

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 1520 (Second Edition as Amended)

**SHORT TITLE:** Extend Qualified Business Venture Tax Credit and State Ports Tax Credit

**SPONSOR(S):** Representatives Allen, Luebke, et al.

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>
<b>REVENUES</b>					
General Fund					
QBV Credit		(\$6,000,000)			
Ports Credit		(\$650,000)			
<b>EXPENDITURES</b>					
<b>POSITIONS:</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Revenue, Department of the Secretary of State; North Carolina State Ports Authority				
<b>EFFECTIVE DATE:</b>	Section 3 (definitions) and Section 4 (Qualified Grantee Businesses) are effective January 1, 2003. The act is effective when it becomes law.				

**BILL SUMMARY:** Sections 1 through 5 of the bill extend the individual income tax credit for Qualified Business investments from January 1, 2003, to January 1, 2004. The definition of Qualified Grantee Business is revised to replace specific named entities with general descriptions of entities that would encompass the North Carolina Biotechnology Center, MCNC, and the Kenan Institute for Engineering, Technology and Science. The new definition does not include the Technological Development Authority. Section 6 extends the State Ports Tax Credit from January 1, 2003, to January 1, 2004. Section 7 clarifies that the North Carolina State Ports Authority has fee setting authority for its services and provides the guidelines the Ports Authority is to use in setting its fees. Section 7 exempts the Ports Authority from the Administrative Procedure Act and requires the agency to report to the Joint Legislative Commission on Governmental Operations within 30 business days of establishing or increasing a fee.

## ASSUMPTIONS AND METHODOLOGY:

### Qualified Business Venture Tax Credit

The amount of Qualified Business Venture tax credits given each year is capped at \$6 million. Requests for credits have exceeded the \$6 million cap for four out of the last five years. In fact, the amount of credit requested (\$19 million) in 2001 was approximately three times the amount of credit available. Given the recent investor interest in the credit program, it is likely that the \$6 million annual cost of the program will continue until its sunset in 2004. The General Fund fiscal impact occurs in FY 2003-04 because the investments made in 2003 will be awarded credits on returns filed in the spring of 2004. Credit demand will not be affected by the exclusion of firms receiving grants from the Technological Development Authority because most of these firms would qualify for the credit by applying for Qualified Business Venture status with the Secretary of State.

### State Ports Authority Tax Credit

Enacted in 1992 to encourage exporters to use the two State-owned port terminals at Wilmington and Morehead City, this credit was extended in 1995, 1997 and 2001. The tax credit equals the amount of wharfage, handling, and throughput charges paid to the North Carolina State Ports Authority in the taxable year that exceeds the average amount of charges paid to the Authority for the current tax year and the two previous tax years. The credit is limited to 50% of the tax imposed on the taxpayer for the taxable year and has a five-year carryforward on excess credit. The maximum cumulative credit that one taxpayer may claim is \$2 million.

The North Carolina State Ports Authority makes an annual report to the General Assembly detailing the annual increase in cargo tons, cargo fees, and the amount of tax credit taken in the previous year. The income tax credits reported in these annual statements since the program's inception are as follows:

1993	\$ 26,867
1994	\$512,003
1995	\$643,965
1996	\$854,645
1997	\$515,977
1998	\$814,986
1999	\$656,134
2000*	\$1,551,121
2001	\$365,474

\*Since the statute does not limit back certifications, four customers claimed \$1,116,565 in credits for shipping expenses from previous years.

The average tax credit for the eight years 1994 through 2001 is \$739,288 and the median tax credit for the same period is approximately \$650,000. This fiscal note will use the median, thus extending the State Ports Authority tax credit will cost the state General Fund \$650,000 in tax year 2003 or FY 2003-04. The Ports Authority staff reports that no company has reached the \$2 million maximum cumulative credit and there are no companies close to the maximum amount of credits.

State Ports Authority Fees

Section 7 will have no new fiscal impact. In practice, the State Ports Authority has been setting fees for the services they provide since 1945. This section simply provides the Ports Authority with explicit statutory fee setting authority.

**SOURCES OF DATA:** Department of Revenue; North Carolina State Ports Authority Annual Reports to the General Assembly

**TECHNICAL CONSIDERATIONS:**

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** Richard Bostic and Jennifer Hoffman

**APPROVED BY:** James D. Johnson

**DATE:** August 5, 2002



**Signed Copy Located in the NCGA Principal Clerk's Offices**