b) All fees may be calculated by the Board in amounts sufficient to pay the costs of administration of this act, but in no event may they exceed the following:

(1)	Application for licensure as an electrologist	$150.00
(1a)	Initial license	150.00
(1b)	Examination or reexamination	125.00
(2)	Licensure of electrology renewal	~~200.00~~ 150.00
(3)	Application for ~~certification~~ licensure as an electrology instructor	150.00
(4)	~~Certificate~~ Licensure of electrology instructor renewal	~~75.00~~ 150.00
(5)	Application for certification as a ~~Board-approved~~ Board-approved school of electrology	500.00
(5a)	Application for licensure as laser hair practitioner	150.00
(5b)	Licensure of laser hair practitioner renewal	150.00
(5c)	Application for licensure as laser hair practitioner instructor	150.00
(5d)	Licensure of laser hair practitioner instructor renewal	150.00
(5e)	Application for certification as a Board-approved school of laser, light source, or pulsed-light treatments	500.00
(5f)	Certificate of Board-approved school of laser, light source, or pulsed-light renewal	400.00
(6)	Certificate of ~~Board-approved~~Board-approved school of electrology renewal	250.00
(6a)	Certification of out-of-state schools	~~100.00~~ 150.00
(6b)	Certification of out-of-state schools renewal	~~75.00~~ 100.00
(6c)	Office inspection or reinspection	100.00
(6d)	License by reciprocity	150.00
(7)	Late renewal charge	~~75.00~~ 125.00
(8)	Reinstatement of expired license or certification	~~300.00~~ 250.00
(9)	Reactivation of license	200.00
(10)	Duplicate license or certification	25.00."

SECTION 5. G.S. 88A-10(a)(3) reads as rewritten:

"(a) Any person who desires to be licensed as an "electrologist" pursuant to this Chapter shall:

...

(3) Be ~~18~~ 21 years of age or older.

...."

SECTION 6. Chapter 88A of the General Statutes is amended by adding a new section to read:

"**§ 88A-11.1. Requirements for licensure as a laser hair practitioner; limitations on licensed laser hair practitioners.**

(a) Any person seeking licensure by the Board as a laser hair practitioner shall have met the following requirements at the time the license is requested:

(1) Be an electrologist licensed under this Chapter.

(2) Completed a minimum 30-hour laser, light source, or pulsed-light treatment certification course approved by the Board and in accordance with rules adopted by the Board.

(3) Be currently using or anticipate using laser, light source, or pulsed-light devices that the person has been certified by a Board-approved school to operate.

(b) When the Board determines that an applicant has met all the requirements for licensure, and has submitted the initial license fee required in G.S. 88A-9(b), the Board shall issue a license to the applicant.

(c) Each laser hair practitioner shall practice laser, light source, or pulsed-light treatments under the supervision of a physician licensed under Article 1 of Chapter 90 of the General Statutes. The physician shall be readily available, but not required to be on site when the laser, light source, or pulsed-light treatments are being performed. However, the authority to regulate laser clinicians shall remain with the Board.

(d) A laser hair practitioner shall not dispense or administer medication or provide advice regarding the use of medication, whether prescription or over-the-counter, in connection with laser, light source, or pulsed-light treatments.

(e) All laser hair practitioners shall use laser, light source, or pulsed-light devices approved by the federal Food and Drug Administration and comply with all applicable federal and State regulations, rules, and laws. Any licensed laser hair practitioner violating this subsection shall have his or her license revoked by the Board.

(f) Only a licensed physician may use laser, light source, or pulsed-light devices for ablative procedures."

SECTION 7. G.S. 88A-12 reads as rewritten:

"**§ 88A-12. License renewal.**

(a) Every electrologist license or laser hair practitioner license issued pursuant to this Chapter must be renewed annually. On or before the date the current license expires, a person who desires to continue to practice electrology or as a laser hair practitioner shall apply for license renewal to the Board on forms approved by the Board, provide evidence of the successful completion of a continuing educational program approved by the Board, meet the criteria for renewal established by the Board, and pay the required fee. The Board may provide for the late renewal of licensure upon payment of a late fee as set by the Board, but late renewal may not be granted more than 90 days after expiration of the license.

(b) Any person who has failed to renew his or her license for more than 90 days after expiration may have it reinstated by applying to the Board for reinstatement on a

form approved by the Board, furnishing a statement of the reason for failure to apply for renewal prior to the deadline, and paying the required fee. The Board may require evidence of competency to resume practice before reinstating the applicant's license."

SECTION 8. G.S. 88A-13 is amended by adding the following new subsection to read:

"(d) Laser hair practitioners are required to complete a minimum of 10 hours of continuing education annually to maintain their licenses pursuant to rules adopted by the Board."

SECTION 9. Chapter 88A of the General Statutes is amended by adding the following new sections to read:

"**§ 88A-15.1. Persons and practices not affected.**

The requirements of this Chapter shall not apply to any person licensed or approved by the North Carolina Medical Board to practice medicine or perform medical acts, tasks, or functions pursuant to Article 1 of Chapter 90 of the General Statutes or any person employed and working under the direct supervision of a physician licensed to practice medicine pursuant to Article 1 of Chapter 90 of the General Statutes.

"**§ 88A-17.1. Requirements for licensure as a laser hair practitioner instructor.**

(a) Any person who desires licensure as a laser practitioner instructor pursuant to this Chapter shall meet the following requirements:

(1) Submit an application on a form approved by the Board.

(2) Be an electrologist licensed under this Chapter or a physician licensed under Article 1 of Chapter 90 of the General Statutes.

(3) Have practiced laser and light-based treatments actively for at least five years immediately before applying for licensure.

(4) Have at least 100 hours of training in laser and light-based treatments.

(b) When the Board determines that an applicant has met all qualifications for licensure as a laser hair practitioner instructor and has submitted the required fee, the Board shall issue an instructor's license to the applicant."

SECTION 10. G.S. 88A-18 reads as rewritten:

"**§ 88A-18. Renewal of instructor's ~~certificate.~~license.**

An electrology or laser hair practitioner instructor's ~~certificate~~ license shall be renewed annually. On or before the date the current ~~certificate~~ license expires, the applicant must submit an application for renewal of ~~certification~~ licensure on a form approved by the Board, meet criteria for renewal established by the Board, and pay the required fee. Any person whose instructor's ~~certificate~~ license has expired for a period of ~~five~~ three years or more shall be required to take and pass the instructor's examination before the ~~certificate~~ license can be renewed."

SECTION 11. Chapter 88A of the General Statutes is amended by adding the following new section to read:

"**§ 88A-19.1. Requirements for certification as a Board-approved school of laser, light source, or pulsed-light treatments.**

(a) Any school in this State or another state that desires to be certified as a Board-approved school of laser, light source, or pulsed-light treatments shall:

(1) Submit an application on a form approved by the Board;

(2) Submit a detailed projected floor plan of the institutional area demonstrating adequate school facilities to accommodate students for purposes of lectures, classroom instruction, and practical demonstration;

(3) Submit a detailed list of the equipment to be used by the students in the practical course of their studies;

(4) Submit a copy of the planned laser, light source, or pulsed-light curriculum consisting of the number of hours and subject matter determined by the Board, provided that the number of hours required shall not be less than 30 hours pursuant to rules adopted by the Board;

(5) Submit a certified copy of the school manual of instruction;

(6) Submit the names and qualifications of the instructors certified; and

(7) Submit any additional information the Board may require.

(b) When the Board determines that an applicant has met all the qualifications for certification as a Board-approved school of laser, light source, or pulsed-light treatments and has submitted the required fee, the Board shall issue a certificate to the applicant.

(c) A school's certification is only valid for the location named in the application. When a school desires to change locations, an application shall be submitted to the Board on a form furnished by the Board, and the fee shall be paid for certificate renewal.

(d) A school's certification is not transferable. Schools shall immediately notify the Board in writing of any sale, transfer, or change in ownership or management.

(e) Every school shall display its certification in a manner prescribed by the Board.

(f) All laser, light source, or pulsed-light devices used in the school shall be approved by the federal Food and Drug Administration."

SECTION 12. G.S. 88A-20 reads as rewritten:

"**§ 88A-20. Certification renewal.**

Every certificate issued pursuant to G.S. 88A-19 or G.S. 88A-19.1 shall be renewed annually. On or before the date the current certificate expires, the applicant must submit an application for renewal of certification on a form approved by the Board, meet criteria for renewal established by the Board, and pay the required fee. Failure to renew the certificate within 90 days after the expiration date shall result in automatic forfeiture of any certification issued pursuant to this Chapter."

SECTION 13. Any person who submits proof to the Board that he or she has met educational training requirements to practice as a laser hair practitioner in accordance with rules adopted by the North Carolina Board of Electrolysis Examiners shall be licensed without having to satisfy the educational training requirements of G.S. 88A-11.1, as enacted by Section 6 of this act, but shall comply with all other requirements for licensure under G.S. 88A-11.1, enacted by Section 6 of this act, and otherwise comply with the provisions of Chapter 88A of the General Statutes and rules adopted by the Board.

SECTION 14. This act becomes effective October 1, 2007.

HOUSE BILL 726:
Amend Electrolysis Practice Act/Fees.-AB

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	August 2, 2007
Introduced by:	Reps. Jeffus, Luebke	**Summary by:**	Trina Griffin
Version:	Third Edition		Committee Counsel

SUMMARY: House Bill 726 authorizes the North Carolina Board of Electrolysis Examiners to license laser hair practitioners and laser hair practitioner instructors and to certify Board-approved schools of laser, light source, or pulsed-light treatments that meet requirements established by the Board. House Bill 726 also establishes the following new fees:

Application for licensure as laser hair practitioner	***$150 (same for electrologist)***
Renewal (annual)	***$150 (same for electrologist)***
Application for licensure as laser hair practitioner instructor	***$150 (same for electrology instructor)***
Renewal (annual)	***$150 (same for electrology instructor)***
Application for certification as Board-approved school of laser, light source, or pulsed-light treatment	***$500 (same for school of electrology)***
Renewal (annual)	***$400 ($250 for school of electrology)***

House Bill 726 also provides that any person practicing laser, light source, or pulsed-light treatments without a license by the Board shall be guilty of a Class I felony and may be assessed a civil penalty of $5,000 per violation.

CURRENT LAW: Chapter 88A of the General Statutes creates the North Carolina Board of Electrolysis Examiners and requires the mandatory licensing of electrologists. A violation of practicing electrolysis without a license is a Class 2 misdemeanor. Electrolysis is defined as the permanent removal of hair by the application of an electric current to the dermal papilla by a filament to cause decomposition, coagulation, or dehydration within the hair follicle as approved by the Food and Drug Administration of the United States Government.

The Board is composed of five members:

- Three electrologists who have practiced for at least five years. One is appointed by the Speaker of the House of Representatives, one is appointed by the President Pro Tem of the Senate, and one is appointed by the Governor.
- A physician licensed in North Carolina, who is nominated by the North Carolina Medical Board and appointed by the Governor.
- A public member, appointed by the Governor.

Chapter 88A sets out the requirements for licensure as an electrologist, certification as an electrology instructor, and certification as a Board-approved school of electrology.

BILL ANALYSIS: House Bill 726 authorizes the licensure of a laser hair practitioner and laser hair practitioner instructor. A laser hair practitioner is defined as a person who engages in laser, light source, or pulsed-light treatments of hair. "Laser, light source, or pulsed-light treatments" are defined as the use of laser or pulsed-light devices for nonablative procedures for the removal of hair.

To be licensed as a laser hair practitioner, a person must first meet the following requirements:

- Be a licensed electrologist.
- Complete a minimum 30-hour laser, light source, or pulsed-light treatment course approved by the Board.
- Currently using or anticipate using laser, light source, or pulsed-light devices.
- Submit the $150 licensure application fee.

A laser hair practitioner is also required to complete a minimum of 10 hours of continuing education annually to maintain licensure.

The following limitations apply to a licensed laser hair practitioner:

- They must practice under the supervision of a licensed physician. However, the authority to regulate laser hair practitioners remains with the Board.
- They are not allowed to dispense or administer medication in connection with treatments, whether prescription or over-the-counter.
- Failure to use devices approved by the federal Food and Drug Administration or failure to comply with all applicable federal and State regulations, rules and laws, subject a licensed laser hair practitioner to license revocation by the Board.
- The use of laser, light source, or pulsed-light devices for ablative procedures is reserved for a licensed physician only.

The following persons and practices are not affected by the requirements of Chapter 88A of the General Statutes:

- Any person licensed or approved by the North Carolina Medical Board to practice medicine or perform medical acts, tasks, or functions as authorized by statute.
- Any person employed and working under the direct supervision of a physician licensed to practice medicine.

To be licensed as a laser hair practitioner instructor, a person must meet the following requirements:

- Submit a Board-approved application.
- Be a licensed electrologist or a licensed physician.
- Have practiced laser and light-based treatments actively for at least five years immediately before applying for licensure.
- Have at least 100 hours of training in laser and light-based treatments.
- Submit the $150 licensure application fee.

Any person practicing laser, light source, or pulsed-light treatments without a license by the Board shall be guilty of a Class I felony and may be assessed a civil penalty of $5,000 per violation.

To be certified as a Board-approved school of laser, light source, or pulsed-light treatments, the school must submit the following:

- Board-approved application.
- Detailed floor plan that demonstrates adequate school facilities.
- Detailed list of equipment to be used by students.
- Copy of the curriculum consisting of the number of hours, with a minimum of 30, and subject matter determined by the Board.
- Certified copy of the school manual of instruction.

- Names and qualifications of the licensed instructors.
- $500 certification fee.
- Submit any additional information the Board may require.

A school's certification is only valid for the location named in the application. If a school desires to change location, it must apply to the Board and pay a certificate renewal fee of $250. A school's certification is not transferable, and the school must notify the Board in writing of any sale, transfer, or change in ownership or management.

EFFECTIVE DATE: The act is effective October 1, 2007.

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Sara Kamprath, Legislative Analyst to the House Health Committee, and Judy Collier, Research Assistant for House Finance, substantially contributed to this summary.