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**AGENDA**  
**CUMBERLAND COUNTY BOARD OF COMMISSIONERS**  
**SPECIAL MEETING**  
**JUDGE E. MAURICE BRASWELL CUMBERLAND COUNTY**  
**COURTHOUSE - ROOM 119**  
**MARCH 9, 2018**  
**8:30 AM**

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CALL TO ORDER

WELCOME

Chairman Larry Lancaster, Board of Commissioners  
Senator Wesley Meredith, Cumberland County - State Delegation Chair

1.0 WATER EXPANSION

- A. Water Expansion/GenX Contamination: Request for Funding and Support for Extending Water Lines in Contaminated Areas

2.0 TAX AND FINANCE

- A. Food and Beverage Tax: Amend the Prepared Food and Beverage Tax to Repeal Sunset Provision
- B. Local Occupancy Tax: Amend Local Occupancy Tax to Allow County to Operate Under House Finance Committee Guidelines for Local Occupancy Tax

3.0 SALES TAX

- A. Potential for Article 43 Sales Tax as an Option for Public Safety Funding
- B. Sales Tax Collections on Services and Remote Sales

4.0 SCHOOL FUNDING

- A. Support Legislation to Repeal the Statutory Authority that Allows School Boards to Sue Boards of Commissioners Over County Appropriations
- B. Lottery Funds for School Construction

5.0 HUMAN SERVICES

- A. Social Services: Continue Support of County Administered Social Services System
- B. Mental Health: Support Increased Funding for Mental Health Services
- C. Public Health: Approve Funding for Communicable Disease Nurse Positions in County Public Health Departments

6.0 OTHER TOPICS

- A. Libraries: Increase State Aid to Libraries

B. Funding for 911 Services

C. N.C. Military Hall of Fame

7.0 DELEGATION DISCUSSION TOPICS

8.0 CLOSING REMARKS

# Item 1

## Water Expansion

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### Item 1.A. Water Expansion/GenX Contamination

Request for funding and support for extending public water lines in contaminated areas

Support endeavors to determine health impact and to hold Chemours accountable

#### *Background*

The General Assembly approved HB56 in October that included allocating **\$435,000**.

- **\$185,000** to the Cape Fear Public Utility Authority to study methods to remove GenX from the water supply and to pay for ongoing monitoring
- **\$250,000** to UNC-Wilmington to study GenX and prepare a final report on findings and recommendations for legislative action by April 1 to the Environmental Review Commission.

#### **House Bill 189** - An Act to Implement Measures to Address “Genx” and Other Emerging Contaminants

- House approved. Senate made changes. Bill will go back to the House.
- Directs the NCDEQ to review historical discharge permits and coordinate with other state and federal agencies to share water quality information.
- Sets up a process for the North Carolina Policy Collaboratory at UNC-Chapel Hill to coordinate efforts using technology and instrumentation to measure discharge and emerging contaminants in the event the U.S. Environmental Protection Agency no longer provides free access to its analytical instrumentation and technology (often referred to as mass spectrometers).
- The bill authorizes the collaboratory to use \$1 million in funds each year over the next two years for this purpose and appropriates \$2.4 million in additional funds to DEQ to implement the bill.

Cumberland County is asking for funding to extend water lines in the contaminated areas.

On Feb. 19, the Cumberland County Board of Commissioners unanimously approved hiring the local engineering firm Moorman, Kizer & Reitzel Inc. to complete a Preliminary Engineering Report for extending water lines in the Gray’s Creek Water and Sewer District. Private wells in the district have tested above the state’s provisional health goal of 140 parts per trillion for GenX.

Commissioners also approved an Interlocal Agreement with the Public Works Commission to pay an equal share of the \$129,330 cost for the report.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 189  
Committee Substitute Favorable 1/10/18  
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted  
2/7/18  
Fourth Edition Engrossed 2/9/18

Short Title: Water Safety Act.

(Public)

Sponsors:

Referred to:

February 27, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPLEMENT MEASURES TO ADDRESS "GENX" AND OTHER  
3 EMERGING CONTAMINANTS.

4 The General Assembly of North Carolina enacts:

5  
6 **DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO CONSULT**  
7 **WITH FEDERAL AGENCIES, AS WELL AS THE NORTH CAROLINA POLICY**  
8 **COLLABORATORY AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL**  
9 **HILL, WHICH SHALL COORDINATE RELEVANT FACULTY EXPERTISE IN THE**  
10 **UNIVERSITY OF NORTH CAROLINA SYSTEM, ON THE PROCESS FOR THE**  
11 **ESTABLISHMENT OF HEALTH GOALS FOR PER- AND POLY-FLUOROALKYL**  
12 **SUBSTANCES**

13 **SECTION 1.** The Department of Health and Human Services shall consult with the  
14 United States Environmental Protection Agency, the Centers for Disease Control and  
15 Prevention, the Agency for Toxic Substances and Disease Registry, as well as the North  
16 Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill, which shall  
17 coordinate with faculty experts across The University of North Carolina System, including the  
18 University of North Carolina at Wilmington and the Gillings Global School of Public Health of  
19 the University of North Carolina at Chapel Hill, on the Department's process for the  
20 establishment of health goals for per- and poly-fluoroalkyl substances.

21  
22 **DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COOPERATE**  
23 **WITH ANY UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AUDIT**  
24 **OF THE DEPARTMENT'S NPDES PERMIT PROGRAM**

25 **SECTION 2.** The Department of Environmental Quality shall cooperate with any  
26 audit of its National Pollutant Discharge Elimination System (NPDES) permitting program by  
27 the United States Environmental Protection Agency (USEPA). In the event of an audit, the  
28 Department shall specifically work with the USEPA to examine the adequacy of the  
29 Department's NPDES permitting program.

30  
31 **REVIEW NPDES PERMIT PROGRAM**

32 **SECTION 3.** The Department of Environmental Quality shall review its National  
33 Pollutant Discharge Elimination System (NPDES) permitting program from October 19, 1975,



the date on which the Department assumed authority to implement the program under delegation from the United States Environmental Protection Agency pursuant to section 402(b) of the federal Clean Water Act and 40 C.F.R. Part 123, to the effective date of this act. In conducting its review, the Department shall examine:

- (1) Requirements for persons applying for individual NPDES permits to fully disclose in applications for new permits, permit renewals, or permit modifications, all pollutants, including emerging contaminants for which an applicable discharge standard has not been established under State or federal law, included in their discharge.
- (2) Existing processes for developing standards or limitations for emerging contaminants for which an applicable discharge standard has not previously been established under State or federal law, included in a permittee's discharge.
- (3) Internal permit review processes to ensure thorough and timely review of permit applications.
- (4) The time required to process all NPDES permit applications that are received by the Department. The examination of processing time shall include (i) the total processing time from when an initial permit application is received to issuance or denial of the permit and (ii) the processing time from when a complete permit application is received to issuance or denial of the permit.

The Department shall submit a final report with findings, including any steps the Department plans to take to improve the Department's implementation of the program, to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than June 1, 2018. In accordance with Section 2 of this act, the Department shall include any information related to an audit of its NPDES permitting program by the USEPA in the report.

#### **DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COORDINATE AND SHARE WATER QUALITY DATA WITH STATES IN THE REGION**

**SECTION 4.** Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

##### **"§ 143-215.1D. Coordination with neighboring states.**

The Department of Environmental Quality shall coordinate with the Georgia Department of Natural Resources, the South Carolina Department of Health and Environmental Control, the Tennessee Department of Environment and Conservation, the Virginia Department of Environmental Quality, and the West Virginia Department of Environmental Protection to improve processes for sharing information about contaminants identified in surface water or groundwater shared by or passing or flowing across the border of those states and this State. As needed, the Department shall share with those agencies water quality data for, and information about any contaminant identified in, surface water or groundwater shared by or passing or flowing across the border of those states and this State."

#### **GENX FUNDING/USE OF MASS SPECTROMETERS AVAILABLE IN THE UNIVERSITY OF NORTH CAROLINA SYSTEM**

**SECTION 5.** The General Assembly finds that relevant faculty expertise, technology, and instrumentation, including mass spectrometers, existing throughout The University of North Carolina System should be made available for the analysis of water quality sampling with respect to the discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6), and other emerging contaminants, and that repurposing existing funds to facilitate these activities is an efficient utilization of State funds

1 and resources. In addition, the General Assembly finds that relevant faculty expertise,  
2 technology, and instrumentation, including mass spectrometers, existing throughout The  
3 University of North Carolina System should be made available for related research on  
4 improved water quality sampling and analysis techniques, data interpretation, and potential  
5 mitigation measures that may be necessary, with respect to the discharge of the  
6 poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or  
7 13252-13-6), and other emerging contaminants, and that repurposing existing funds to facilitate  
8 these activities is an efficient utilization of State funds and resources.

9 **SECTION 6.(a)** In the event that the United States Environmental Protection  
10 Agency no longer provides access to its analytical instrumentation at no cost to the State for  
11 water quality sampling analysis related to the poly-fluoroalkyl chemical known as "GenX"  
12 (CAS registry number 62037-80-3 or 13252-13-6), and other emerging contaminants, or if the  
13 Department of Environmental Quality determines that such analysis is not being performed in a  
14 sufficiently timely manner, the North Carolina Policy Collaboratory at the University of North  
15 Carolina at Chapel Hill shall coordinate such analysis in the most cost-effective manner using  
16 relevant faculty expertise, technology, and instrumentation, including mass spectrometers,  
17 existing throughout The University of North Carolina System. The Collaboratory, in  
18 consultation with the Department and relevant experts across The University of North Carolina  
19 System, including the University of North Carolina at Wilmington and the Environmental  
20 Sciences and Engineering Department within the Gillings Global School of Public Health of  
21 the University of North Carolina at Chapel Hill, shall establish a protocol for delivery of such  
22 samples taken by the Department to the entity designated to perform analysis of the samples,  
23 chain of custody protocols, and other matters to ensure proper handling and processing of the  
24 samples.

25 **SECTION 6.(b)** The North Carolina Policy Collaboratory at the University of  
26 North Carolina at Chapel Hill shall identify faculty expertise within The University of North  
27 Carolina System, and use technology, and instrumentation, including mass spectrometers,  
28 existing throughout The University of North Carolina System, to conduct the following  
29 research: (1) develop quantitative models to predict which private wells are most at risk of  
30 contamination from the discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS  
31 registry number 62037-80-3 or 13252-13-6), and other emerging contaminants; (2) test the  
32 performance of household water filters in removing such compounds; and (3) study the air  
33 emissions and atmospheric deposition of GenX and other emerging compounds. In addition, the  
34 Collaboratory may, using relevant faculty expertise, technology, and instrumentation existing  
35 throughout The University of North Carolina System, evaluate other research opportunities and  
36 conduct such research for improved water quality sampling and analyses techniques, data  
37 interpretation, and potential mitigation measures that may be necessary, with respect to the  
38 discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS registry number  
39 62037-80-3 or 13252-13-6), and other emerging contaminants.

40 **SECTION 6.(c)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by  
41 Section 10.4 of S.L. 2017-57, the North Carolina Policy Collaboratory is authorized to use for  
42 the purposes set forth in this act no more than one million dollars (\$1,000,000) for the  
43 2017-2018 fiscal year and no more than one million dollars (\$1,000,000) for the 2018-2019  
44 fiscal year of the funds appropriated for the 2016-2017 fiscal year to the Office of State Budget  
45 and Management, Special Appropriations, and allocated to the Board of Trustees of the  
46 University of North Carolina at Chapel Hill for use as matching funds by the Collaboratory.  
47 Funds reallocated by this section shall not revert but shall continue to be available as provided  
48 in this act.

49 **SECTION 6.(d)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by  
50 Section 10.4 of S.L. 2017-57, no match is required for funds reallocated by this section.  
51

**FUNDS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

**SECTION 7.(a)** The sum of two million four hundred thousand dollars (\$2,400,000) in nonrecurring funds for the 2017-2018 fiscal year shall be appropriated from the unappropriated balance remaining in the General Fund to the Department of Environmental Quality to implement this act. Of the funds provided to the Department of Environmental Quality by this section, eight hundred thirteen thousand dollars (\$813,000) may be allocated to the Division of Water Resources for nonrecurring expenses for time-limited positions and operations support (1) for the collection of air and water quality samples related to GenX and other emerging contaminants that are delivered to the USEPA or to an entity designated to perform analysis of the samples by the North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill in accordance with Section 6(a) of this act and (2) to address NPDES permitting backlogs. The Department of Environmental Quality shall report no later than June 1, 2018, and quarterly thereafter, to the Joint Legislative Committee on Governmental Operations on how funds appropriated under this section will be and are being used.

**SECTION 7.(b)** Section 2.1 of S.L. 2017-57, as amended by Section 1.1 of S.L. 2017-197, reads as rewritten:

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2019, according to the following schedule:

<b>Current Operations – General Fund</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
...		
<b>NATURAL AND ECONOMIC RESOURCES</b>		
...		
Department of Environmental Quality	<u>78,170,327</u> <u>80,570,327</u>	77,012,714
...		
<b>TOTAL CURRENT OPERATIONS –</b>		
<b>GENERAL FUND</b>	<b>\$ <u>22,980,769,893</u><u>22,983,169,893</u></b>	<b>\$ <u>23,650,253,958</u>"</b>

**SECTION 7.(c)** Section 2.2(a) of S.L. 2017-57 reads as rewritten:

"**SECTION 2.2.(a)** The General Fund availability used in developing the 2017-2019 fiscal biennial budget is shown below:

	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
Unappropriated Balance	\$ 208,607,416	\$ <u>499,303,328</u> <u>496,903,328</u>
...		
<b>Revised Unappropriated Balance</b>	<b>108,607,416</b>	<b><u>499,303,328</u><u>496,903,328</u></b>
...		
<b>Beginning Unreserved Fund Balance</b>	<b>471,279,046</b>	<b><u>499,303,328</u><u>496,903,328</u></b>
...		
<b>Total General Fund Availability</b>	<b>23,623,979,046</b>	<b><u>24,634,803,328</u><u>24,632,403,328</u></b>
...		
<b>Revised General Fund Availability</b>	<b>\$ 23,529,781,221</b>	<b>\$ <u>24,022,005,283</u><u>24,019,605,283</u></b>
Less General Fund Net		
Appropriations	<del>(23,030,477,893)</del> <u>(23,032,877,893)</u>	(23,652,171,951)
<b>Unappropriated Balance</b>		
<b>Remaining</b>	<b>\$ <u>499,303,328</u><u>496,903,328</u></b>	<b>\$ <u>369,833,332</u><u>367,433,332</u>"</b>

1           **SECTION 7.(d)** Nonrecurring funds appropriated by this act for the 2017-2018  
2 fiscal year shall not revert but shall remain available for nonrecurring expenses, including the  
3 establishment of time-limited positions, through June 30, 2019.

4  
5 **EFFECTIVE DATE**

6           **SECTION 8.** Except as otherwise provided, this act is effective when it becomes  
7 law.



## Item 2

### Tax and Finance

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#### Item 2.A. Food & Beverage Tax

Amend the Prepared Food and Beverage Tax (Session Law 1993-413) to repeal the sunset provision. Request the removal of the provision that the tax be repealed when the debt service on the Crown Coliseum Complex is paid in 2024. (See attached bill.)

Expand the permitted uses of the tax proceeds to allow greater flexibility.

##### ***Background***

Food and Beverage tax proceeds are now restricted to capital needs and operating, marketing and promoting the Crown Complex. The existing debt service will be paid in 2024 and the current tax will be repealed; however, the County will need to continue to maintain the Crown's facilities and subsidize the operations.

Request that Session Law 1993-413 be amended by removing the sunset requirement and expand the permitted uses of the tax proceeds to any purpose that will promote or enhance tourism, travel, arts, entertainment and sports venues and activities within Cumberland County.

The Crown facilities have ongoing capital needs, including updating and retrofitting. In addition, the Board of Commissioners has established capital planning priorities that include renovating the Crown Theater or constructing a performing arts center and supporting a Civil War History and Reconstruction Center. These priorities could benefit from local occupancy taxes if the legislation were changed to allow for tourism-related capital expenditures.

GENERAL ASSEMBLY OF NORTH CAROLINA  
1993 SESSION

CHAPTER 413  
SENATE BILL 923

AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO LEVY A PREPARED  
FOOD AND BEVERAGE TAX TO PROVIDE A MEANS FOR FINANCING ALL  
OR PART OF AN ARENA IN CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Authorization. – (a) Levy. If no referendum has been held in the county as provided in subsection (b) of this section within five years at which the tax was defeated, the Cumberland County Board of Commissioners may, by resolution, levy a prepared food and beverage tax of up to one percent (1%) of the sales price of prepared food and beverages sold at retail for consumption on or off the premises by any retailer within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(1). Before adopting or amending a resolution levying the tax, the board of commissioners shall hold a public hearing on the tax. The board of commissioners shall publish notice of the hearing not less than 10 days nor more than 25 days before the date fixed for the hearing. After holding the public hearing, the board of commissioners may either levy the tax as provided in this subsection or initiate a referendum as provided in subsection (b) of this section.

(b) Levy after Referendum. – The Cumberland County Board of Commissioners may direct the county board of elections to conduct a referendum on the question of whether a county meals tax at a rate of up to one percent (1%) will be levied in accordance with this act. Before directing the county board of elections to conduct the referendum, the board of commissioners shall hold a public hearing on the tax. The board of commissioners shall publish notice of the hearing not less than 10 days nor more than 25 days before the date fixed for the hearing.

The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287. The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this act shall be: "FOR a local tax on prepared food and beverages at a rate of up to one percent (1%)". "AGAINST a local tax on prepared food and beverages at a rate of up to one percent (1%)".

If the majority of those voting in a referendum held pursuant to this subsection vote for the levy of a local meals tax, the Cumberland County Board of Commissioners may, by resolution, levy a prepared food and beverage tax of up to one percent (1%) of the sales price of prepared food and beverages sold at retail for consumption on or off the premises by any retailer within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(1).

Sec. 2. Definitions; Sales and Use Tax Statutes. – (a) The definitions in G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the provisions of this act. In addition, the following definitions apply in this act:

- (1) Financing. – Debt service, lease payments, or any other obligation or means of supporting capital costs, together with any related reserve requirements.
- (2) Prepared food and beverages. – Any meals, food, or beverages to which a retailer has added value or has altered its state (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make the food or beverage available for immediate human consumption.

(b) The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to this act to the extent they are not inconsistent with the provisions of this act.

Sec. 3. Exemptions. – The prepared food and beverage tax does not apply to the following sales of prepared food and beverages:

- (1) Prepared food and beverages served to residents in boarding houses and sold together on a periodic basis with rental of any sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105- 164.13.
- (3) Retail sales through or by means of vending machines.
- (4) Prepared food and beverages served by a retailer subject to the occupancy tax levied by the county if the charge for the prepared food or beverages is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the retailer.
- (5) Prepared food and beverages furnished without charge by an employer to an employee.
- (6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments, other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.
- (7) Prepared food and beverages served on federal military reservations.

Sec. 4. Collection. – Every retailer subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing prepared food and beverages. The tax shall be stated and charged separately from the sales price, shall be shown separately on the retailer's sales records, and shall be paid by the purchaser to the retailer as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to and collected from the purchaser instead of being borne by the retailer.

Sec. 5. Administration. – A tax levied under this act is due and payable to the county in monthly installments on or before the 25th day of the month following the month in which the tax accrues. Every retailer liable for the tax shall, on or before the 25th day of each month, prepare and render a return on a form prescribed by the county.

The return shall show the total gross receipts derived in the preceding month from sales to which the tax applies. The county shall design, print, and furnish to all appropriate retailers the necessary forms for filing returns and instructions to ensure the full collection of the tax.

A return filed with the county under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

Sec. 6. Refunds. – The county shall refund to a nonprofit or governmental entity the prepared food and beverage tax paid by the entity on eligible purchases of prepared food and beverages. A nonprofit or governmental entity's purchase of prepared food and beverages is eligible for a refund under this section if the entity is entitled to a refund under G.S. 105-164.14 of local sales and use tax paid on the purchase. The time limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(b) and (d) shall apply to refunds to nonprofit entities; the time, limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(c), (d), and (e) shall apply to refunds to governmental entities. When an entity applies for a refund of the prepared food and beverages tax paid by it on purchases, it shall attach to its application a copy of the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases. An applicant for a refund under this section shall provide any information required by the county to substantiate the claim.

Sec. 7. Penalties. – A person, firm, corporation, or association who fails or refuses to file a return and pay the tax due under this act shall pay a penalty of five dollars (\$5.00) for each day's omission up to a maximum of five hundred dollars (\$500.00) for each return. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this section.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to the penalties provided by law, be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.

Sec. 8. Use of Proceeds. – The county shall transfer the proceeds of the prepared food and beverage tax to the Cumberland County Civic Center Commission, an agency of Cumberland County. The proceeds transferred to the Cumberland County Civic Center Commission shall be used (i) to provide for, when due, payments for the current fiscal year with respect to any financing for new arena facilities or for the expansion of the existing arena facilities, which may include off-street parking for use in conjunction with the facilities and (ii) to pay other costs of acquiring, constructing, maintaining, operating, marketing, and promoting the new arena or expanded arena facilities.

The Commission may contract with any person, agency, association, or nonprofit corporation to carry out the activities and programs for which the tax proceeds may be expended. All contracts entered into pursuant to this subsection shall require an annual financial audit of any funds expended and a performance audit of contractual obligations.

Sec. 9. Effective Date of Levy. – A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted. The levy of a prepared food and beverage tax may not be effective before January 1, 1994.

Sec. 10. Restaurant Representation. – Upon enactment of a prepared food and beverage tax, the Cumberland County Board of Commissioners shall, by resolution, appoint one or more restaurant owners or operators in Cumberland County to the Cumberland County Civic Center Commission and shall also appoint one or more restaurant owners or operators to the governing body of the Fayetteville Area Convention and Visitors Bureau.

Sec. 11. Repeal. – A tax levied under this act may be repealed by a resolution adopted by the Cumberland County Board of Commissioners. The Cumberland County Board of Commissioners shall repeal the tax when the new or expanded arena facilities for which the tax was imposed are constructed and any debt for those facilities has been paid. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that has attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1993.

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Dennis A. Wicker  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives

## Item 2

### Tax and Finance

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#### Item 2.B. Local Occupancy Tax

Amend Local Occupancy Tax to allow County to operate under House Finance Committee guidelines for Local Occupancy Tax

##### ***Background***

Please see attached copies of Session Law 2001-484/SB348 and House Finance Committee's Guidelines for Occupancy Tax Legislation.

The County is seeking changes in the local occupancy tax legislation to allow it to comply with the House Finance Committee's guidelines. This change is being requested after reviewing disbursement methods, oversight and protocols for ensuring funding is spent in accordance with the original intent of the legislation.

The County wants to operate under the same rules as other counties that collect local occupancy tax. This change will allow for a more inclusive and representative Tourism and Development Authority Board and allow for funding to go toward capital projects related to tourism.

Cumberland County's local occupancy legislation (Session Law 2001-484) dictates the makeup of the Tourism Development Authority and limits the number of eligible individuals to:

*The Authority shall be composed of the following members: (1) Two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners. (2) Two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners. (3) The President of the Fayetteville Area Chamber of Commerce, in an ex officio capacity. (4) The County Manager of Cumberland County, in an ex officio capacity. (5) One member of the public who is not affiliated with travel and tourism and who reflects the cultural diversity of the county.*

The House Finance Committee guidelines provide that "at least ½ of the members must be currently members active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax."

House guidelines allow for 1/3 of funding to be used for tourism-related capital expenditures.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

SESSION LAW 2001-484  
SENATE BILL 348

AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO INCREASE ITS  
OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES  
TO ITS OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 983 of the 1983 Session Laws reads as rewritten:

"Section 1. It is the purpose and intent of this act to provide Cumberland County the authority to levy a transient occupancy tax as hereinafter set forth.

Sec. 2.

(a) Authorization and Scope. – Cumberland County is hereby authorized to impose and levy a tax not to exceed three percent (3%) of the gross receipts of any person, firm, corporation or association derived from the rental of any sleeping room or lodging furnished in any hotel, motel, or inn located in Cumberland County and subject to the ~~three percent (3%) sales tax levied imposed by the State of North Carolina under G.S. 105-164.4(a)(3).~~ This tax is in addition to any State or local sales tax. The tax shall not apply, however, to any room or rooms, lodging or accommodations supplied to the same person for a period of 90 continuous days or more. The tax shall also not apply to sleeping rooms or lodgings furnished by charitable, educational, benevolent or religious institutions or organizations not operated for profit.

(a1) Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Cumberland County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The tax authorized by this subsection may not be levied earlier than January 1, 2002. The levy, collections, administration, use, and repeal of the tax authorized by this subsection shall be in accordance with this act. Cumberland County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section. The rate of tax levied under this subsection may not exceed the applicable maximum provided in the chart below based on the period for which it is in effect:

<u>Period</u>	<u>Maximum</u>
<u>After 1/1/2002</u>	<u>1%</u>
<u>After 1/1/2004</u>	<u>2%</u>
<u>After 1/1/2005</u>	<u>3%</u>

(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.~~Before adopting or amending an ordinance imposing and levying such a tax, the Board of Commissioners shall hold a public hearing on the ordinance or amendment. The Board shall cause notice of the hearing to be published not less than 10 days nor more than 25 days before the date fixed for the hearing.~~

~~Sec. 3.~~

~~(a) Such tax, if levied, shall be due and payable to the county in monthly installments on or before the 15th of the month next succeeding the month in which the tax accrues. Every person, firm, corporation or association liable for the tax imposed pursuant to this act shall, on or before the 15th day of each month, prepare and render a~~

return on a form prescribed by the county, a true and correct statement showing the total gross receipts derived in the preceding month from rentals upon which the tax is levied. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of the calendar month set by the board of commissioners in the ordinance levying the tax.

(b) Any person, firm, corporation or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.

(c) Any person, firm, corporation or association who willfully attempts in any manner to evade the occupancy tax, if levied on any person required to pay the occupancy tax, or to make a return and who willfully fails to pay such tax or make and file such return, shall, in addition to the penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or by both such fine and imprisonment.

Sec. 4. Distribution and use of the first three percent (3%). Cumberland County shall allocate the net proceeds collected as follows:

(a) Cumberland County shall retain three percent (3%) of the gross proceeds of the tax collected to compensate it for any administrative or collection expenses incurred in implementing this program. "Net Proceeds" shall mean gross taxes collected less any monies retained by the county for administrative and collection expenses.

~~(b)~~(a) Fifty The first fifty percent (50%) of the net proceeds from the tax in a fiscal year of the occupancy tax levied under subsection (a) of Section 2 of this act shall be retained by the county and shall be allocated for the benefit of the Cumberland County Auditorium Commission to help finance major repairs, renovation, rehabilitation, or other capital improvements to its existing facilities and any new additions. These funds may also be utilized by the Commission as approved by the county board of commissioners for financing construction of new convention oriented or multipurpose facilities. These funds will not be used for the acquisition, construction, renovation, or operation of any sleeping room or overnight lodging. These funds shall be budgeted, appropriated, and expended under the auditorium budget through regular county budgeting appropriation and expenditure methods.

~~(c)~~(b) Fifty The remaining fifty percent (50%) of the net proceeds from the tax in a fiscal year shall be designated, within the auditorium commission budget of the occupancy tax levied under subsection (a) of Section 2 of this act collected through June 30, 2002, shall, on a quarterly basis, be remitted to the Fayetteville Area Convention and Visitors Bureau specifically for advertising the auditorium and promoting travel and tourism within the County of Cumberland. Beginning on and after July 1, 2002, the remaining fifty percent (50%) of the net proceeds of the occupancy tax levied under subsection (a) of Section 2 of this act shall, on a quarterly basis, be remitted to the Cumberland Tourism Development Authority. The Authority shall use the net proceeds remitted to it under this subsection specifically for advertising the auditorium and promoting travel and tourism within the County of Cumberland. ~~These funds shall be budgeted, appropriated, and expended under the auditorium budget through regular county budgeting, appropriation and expenditure methods, however, 180 days prior to the adoption of the annual county budget, in which this tax is first budgeted, an advisory committee, the constitution of which is described herein below, shall be formed to plan and propose areas and items of expenditure for the funds designated under this subsection.~~

Sec. 4.1. Distribution and use of additional tax. – Cumberland County shall, on a quarterly basis, remit the net proceeds of the occupancy tax levied under subsection (a1) of Section 2 of this act to the Cumberland Tourism Development Authority. The Authority shall use fifty percent (50%) of these net proceeds to promote travel and tourism in Cumberland County and for tourism-related expenditures in Cumberland County. The remaining fifty percent (50%) shall be distributed to the Arts Council of



Fayetteville/Cumberland County for arts festivals and other arts events that will draw tourists or other business travelers to the area. The Authority and the Arts Council are encouraged to give favorable consideration to tourism-related expenditures of the Seniors Call to Action Team, Inc. (SCAT) and the Martin Luther King, Jr. Committee.

The following definitions apply in this act:

- (1) Net Proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote Travel and Tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-Related Expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~Sec. 5. This advisory committee shall be constituted of: (a) two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners; (b) two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners; (c) the chairman of the Travel and Tourism Committee of the Fayetteville Area Chamber of Commerce, in an ex officio capacity; (d) the County Manager of Cumberland County in an ex officio capacity; and (e) the Auditorium Manager of the Cumberland County Memorial Auditorium, in an ex officio capacity. All members to this advisory committee, whether in an appointed or ex officio capacity, shall have equal rights and privileges. This advisory committee will remain intact from term to term to provide information and advice to the Auditorium Commission for the expenditure of these funds on a continuing basis as the need arises.~~

~~The budget process for these funds shall be as follows: Promotion Plan formulated by the advisory committee and submitted, through the Auditorium Manager, as part of the Auditorium's overall budget to the Auditorium Commission for its review and approval, then to the Cumberland County Board of Commissioners, through the County Manager for its review and adoption.~~

(a) Appointment and Membership of Tourism Development Authority. – When the Cumberland County Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office and for the filling of vacancies on the Authority. The county board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. All members to the Authority, whether in an appointed or ex officio capacity, shall have equal rights and privileges. The Authority shall be composed of the following members:

- (1) Two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners.
- (2) Two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners.

(3) The President of the Fayetteville Area Chamber of Commerce, in an ex officio capacity.

(4) The County Manager of Cumberland County, in an ex officio capacity.

(5) One member of the public who is not affiliated with travel and tourism and who reflects the cultural diversity of the county.

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

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

Sec. 6. Chapter 360 of the 1965 Session Laws is amended as follows:

(1) by deleting the word "Treasurer" in the third sentence of Section 1(b)(3) of that act and substituting the words "County Manager"; and

(2) by adding a new sentence at the end of Section 3 of that act to read: "Occupancy tax revenues as authorized in AN ACT TO AUTHORIZE AND IMPLEMENT AN OCCUPANCY TAX IN CUMBERLAND COUNTY may be utilized by the Auditorium Commission, as approved by the board of county commissioners, in aiding and encouraging convention and visitor promotion in Cumberland County."

Sec. 7. This act is effective upon ratification."

**SECTION 2.** G.S. 153A-155(g), as amended by S.L. 2001-162, S.L. 2001-305, S.L. 2001-321, S.L. 2001-381, S.L. 2001-434, S.L. 2001-439, and S.L. 2001-468, reads as rewritten:

"(g) This section applies only to Anson, ~~Avery~~, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Granville, Madison, Montgomery, Nash, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averagesboro in Harnett County."

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

In the General Assembly read three times and ratified this the 6<sup>th</sup> day of December, 2001.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ James B. Black  
Speaker of the House of Representatives

## GUIDELINES FOR OCCUPANCY TAX LEGISLATION

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Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably.

Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition (NCTTC) has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance Committee in 1993. Subsequently, the House Finance Committee established the Occupancy Tax Subcommittee, which regularly reviews occupancy tax legislation and looks for the inclusion of the following uniform provisions in the bills it considers:

- ◆ **Rate** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
- ◆ **Use** – At least two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism-related expenditures, which may include beach nourishment. However, local governments in coastal counties may allocate up to 50% of occupancy tax proceeds for beach nourishment, so long as all remaining proceeds are used for tourism promotion and provided that the use of occupancy tax proceeds for beach nourishment is limited by either a statutory cap or sunset provision.<sup>1</sup>
- ◆ **Definitions** The terms "net proceeds", "promote travel and tourism", "tourism-related expenditures", and "beach nourishment" are defined terms:
  - **Net proceeds** – Gross proceeds less the costs to the city/county of administering and collecting the tax, as determined by the finance officer, not to exceed 3% of the first \$500,000 of gross proceeds collected each year and 1% of the remaining gross receipts collected each year.
  - **Promote travel and tourism** – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
  - **Tourism-related expenditures** – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a city/county by

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<sup>1</sup>In May 2013, the North Carolina Travel and Tourism Coalition passed a resolution supporting a modification to the Occupancy Tax Guidelines to allow local governments in coastal counties to allocate up to 50% of occupancy tax proceeds for Beach Nourishment, so long as all remaining proceeds are used for tourism promotion and provided that the use of occupancy tax proceeds for Beach Nourishment is limited by either a statutory cap or sunset provision.

attracting tourists or business travelers to the city/county. The term includes tourism-related capital expenditures.

- **Beach Nourishment**<sup>2</sup> – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:
  - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;
  - b. The nonfederal share of the cost required to construct these projects;
  - c. The costs associated with providing enhanced public beach access; and
  - d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.
- ◆ **Administration** – The net revenues must be administered by a local tourism promotion agency, typically referred to as a “Tourism Development Authority,” that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax.<sup>3</sup>
- ◆ **Costs of Collection** – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first \$500,000 collected each year plus 1% of the remainder collected each year.
- ◆ **Conformity with Other Local Occupancy Taxes** – In 2008, the NCTTC formally revised its policy position with regard to occupancy taxes to include a statement that if a city seeks to impose a new occupancy tax or increase its existing tax on lodging facilities in a county that also has an existing occupancy tax, the county occupancy tax must conform to the guidelines in order for the Coalition to support the proposed municipal tax. During the 2009 Regular Session, the House Finance Chairs<sup>4</sup> considered the revised policy statement of the NCTTC but declined to amend the House Finance Committee's Guidelines for Occupancy Tax accordingly.

Research Division  
NC General Assembly  
Revised 9/3/13

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<sup>2</sup>During the 2001 Regular Session, the Occupancy Tax Subcommittee of the House Finance Committee considered several bills authorizing the use occupancy tax proceeds for beach nourishment. Although “beach nourishment” was not among the uses contained in the uniform guidelines, the subcommittee nevertheless concluded that beach nourishment was an acceptable expansion of the occupancy tax use provisions. In doing so, the subcommittee drafted this uniform definition of beach nourishment for use in occupancy tax legislation.

<sup>3</sup> In March 2005, the House Finance chairs decided to change the percentage of members that must be currently active in the promotion of travel and tourism from ¾ to ½. The House Finance chairs in 2005-06 were: Representatives Alexander, Gibson, Howard, Luebke, McComas, and Wainwright.

<sup>4</sup> During the 2009-2010 Session, the House Finance chairs were: Representatives Luebke, Wainwright, Weiss, and Gibson.

## Item 3

### Sales Tax

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#### **Item 3.A. Discuss the potential for Article 43 sales tax as an option for public safety funding.**

***Background:***

The Public Safety Tax Force is exploring options for funding of fire service. Volunteer fire departments are facing decreasing numbers of volunteers and increasing demands such as medical calls. Cumberland County is at the maximum for Article 46 and would like the flexibility to use Article 43 (transit) for public safety.

H333 An Act to Give Counties Additional Flexibility with Regard to the Local Option Sales and Use Tax Without Increasing the Existing Maximum Tax Rate was introduced in the long session and approved in the House. It was sent to a Senate Committee. It calls for using "Article 43A" for public education and general purposes "as provided in Article 46."

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

H

1

HOUSE BILL 333

Short Title: Local Option Sales Tax Flexibility. (Public)

Sponsors: Representatives S. Martin, Hunter, Watford, and Saine (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Finance

March 14, 2017

A BILL TO BE ENTITLED  
AN ACT TO GIVE COUNTIES ADDITIONAL FLEXIBILITY WITH REGARD TO THE  
LOCAL OPTION SALES AND USE TAX WITHOUT INCREASING THE EXISTING  
MAXIMUM TAX RATE.

The General Assembly of North Carolina enacts:

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

"Article 43A.

"County Sales and Use Tax for Public Education.

**"§ 105-513.1. Short title; purpose.**

This Article is the County Sales and Use Tax for Public Education. Article 43 of this Chapter,  
Article 46 of this Chapter, and this Article give the counties of this State an opportunity to obtain  
additional sources of revenue with which to meet their needs. A county may choose to use these  
sources of revenue to finance local public transportation systems, as provided in Article 43 of this  
Chapter, for public education needs, as provided in this Article, or for general purposes, as  
provided in Article 46 of this Chapter.

**"§ 105-513.2. Levy.**

(a) Referendum. – A tax levied under this Article must be approved in a referendum. The  
board of commissioners of a county may direct the county board of elections to conduct an  
advisory referendum on the question of whether to levy a local sales and use tax in the county at a  
rate of up to one-half percent (1/2%). The applicable rate must meet all of the conditions listed in  
this subsection. The election shall be held in accordance with the procedures of G.S. 163-287. The  
conditions are:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use  
tax rate in the county in excess of the following:

a. Two and one-half percent (2 1/2%) if the county is authorized to levy a  
local sales and use tax under Part 6 of Article 43 of this Chapter.

b. Two and three-quarters percent (2 3/4%) if the county is authorized to  
levy, or is located in a special district authorized to levy, a local sales  
and use tax under Part 2, Part 4, or Part 5 of Article 43 of this Chapter.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special  
election concerning the levy of the tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST



\* H 3 3 3 - V - 1 \*

1 Local sales and use tax at [the applicable rate stated in both words and as a percentage] in  
2 addition to the current local sales and use taxes, to be used only for public education."

3 (c) Authority. – If the majority of those voting in a referendum held pursuant to this  
4 Article vote for the levy of the tax, the board of commissioners of the county may, by resolution  
5 and after 10 days' public notice, levy a local sales and use tax at the rate specified in the ballot.

6 **"§ 105-513.3. Administration.**

7 Except as provided in this Article, the adoption, levy, collection, administration, and repeal of  
8 these additional taxes must be in accordance with Article 39 of this Chapter. In applying the  
9 provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Article  
10 43A of Chapter 105 of the General Statutes." G.S. 105-468.1 is an administrative provision that  
11 applies to this Article. A tax levied under this Article does not apply to the sales price of food that  
12 is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction  
13 taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a  
14 county between the county and the municipalities within the county.

15 **"§ 105-513.4. Use.**

16 A county may use the proceeds of a tax levied under this Article only for the following  
17 purposes:

- 18 (1) Public school capital outlay purposes, as defined in G.S. 115C-426(f), or to  
19 retire any indebtedness incurred by the county for these purposes.  
20 (2) Supplements of classroom teacher salaries. For the purposes of this section, a  
21 classroom teacher is an employee of a local board of education employed as a  
22 teacher who spends at least seventy percent (70%) of his or her work time in  
23 classroom instruction.  
24 (3) Financial support of community colleges, including funds to supplement State  
25 financial support of community colleges."

26 **SECTION 2.(a)** G.S. 105-506 reads as rewritten:

27 **"§ 105-506. Short title; purpose.**

28 This Article is the Local Government Public Transportation Sales Tax Act and may be cited by  
29 that name. This Article gives Article, Article 43A of this Chapter, and Article 46 of this Chapter  
30 give the counties and transportation authorities of this State an opportunity to obtain an additional  
31 source of revenue with which to meet their needs for financing needs. Counties and transportation  
32 authorities may choose to use this source of revenue to finance local public transportation systems.  
33 It provides them with authority to levy sales and use taxes. All such taxes systems, as provided in  
34 this Article, counties may choose to use this source of revenue to finance public education needs,  
35 as provided in Article 43A of this Chapter, or counties may choose to use this source of revenue  
36 for general purposes, as provided in Article 46 of this Chapter. A tax levied under this Article  
37 must be approved in a referendum."

38 **SECTION 2.(b)** Part 1 of Article 43 of Chapter 105 of the General Statutes is  
39 amended by adding a new section to read:

40 **"§ 105-506.3. Rate limitation.**

41 A local sales and use tax may only be levied under this Article if the total local sales and use  
42 tax rate in the county, including a levy under this Article, is not in excess of the following:

- 43 (1) Two and one-half percent (2 1/2%) if the county is authorized to levy a local  
44 sales and use tax under Part 6 of this Article.  
45 (2) Two and three-quarters percent (2 3/4%) if the county is authorized to levy, or  
46 is located in a special district authorized to levy, a local sales and use tax under  
47 Part 2, Part 4, or Part 5 of this Article."

48 **SECTION 3.** Article 46 of Chapter 105 of the General Statutes reads as rewritten:

49 "Article 46.

50 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

51 **"§ 105-535. Short title.**

This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax Act.

**"§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

**"§ 105-537. Levy.**

(a) Authority. – A tax levied under this Article must be approved in a referendum. If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax at ~~a rate of one-quarter percent (0.25%)~~ the applicable rate. The applicable rate must meet all of the following conditions:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use tax rate in the county in excess of the following:

a. Two and one-half percent (2 1/2%) if the county is authorized to levy a local sales and use tax under Part 6 of Article 43 of this Chapter.

b. Two and three-quarters percent (2 3/4%) if the county is authorized to levy, or is located in a special district authorized to levy, a local sales and use tax under Part 2, Part 4, or Part 5 of Article 43 of this Chapter.

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county as provided in this Article. The election shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

Local sales and use tax at the rate of ~~one-quarter percent (0.25%)~~ [The applicable rate stated in both words and as a percentage] in addition to all other State and local sales and use taxes."

...

**"§ 105-538. Administration of taxes.**

The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month. For purposes of this Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county."

**SECTION 4.** G.S. 105-164.3(4a) reads as rewritten:

"(4a) Combined general rate. – The sum of all of the following:

a. The State's general rate of tax set in G.S. 105-164.4(a)  
G.S. 105-164.4(a).

b. plus the sum of the rates of the local sales and use taxes authorized for every county in this State by Subchapter VIII Article 39 of this



- 1                                    Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this  
2                                    Chapter, and Article 42 of this Chapter for every county in this  
3                                    State Chapter.  
4                                    c. One-half of the maximum rate of tax authorized by Article 46 of this  
5                                    Chapter."  
6                                    **SECTION 5.** This act is effective when it becomes law.

## Item 3

### Sales Tax

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#### **Item 3.B. Sales tax collections on services and remote sales.**

***Background:***

Online sales – Counties are losing millions of dollars in sales tax revenue due to online sales. Vendors who have a physical location in North Carolina are required to send in tax payments, which include both over-the-counter and online sales. Vendors who do not have a physical presence in North Carolina are not required to send these in and if they do, they are doing so on the honor system.

The Supreme Court will hear a case to determine if states and local governments can require retailers to collect sales tax even if they don't have a physical location in the state. This is a NACO legislative priority.

The County does not have access to sales information by type of sale. The tax dollars come in as one bucket of money, with a breakdown by Article of Sales Tax only. There is no distinction between goods and services in the reports, therefore, no way to determine how collections are going related to services.

## Item 4

### School Funding

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#### **Item 4.A. Support the legislation to repeal the statutory authority under N.C. Gen. Stat. 115C-431(c) that allows a local school board to file suit against a county board of commissioners over county appropriations for education.**

***Background:***

This is one of the top legislative priorities for the North Carolina Association of County Commissioners. This statutory authorization creates an adversarial relationship between the school boards and the boards of county commissioners and has cost taxpayers millions of dollars in legal fees and litigation expenses.

S531/H305 amends the statute that establishes the dispute resolution process for boards of county commissioners and boards of education. The proposed legislation was held up in the House during the long session and is eligible for the short session.

#### **Item 4.B. Lottery Funds for School Construction**

The biennium budget passed in 2017 created the Needs-Based Public School Capital Fund, which provides targeted grants to counties in Tiers 1 and 2 using lottery funds. However, as a Tier 2 county, Cumberland County will not be eligible for grant funds until 2020-21.

## Item 4

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#### **Item 4.B. Lottery Funds for School Construction**

The biennium budget passed in 2017 created the Needs-Based Public School Capital Fund, which provides targeted grants to counties in Tiers 1 and 2 using lottery funds. However, as a Tier 2 county, Cumberland County will not be eligible for grant funds until 2020-21.

## Item 5

### Human Services

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#### Item 5. A. Social Services

Continue support of county administered social services system as the Social Services Regional Supervision and Collaboration Working Group (established pursuant to Session Law 2017-41) holds ongoing meetings and explores a “vision” for county social services that may include a state administered system in the future.

##### *Background*

The County has concerns about moving to a full state-administered social services system but supports the state establishing regional offices to provide oversight and assistance to local county-administered agencies.



## Item 5

### Human Services

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#### Item 5.B. Mental Health

Support increased state funding for mental health services and support public managed care for the mental health, substance use and intellectually/developmentally disabled population.

##### *Background*

For FY18 and FY19, the General Assembly (Session Law 2017-206) has cut funding to the statewide mental health system by more than \$67 million in recurring funds and \$110 million in non-recurring funds.

For Alliance Behavioral Healthcare, of which Cumberland County is a member county, reductions have totaled more than \$17.7 million in recurring funds and \$17.8 million in non-recurring, for a total of more than \$35.5 million.

The LME/MCOs were required to utilize their fund balance reserves to maintain service levels to the uninsured/indigent population. As fund balance levels continue to dwindle, services to this most vulnerable segment of our population will be drastically reduced. Support for ceasing all further reductions to state appropriations for mental health funding is requested. Increased state appropriation to match service demands is also requested. Additionally, as Medicaid reform continues to be implemented in the state, support for publicly operated managed care organizations is also requested. The LME/MCOs have unique experience and expertise in managing the needs of this special population in the State of North Carolina.

## Item 5

### Human Services

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#### Item 5. C. Public Health

Approve funding for Communicable Disease Nurse positions in county public health departments.

##### ***Background***

The Cumberland County Department of Public Health supports the request from the N.C. Association of Local Health Directors in asking the General Assembly for \$8 million to be spread among all 100 counties to fund a Communicable Disease Nurse position. For Cumberland County, that would be about \$80,000. The increased funding to Local Public Health will help address rapidly emerging infectious disease (e.g. ZIKA, Hepatitis C, Escherichia coli (E. coli) O121 or E. coli O26, Antibiotic Resistant Infections, Coronavirus (MERS), Meningitis, Drug Resistant Tuberculosis, Influenza, etc.) Considering recent national and international concern around communicable disease outbreaks, it is imperative that local health departments have a minimum set of resources available to perform local communicable disease control and community and public health surveillance activities, and to communicate clearly about disease threats within their jurisdictions.

Support for the basic core functions of local public health departments is waning, along with infrastructure funding, impacting local public health ability to accomplish mandated services. Local control of communicable diseases is a well-recognized core public health function here in N.C. and nationally, a role comparable to the public safety mission of law enforcement.

## Item 6

### Other Topics

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#### **Item 6.A. Libraries**

Increase State Aid to Libraries – The Cumberland County Public Library & Information Center Board of Trustees supports increased state funding for the important services provided through the library system.



## Item 6

### Other Topics

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#### **Item 6.B. Funding for 911 Services**

Discuss the General Assembly's position on funding for 911 services and the responsibilities of counties to provide this service to municipalities and unincorporated areas. In 2015, there was proposed legislation to require counties to provide 911 services if requested by municipalities.

## Item 6

### Other Topics

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#### **Item 6.B. Funding for 911 Services**

Discuss the General Assembly's position on funding for 911 services and the responsibilities of counties to provide this service to municipalities and unincorporated areas. In 2015, there was proposed legislation to require counties to provide 911 services if requested by municipalities.