

FISCAL NOTE TRANSMITTAL FORM

The attached fiscal note on the bill(s) named above is being transmitted to:

**BILL NUMBER:** HB 1000

**SHORT TITLE:** Life Plan Trust Act

**SPONSOR(S):** Representative Bea Holt

Chief Sponsor, House

Chief Sponsor, Senate

Fiscal Note Requested By **Senator Forrester**

Chairman of the House Committee on

Chairman of the House Subcommittee on

Chairman of the Senate Committee on

Chairman of the Senate Subcommittee on

Speaker of the House, Daniel T. Blue, Jr.

President Pro Tempore, Henson Barnes

Chairman of the House Base Budget Appropriations Committee

Representative David Diamont

Chairman of the House Expansion Budget Appropriations Committee

Representative Martin Nesbitt

Chairman of the Senate Appropriations Committee

Senator Marc Basnight

Chairman of the Senate Ways and Means Committee

Senator Kenneth C. Royall, Jr.

Chairman of the Senate Base Budget Committee

Senator Aaron W. Plyler

House Principal Clerks Office

**Senate Principal Clerks Office**

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 1000

**SHORT TITLE:** Life Plan Trust Act

**SPONSOR(S):** Representative Bea Holt  
Representative Marie Colton

**FISCAL IMPACT:**      **Expenditures:**      **Increase ( )**      **Decrease ( )**  
                         **Revenues:**              **Increase ( )**      **Decrease ( )**  
                         **No Impact (x)**  
                         **No Estimate Available ( )**

**FUND AFFECTED:**      **General Fund ( )**      **Highway Fund ( )**      **Local Fund ( )**  
                         **Other Fund ( )**

**BILL SUMMARY:**

This bill authorizes the establishment of community trusts to receive funds and provide care for persons with severe chronic disabilities, the services provided by such community trusts to supplement services provided by public agencies and other private institutions and organizations. A community trust formed under the act must be a nonprofit corporation incorporated under GS Ch. 55A and must make detailed annual financial reports to the Secretary of State. A community trust provides the following services: (1) administration of special trust funds for persons with severe disabilities; (2) "follow along services" (services designed to meet the needs of individual beneficiaries, including visits); (3) guardianship for persons who are incompetent and have not family member or friend available; and (4) provide advice and counsel to guardians of the severely and chronically disabled. Beneficiaries of a community trust are persons with a severe chronic disability who receive services of the trust.

A community trust is governed by a board of at least nine but no more than 21 persons at least one-third of whom must be parents or other relatives of persons with severe chronic disabilities. No board member may be a provider of habilitative, health, social, or educational services to persons with severe chronic disabilities. No board member may receive any compensation for service, except expenses. The board may hire paid staff. The board may in its discretion authorize expenditure of trust funds on behalf of any beneficiary, including burial expenses, but it may not make expenditures for services available to a beneficiary through any governmental program, charitable program, insurance, or other source. The board may accept appointment as guardian of a beneficiary, and may accept contributions, bequests, and designations under life insurance policies to the trust on behalf of individuals with severe chronic disabilities for the purpose of qualifying them as beneficiaries. The board may agree to fulfill special request for care made on behalf of a beneficiary.

A beneficiary's interest in a community trust is not to be considered an asset for the purpose of determining income eligibility for any publicly operated program, nor may that interest be reached in satisfaction of a claim for support and maintenance of the beneficiary. A community trust shall not be subject to any legal rule against perpetuities, restraints on alienation, or perpetual accumulation of trusts. Introduced by Holt. Referred to Judiciary I.

AMENDMENTS/COMMITTEE SUBSTITUTES - May 7, 1991-Daily Bulletin 59

H 1000. LIFE PLAN TRUST ACT. Introduced April 19. House committee substitute provides that the incorporated community trust is the trustee and not any individual board member, and substitutes "community trust" for "board" in the remainder of the act. Provides that no state funds shall be used in implementing the act.

**EFFECTIVE DATE:** Upon ratification.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:**

Department of Human Resources, Division of Medical Assistance

**FISCAL IMPACT**

	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>
<b>EXPENDITURES</b>					
<b>TOTAL EXPENDITURES</b>					
<b>STATE FUNDS</b>					
<b>FEDERAL FUNDS</b>					
<b>LOCAL FUNDS</b>					
<b>OTHER FUNDS</b>					
<b>RECEIPTS/FEES</b>					

**POSITIONS:**

**ASSUMPTIONS AND METHODOLOGY:**

**SOURCES OF DATA:**

**TECHNICAL CONSIDERATIONS:**

Federal law requires that funds "available" to disabled persons be considered in determining eligibility for Medicaid benefits. However federal law does not define what constitutes availability. The Department of Human Resources Division of Medical Assistance considers assets "available" to an individual if the funds are distributed to the individual for their personal use. By contrast, assets whose use is limited to making payments for services on an individual's behalf are not considered "available" to the beneficiary. To the extent that the proceeds of trust are distributed in a manner consistent with federal law, the proceeds will be excluded for the purpose of determining Medicaid eligibility.

**FISCAL RESEARCH DIVISION**

733-4910

**PREPARED BY:** Nina Yeager  
**APPROVED BY:** Tom L. Covington **TomC**  
**DATE:** June 15, 1992



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