

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1294 (Second Edition - REVISED)

SHORT TITLE: Expand Qualified Business Credit

SPONSOR(S): Representative G. Allen

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	(\$Million)				
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
REVENUES					
General Fund	-	-	(6.0)	(6.0)	(6.0)
EXPENDITURES					
POSITIONS:					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Department of the Secretary of State					
EFFECTIVE DATE: This act becomes effective for taxable years beginning on or after January 1, 2004.					

BILL SUMMARY: The bill extends the qualified business tax credit program's sunset from 2004 to 2007, expands the definition of a qualified grantee business, and adds a new type of grantee business.

BACKGROUND: Enacted in August 1987 and scheduled to sunset in 2003, the qualified business investment tax credit is allowed to individuals and pass through entities. A maximum of \$6 million in credits is allowed each year. For individual taxpayers, the credit is for those who purchase the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business. The credit is equal to 25% of the amount invested and may not exceed \$50,000 per individual in a single taxable year. An individual investor may also claim the allocable share of credits obtained by "pass-through entities" of which the investor is an owner. Pass-through entities include limited partnerships, general partnerships, S corporations, and limited liability companies. To be eligible for the tax credit, an individual investor must file Form D-499, Application for Tax Credit for Qualified Business Investments, with the Department of Revenue on or before April 15 of the year following the calendar year in which the investment was made. Any unused credit may be carried forward for the next five

years. The total amount of credits allowed to all taxpayers for investments made in a calendar year may not exceed \$6 million. The Secretary of Revenue calculates the total amount of tax credits claimed from applications filed with the Secretary of State. If the amount exceeds the cap, then the Secretary of Revenue allows a portion of the tax credits claimed by allocating the total of \$6 million in tax credits in proportion to the size of the credit claimed by each taxpayer.

ASSUMPTIONS AND METHODOLOGY: Section 1 of the bill extends the sunset of the Qualified Business tax credit from 2004 to 2007. Since the General Fund revenue forecast for future fiscal years assumes an end to the Qualified Business tax credit program, extension of the sunset means there will be a General Fund revenue loss from FY 2005-06 until FY 2007-08. The revenue loss from tax year 2004 is delayed because investments are made in 2004, applications for the tax credit on the 2004 investments are made in 2005, the Department of Revenue notifies taxpayers in November/December of 2005 of the amount of credit they will receive, then the taxpayers file their tax returns in spring 2006. This puts the revenue loss for 2004 into FY 2005-06.

The bill continues to cap the General Fund revenue loss from the tax credit at \$6 million. This fiscal analysis assumes the credit maximum will be reached in each of the next five years based on program history. The amount of credits applied for exceeded the \$6 million cap five out of six years between 1997 and 2002 (see chart below).

Year Credit Claimed	Individuals	Corporations/ Pass-Throughs	Total
1997	2,322,317	3,677,683	6,000,000*
1998	4,235,771	1,108,870	5,344,641
1999	4,714,892	1,285,108	6,000,000*
2000	4,221,732	1,778,268	6,000,000*
2001	3,612,777	2,387,223	6,000,000*
2002	\$4,179,918	\$1,820,082	\$6,000,000*
	\$45,696,368	\$17,779,425	\$63,475,793
*In these years, total credits requested exceeded \$6 million. Actual requests were as follows:			
	1997	\$9,250,000	
	1999	6,450,000	
	2000	7,000,000	
	2001	19,000,000	
	2002	\$7,825,000	

In 2003, taxpayers have applied for \$5.6 million in credits for investments made in 2002, but the Department of Revenue will not have complete numbers on 2003 qualified business tax credits until extension returns are filed this fall.

Another reason this note assumes the credit maximums will be reached is the expansion in the number of investments taxpayers may receive a tax credit. Section 2 of the bill adds qualified licensee businesses to the list of entities that taxpayers may invest in to get a qualified business tax credit. Qualified licensee businesses have less than \$1million in gross revenues and are

under contract with a doctoral research university or a UNC system school to commercialize technology developed by the university or institution. Section 2 also expands the definition of qualified grantee business to include nonprofits organized to stimulate the wireless industry and the networking and related industry. This will make investors into MCNC-Research and Development Institute grantees eligible for the tax credit.

SOURCES OF DATA: Department of Revenue; Department of the Secretary of State

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DATE: June 17, 2003



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