

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1729

Short Title: NC Travel and Tourism Investment Act. (Public)

Sponsors: Representatives Earle; B. Allen, L. Allen, Bell, Carney, Church, Coates, Cole, Coleman, Faison, Farmer-Butterfield, Glazier, Goforth, Goodwin, Haire, Jeffus, Jones, Ed Jones, Lucas, Martin, McAllister, McLawhorn, McMahan, Owens, Pierce, Saunders, Tolson, Wainwright, and Yongue.

Referred to: Finance.

May 12, 2005

A BILL TO BE ENTITLED

AN ACT TO CREATE A TRAVEL AND TOURISM CAPITAL INVESTMENT PROGRAM AND A RURAL TOURISM DEVELOPMENT ACCOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding two new sections to read:

"§ 143B-434.5. Travel and Tourism Capital Investment Program.

(a) Program Established. – The Travel and Tourism Capital Investment Program is established in the Department of Commerce. Under the program, the Travel and Tourism Grant Committee established in this section may award grants to the sponsors of qualified projects for the purpose of inducing the creation of new or the expansion or renovation of existing travel and tourism projects. Grant proceeds may not be distributed to any private individual or entity. The Committee shall develop guidelines to be used in determining whether the conditions in this section are satisfied and whether the project described in the application is consistent with the program.

(b) Sponsor. – For the purpose of this section, the sponsor of a qualified project is a county or city in this State that will participate in financing the project.

(c) Committee. – The Travel and Tourism Grant Committee shall consist of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, the Chair of the North Carolina Travel and Tourism Board, the Executive Director of the North Carolina Institute for Minority Economic Development; three elected local government officials; and three public members. One elected local government official and one public member shall represent the Piedmont and shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. One elected local government official and one public member shall represent the Mountains and shall be appointed by the Governor.

1 One elected local government official and one public member shall represent the
 2 Coastal Plain and shall be appointed by the General Assembly upon the
 3 recommendation of the President Pro Tempore of the Senate. Neither the public
 4 members nor the elected local government officials may be associated with or employed
 5 by the travel and tourism industry or an entertainment enterprise or be in any contractual
 6 relationship regarding the qualified project. The appointed members shall serve
 7 two-year terms. The appointing authorities shall make appointments to the Committee
 8 that reflect the State's ethnic diversity. The Committee may act only upon a majority
 9 vote of its members.

10 It is unlawful for a member of the Committee to provide, during or within two years
 11 after the end of service on the Committee, services for compensation, as an employee,
 12 consultant, or otherwise, to any project that was awarded a grant under this section
 13 while the former member was serving on the Committee or to any person or entity that
 14 contracts with that project. Violation of this subsection is a Class 1 misdemeanor.

15 Meetings of the Committee are subject to the open meetings requirements of Article
 16 33C of Chapter 143 of the General Statutes. All documents of the Committee, including
 17 applications for grants, are public records governed by Chapter 132 of the General
 18 Statutes, including applicable provisions of the General Statutes protecting confidential
 19 information.

20 (d) Application. – The sponsor of a qualified project is responsible for applying
 21 for a grant under this section. The sponsor of a qualified project may apply for a grant
 22 no later than one year after the qualified project is opened to the public. Before filing an
 23 application, the sponsor must determine that the project meets all of the requirements
 24 for qualification and must include with the application detailed certification of the facts
 25 supporting the project's qualification. The application must contain all information
 26 required by the Committee, including a certification of the nature and cost of the
 27 tourism project, the estimated revenues to be generated by the project, the estimated
 28 economic benefit to the community, and the purposes for which the applicant will use
 29 the grant funds. The application must also include documentation proving (i) the role
 30 the project plays in increasing travel and tourism revenue and (ii) that the financing of
 31 the project requires local government participation. If the tourism project is the result of
 32 a public-private partnership, the application must set forth in detail the respective rights
 33 and obligations of the parties and the specific terms of the agreement. The application
 34 must be signed by the finance officer and the chair of the governing body of the
 35 sponsor.

36 (e) Fee. – When filing an application under this section, the applicant must pay
 37 the Committee the applicable fee provided in the table below based on the tier in which
 38 the project is located:

<u>Enterprise Tier</u>	<u>Fee</u>
<u>1 and 2</u>	<u>\$1,000</u>
<u>3</u>	<u>\$3,000</u>
<u>4 and 5</u>	<u>\$5,000</u>

43 The fee is due at the time the application is filed. The Committee shall determine the
 44 allocation of the fee imposed by this subsection among the agencies whose heads are ex

1 officio members of the Committee. The proceeds of the fee are receipts of the agency to
2 which they are credited.

3 (f) Qualification. – A qualified project is a newly created travel and tourism
4 project or expansion or renovation of a travel and tourism project that the Committee
5 determines, pursuant to a feasibility study under this section, meets all of the following
6 conditions:

7 (1) The sponsor's financial participation is a critical factor in the
8 construction of the project.

9 (2) A project located in an enterprise tier one, two, or three area will target
10 at least fifteen percent (15%) of its visitors from among persons who
11 reside outside the State or more than 25 miles from the project. A
12 project located in an enterprise tier four or five area will target at least
13 thirty-five percent (35%) of its visitors from among persons who
14 reside outside the State or more than 50 miles from the project.

15 (3) The project has a business plan that demonstrates a positive economic
16 impact on the community in which the project is located.

17 (4) The applicant has provided impact projections regarding estimated
18 State and local tax revenues with respect to the project.

19 (5) The project will have a significant and positive economic impact on
20 the community in which the project is located, considering among
21 other factors the extent to which the tourism project will compete
22 directly with existing tourism attractions in the area and the amount by
23 which tax revenues from the tourism project will exceed the amount of
24 the grant provided.

25 (6) The applicant has provided a cost-benefit analysis of the project.

26 (7) The applicant has provided an economic impact analysis, certified by a
27 certified public accountant, which demonstrates the employment, gross
28 State product, and personal income effects of the project over a
29 10-year period.

30 (8) The project will be available to the public for a minimum of 100 days
31 per year.

32 (9) The project will generate at least 10 new jobs in the community in
33 which the project is located. At least three of the new jobs will be
34 full-time positions if the project is located in an enterprise tier one,
35 two, or three area. At least seven of the new jobs will be full-time
36 positions if the project is located in an enterprise tier four area. At least
37 10 of the new jobs will be full-time positions if the project is located in
38 an enterprise tier five area.

39 (10) The project will have the following minimum cost based on the
40 enterprise tier in which it is located:

<u>Enterprise Tier</u>	<u>Minimum Cost</u>
<u>1 and 2</u>	<u>\$250,000</u>
<u>3</u>	<u>\$500,000</u>
<u>4</u>	<u>\$3,000,000</u>

- 1 5 \$4,000,000
2 (11) The governing body of the sponsor has passed a resolution stating the
3 need for the project and the positive economic impact and
4 enhancement of travel and tourism revenues from the project.
5 (12) The applicant has demonstrated by clear and convincing evidence the
6 following:
7 a. The project will not result in unnecessary duplication of
8 existing services.
9 b. The project will generate new visitors to the area rather than
10 drawing visitors away from other existing tourism attractions.
11 (13) The average wage of the jobs created by the project is at least equal to
12 eighty-five percent (85%) of the applicable wage standard provided in
13 G.S. 105-129.4(b) based on the tier in which the project is located.

14 (g) Feasibility Study. – The applicant must fund a feasibility study certified by a
15 certified public accountant and coordinated solely by the Committee. The Committee
16 shall develop a list of qualified firms to conduct the study. The Committee shall
17 prescribe the scope of the study to cover all of the qualifications established in this
18 section.

19 (h) Amount. – Subject to the maximums provided in this section, the amount of a
20 grant with respect to a qualified project is forty-five percent (45%) of the total amount
21 of the following taxes collected and retained by the State each year:

- 22 (1) The net State sales tax collected on sales by or within the qualified
23 project, as determined by the Department of Revenue.
24 (2) The net privilege tax paid by the qualified project under G.S. 105-37.1,
25 as determined by the Department of Revenue.

26 (i) Maximums. – The maximum term of a grant is 10 years. No project may
27 receive any grant proceeds for a year that is more than 10 years beyond the date of the
28 initial grant award. The maximum amount of a grant is one million dollars (\$1,000,000)
29 per year.

30 (j) Use. – The proceeds of a grant may be used only for capital costs, including
31 debt service, with respect to the qualified project for which the grant was awarded.

32 (k) Disbursement. – In order to receive grant disbursements under this section,
33 the sponsor of the qualified project must provide the Department of Revenue with
34 periodic, verified accountings of the tax collections provided in subsection (h) of this
35 section. These reports must be made at the times and in the form prescribed by the
36 Department of Revenue. Each report must include the name, address, and tax
37 identification number of every taxpayer whose collections are included in the report and
38 any other information required by the Department of Revenue.

39 The Department of Revenue must disburse grants awarded under this section in
40 accordance with G.S. 105-269.16. The Department of Revenue must also disburse funds
41 to the Rural Tourism Development Account in accordance with G.S. 105-269.16.

42 Upon awarding a grant under this section, the Committee must provide the following
43 information to the Department of Revenue:

- 1 (1) The name, address, and other identifying information of the sponsor to
2 whom the grant was awarded.
- 3 (2) The name and address of any lessee or individual or entity who has
4 entered into a contract with the sponsor of the qualified project.
- 5 (3) The address and other identifying information of each facility that is
6 part of the qualified project for which the grant was awarded.
- 7 (4) The maximum amount of the grant as determined in accordance with
8 this section.
- 9 (5) Any other information included in the application, if required by the
10 Department of Revenue.

11 (1) Reports. – The Committee must report annually to the Joint Legislative
12 Commission on Governmental Operations concerning the applications made for grants,
13 the grants awarded under this section, and the division and use of the fee collected by
14 the Committee under this section.

15 (m) Cap. – No more than twenty million dollars (\$20,000,000) in grants shall be
16 awarded each fiscal year. For the purpose of this maximum, the amount awarded is
17 calculated as the estimated cumulative maximum amount of the grant over its term
18 divided by the number of years in its term. Within this cap, one-seventh of the funds
19 shall be allocated each year to each regional economic district as identified by the
20 Department of Commerce. If there are insufficient qualified projects from a district in
21 any fiscal year, the amount allocated to that district shall be reallocated among the
22 remaining districts for that year.

23 **"§ 143B-434.6. Rural Tourism Development Account.**

24 (a) Creation of Account. – There is created in the Department of Commerce,
25 Division of Tourism, Film, and Sports Development, the Rural Tourism Development
26 Account to provide grants to encourage the development of tourism projects within rural
27 areas of the State. The Account is established as a special reserve fund.

28 (b) Administration. – The Division of Tourism, Film, and Sports Development
29 shall administer this account in accordance with the following provisions:

- 30 (1) Only projects with total development costs less than twenty-five
31 million dollars (\$25,000,000) are eligible to receive a grant under this
32 section. For purposes of this section, 'development costs' has the same
33 meaning as under G.S. 143B-437.71.
- 34 (2) A grant may not exceed one hundred thousand dollars (\$100,000) per
35 project.

36 (c) Reports. – The Department of Commerce shall report annually to the General
37 Assembly concerning the applications made to the account, the payments made from the
38 account, and the effect of the payments on job creation in rural areas of the State. The
39 Department of Commerce shall also report quarterly to the Joint Legislative
40 Commission on Governmental Operations and the Fiscal Research Division of the
41 General Assembly on the use of the moneys in the account, including information
42 regarding to whom payments were made and in what amounts."

43 **SECTION 2.** Article 9 of Chapter 105 of the General Statutes is amended by
44 adding a new section to read:

1 **"§ 105-269.16. Travel and tourism grants.**

2 (a) Grants. – The Department must annually disburse the travel and tourism
3 grants awarded under G.S. 143B-434.5. Each annual disbursement must be made by
4 October 1 for the preceding fiscal year. The amount of each grant must be calculated in
5 accordance with G.S. 143B-434.5 based on information provided to the Department by
6 the sponsor of the qualified project. If information necessary to calculate a portion of a
7 grant is not available, the Department must disburse only that portion for which
8 information is available.

9 (b) Rural Account. – At the time the Department disburses grants under
10 subsection (a) of this section, the Department shall credit to the Rural Tourism
11 Development Account created in G.S. 143B-434.6 an amount equal to one-ninth of the
12 total grant funds disbursed.

13 (c) Funding. – To pay for the cost of implementing this section, the Department
14 must draw from State sales and use tax collections under Article 5 of this Chapter an
15 amount equal to the funds disbursed under this section and the Department's costs of
16 administering the disbursements. The Department must provide the Committee an
17 annual accounting of funds disbursed under this section."

18 **SECTION 3.** This act becomes effective January 1, 2005, and expires for
19 grant applications filed on or after July 1, 2008.