LEGISLATIVE RESEARCH COMMISSION

TAXATION AND REGULATION OF BANKS, SAVINGS AND LOAN ASSOCIATIONS, AND CREDIT UNIONS

REPORT TO THE
1985 GENERAL ASSEMBLY
OF NORTH CAROLINA

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LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
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December 15, 1984

TO THE MEMBERS OF THE 1985 GENERAL ASSEMBLY

The 1985 Legislative Research Commission herewith reports to the General Assembly on the matter of the taxation and regulation of banks, savings and loan associations and credit unions. The report is made pursuant to Chapter 905 of the 1983 General Assembly (1983 Sessions) and Section 3 of Chapter 1113 of the 1983 General Assembly (Regular Session, 1984).

This report was prepared by the Legislative Research Commission's Committee on the Taxation and Regulation of Banks, Savings and Loan Associations and Credit Unions and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,

Liston B. Ramsey

W. Craig Lawing

Cochairmen
Legislative Research Commission

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PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner"(G.S. 120-30.17(1)).

At the direction of the 1983 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The co-chairmen of the Legislative Research Commission, under the authority of General Statute 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Co-chairmen, one from each house of the General Assembly, were designated for each committee.

The study of the taxation and regulation of banks, savings and loan associations and credit unions was authorized by Section 1(28) of Chapter 905 of the 1983 Session Laws (1983 Sessions). That act states that the Commission may consider Senate Joint Resolution 381 in determining the nature, scope

and aspects of the study. Section 1 of Senate Joint Resolution 381 reads: "The General Assembly hereby directs the Legislative Research Commission to conduct a study of the present regulations and tax levies applicable to commercial banks, savings and loan associations and credit unions." Relevant portions of Chapter 905 and Senate Joint Resolution 381 are included in Appendix A.

The Legislative Research Commission grouped this study in its Finance area under the direction of Senator William W. Staton. The Committee was chaired by Representative Ed N. Warren and Senator James H. Edwards. The full membership of the Committee is listed in Appendix B of this report.

The 1984 Regular Session of the General Assembly in passing an earlier Committee proposal, the Interstate Regional Reciprocal Banking Act, specified that the Committee in addition study and report to the 1985 Session of the General Assembly on the extent of authority beyond that conferred on the Commissioner of Banks by that Act relating to acquisitions of North Carolina banks or bank holding companies by out-of-state regional bank holding companies (Section 3 of Chapter 1113) of the 1983 Session Laws (1984 Regular Session). Chapter 1113 is included as Appendix C.

The first part of the Committee's study consisted of obtaining information on the taxation and regulation of the financial industry in general and in reviewing and passing upon the interstate regulation of certain segments of the financial industry.

The Committee during the first half of 1984 devoted most of its time to this latter issue. The Committee by its Report to the 1984 Session of the 1983 General Assembly recommended three pieces of legislation. Copies of that Report with the recommended legislation in its appendices are available from the Legislative Library.

The first piece of legislation, dealing interstate regional reciprocal banking, recommended to the 1984 Session was introduced as Senate Bill 706. During the legislative process that bill was amended to provide for registration of bank holding companies in North Carolina. Senate Bill 706 was ratified as Chapter 1113 of the 1983 Session Laws (Regular Session, 1984) and is attached as Appendix C. The second piece of recommended legislation permitting interstate regional mergers and acquisitions of savings and loan associations and their holding companies was introduced as Senate Bill 807 and was ratified Chapter 1087 of the 1983 Session Laws (Regular Session 1984) and is attached as Appendix D. The last piece of legislation recommended by the Committee deals with late fees

on consumer loans and was introduced as Senate Bill 789 but was not ratified. Senator James H. Edwards was the primary sponsor of all of the recommended legislation.

During the later part of 1984 the Committee returned its attention to the general issue of the regulation and taxation of financial institutions within the State. Specifically the Committee investigated the need for State regulation of asset management accounts, and alleged inequitable tax treatment of the different types of the financial institutions operating in the State.

1. State Regulation of Financial Institutions Generally

The Committee at the outset of its deliberations decided to obtain an overview of the state regulation of financial institutions. The Committee asked the state regulatory authorities of these institutions to present the Committee relating to their present powers of regulation and anticipated need for future regulatory authority and their belief as to whether the supervision of the three types of financial institutions ought to be consolidated in one state agency.

Mr. C. C. Hope, the Secretary of the Department of Commerce, presented a chart (Appendix E) showing for the three types of institutions both for state and federally-chartered institutions: the regulatory structure, regulatory powers, association powers, deposit insurance and taxation. Mr. Hope opined that the time may come when consolidation of state

agencies regulating financial institutions should occur but that before that is done an extensive study be undertaken as to the effect of a consolidation on consumers as well as financial institutions.

Mr. James Currie, the Commissioner of Banks, presented a brief history of state bank supervision in this State (attached as Appendix F). He indicated that the state-chartered banks are in good financial condition. He argued for a state bank holding company statute (see the Report of the Committee to the 1984 Regular Session of the General Assembly).

Mr. Roy D. High, Administrator of Credit Unions, outlined the history and jurisdiction of Credit Union Commission and the number, size and types of credit unions his division supervises. Mr. High's remarks are attached as Appendix G.

Mr. George S. King, the Administrator of the Savings and Loan Division, sketched the Savings and Loan Commission operating procedure and jurisdiction and indicated that savings and loan associations are still gearing their investments and business to real estate lending (Appendix H).

Representatives from the financial industries being regulated, also were asked to present their positions on whether there should be consolidation of state regulatory authority of these institutions; whether there are state statutes and regulatory provisions resulting in inequitable treatment of the different types of financial institutions and whether they should be changed and whether there are inequities

in the state taxation of different types of financial institutions and how these inequities should be remedied.

Mr. John R. Jordan representing the North Carolina Bankers Association stated that the Association had not taken a position on the issue of consolidation but counselled caution citing the changes sweeping the finance industry (see Appendix I). His comments with regard to equities in treatment are set forth below in the part of this report dealing with Taxation.

Mr. Paul H. Stock read the presentation of Mr. Gordon P. Allen, the legislative agent for the North Carolina League of Savings Institutions (see Appendix J). Mr. Stock traced recent state and federal legislation affecting savings and loan associations. He stated his association's position that the present regulatory structure in adequate and efficient based on the differing functions of the three types of financial institutions and its opposition to consolidation of the state's financial regulators.

Mr. Ruffin Bailey representing the North Carolina Credit Union League stated that association's opposition to standardization of regulation of the types of financial institutions. He set forth the historical, the legal and structural uniqueness of credit unions as a financial institution. He emphasized that credit unions were born of a real need of people of average means to obtain credit for consumer goods and that they are non-profit, member-owned cooperative financial institutions. Mr. Bailey's statement is contained in Appendix K.

A. Potential State Regulation of "Cash Management Accounts"

At the first meeting, the Honorable Harlan E. Boyles, the State Treasurer, suggested that the Committee should look into the need for State regulation of all entities receiving public deposits, specifically money market funds and cash management accounts.

A cash management account is a device sponsored by brokerage houses by which cash deposits are accepted from clients and deposited in money market funds and orders of withdrawal from clients are honored. The largest of these devices is the Cash Management Account program (CMA) sponsored by Merrill, Lynch, Pierce, Fenner and Smith, Inc.

Upon the invitation of the Committee, Mr. Daniel Bell III, Deputy Securities Administrator in the Department of Secretary of State appeared at the Committee's second meeting. Mr. Bell provided the Committee with two memoranda attached as Appendix L giving a comprehensive overview of the history of security regulation by North Carolina and of the status of mutual funds under North Carolina and federal law; and an explanation of the CMA device. He explained the position of his office regarding further State regulation of these devices. In brief his position was that these devices are adequately regulated now,

that for North Carolina to regulate further these devices would, in effect, prohibit the sale of these devices in this State to the detriment of the public of this State and that the problems with these devices perceived by competing financial institutions are best addressed by Congress as a national policy rather than by the individual States.

The Committee directed its staff to poll the states to determine whether there was any legislation, administrative rules or proceedings or court cases in their jurisdictions regarding the cash management account device. The poll was conducted under the auspices and with the aid of the North American Securities' Administrators Association, Inc. Of the 24 States responding to the questionnaire, none was aware of any state activity in regard to enacted legislation, administrative rules or proceedings or court cases regarding cash management accounts. Appendix M contains the analysis of the responses to the questionnaire.

The Committee also received a memorandum (attached as Appendix N) from Mr. Henry A. Mitchell, Jr. representing the Investment Company Institute who argued that state regulation of these devices is of dubious constitutionality, would make these funds unavailable to North Carolina investors and is conceptually unsound. Mr. Matthew P. Fink, Senior Vice President and General Counsel of the Investment Company Institute appeared before the Committee at its October 1, 1984, meeting and indicated that legislation regulating money market funds had been considered in over twenty states and been

enacted in none. He argued that there was no need for any additional regulation of money market funds. Mr. Fink's written remarks are attached as Appendix O.

B. Mutual Deposit Guarantee Associations

In view of the recent experience of financial institutions surety companies in a sister state, the Committee invited Mr. Donald R. Beason, the President and Chief Executive Officer of the Financial Institutions (FIAC) Assurance Corporation, to appear before the Committee.

The FIAC is the sole North Carolina state-chartered corporation (G.S. 54B-236 et. seq.) which is authorized to guarantee deposits in banks, savings and loan association and credit unions. Mr. Beason was asked to speak to the specific internal safeguards and the specific external rules imposed on his corporation which protect deposits in North Carolina financial institutions insured by FIAC; reasons for the recent collapse of certain financial institutions in Nebraska; and a statistical analysis comparing the financial status of FIAC and its federal equivalent, the Federal Savings and Loan Insurance Corporation. Mr. Beason distributed notebooks to Committee members containing his presentation and supporting materials a copy of which is available for inspection in the State Legislative Library.

Mr. Beason said that, since its beginning in 1967, FIAC has grown from insuring $50 million in deposits to nearly $2.8 billion. FIAC insures 34 state-chartered savings and loan associations and 25 credit unions. Internally, FIAC guarantees the safety of deposits by imposing strict oversight and diagnostic reviews over its member institutions. Mr. Beason indicated that his corporation is regulated by the State Department of Commerce and is examined by a combination of savings and loan association and credit union examiners from that Department. He assured the Committee that FIAC will not enter into operations in any state until it is assured, among other matters, of the adequacy of that state's regulatory process.

Mr. Beason analysed the difficulties encountered with Commonwealth Savings Company and its insurer the Nebraska Guaranty Corporation which lead to their failures. He indicated that the Nebraska Guaranty Corporation was not "more than a fund of money with no professional risk management capabilities or powers." He stated that he believed that the situation which developed in Nebraska could not occur under the FIAC system.

He also provided a detailed comparison of FIAC and FSLIC. Mr. Beason's oral presentation is contained in Appendix P, and a notebook containing his supporting materials is available for inspection in the Legislative Library.

C. Regulation of Bank Holding Companies

Mr. James Currie, the Commissioner of Banks, in discussing the effect of the passage of interstate reciprocal banking legislation in other states in the Southeast indicated that those states have broader authority to investigate bank holding companies coming into those states than he has for other states' bank holding companies coming into North Carolina. He stated that their lack of compatible authority does present slight problems in the uniformity of administration.

Mr. Currie presented to the Committee an outline of the authority of other states in the Southeast Region over North Carolina bank holding companies in regional reciprocal interstate transactions. (see Appendix Q).

2. State Taxation of Financial Institutions and Their Depositors

One of the main thrusts of the original legislation, Senate Joint Resolution 381, Section 1 (Appendix A) was to study the "tax levies applicable to commerical banks, savings and loan associations and credit unions."

The Committee invited various state officials and representatives of private industry and local government to give their views on whether there are inequities in the state taxation of the various types of financial institutions and how these inequities should be remedied.

Mr. Mark Lynch, the Secretary of Revenue, distributed to the Committee a copy of his written remarks (see Appendix R) the following four self-explanatory charts regarding state taxation of banks and savings and loan association:

Brief History of the Taxation of Banks and Savings and Loan Associations (see Appendix S)

Differences in North Carolina Tax Treatment of Banks and Savings and Loan Associations as of January 1, 1984 (see Appendix T)

Comparative Analysis of North Carolina Tax Collections from Banks and Savings and Loans for the Years Indicated (see Appendix U); and

Intangibles Tax Collected From Depositors on Money on Deposit (see Appendix V)

Mr. Lynch indicated that credit unions are not included on these charts because these financial institutions are not subject to income, franchise or intangible taxes. He also declined to opine as to whether or not inequities of taxation exist stating that he believed it to be inappropriate for a Secretary of Revenue to do so.

Mr. John Jordan, legislative agent for the North Carolina Bankers Association, said that the state taxation of financial institutions have been reviewed and amended continuously since the 1969 Session of the General Assembly. He indicated that inequities in the taxation of the income of banks have been corrected and these corrections should not be disturbed. He further stated that tax inequities between the types of

financial institutions still exist and cited the intangibles tax which is imposed on customers of banks but not on those of savings and loans or of credit unions. His remarks are found as Appendix I.

Mr. James M. Culberson, Jr., President of First National Bank of Randolph County, also spoke for the North Carolina Bankers' Association. He urged the repeal of the intangibles tax citing among his other beliefs that the tax is antiquated and is not imposed on many new types of investments and that the tax is not applied on a uniform basis in that credit unions and savings and loan associations are exempt.

Gordon P. Allen and Paul H. Stock representing the North Carolina League of Savings Institutions, acknowledged the existence of differences in the tax treatment of various types of financial institutions but deferred to the General Assembly the question as to whether or not these differences were inequitable (The statements appear in Appendix J).

Mr. Ruffin Bailey, the legislative agent for the North Carolina Credit Union League stated that association's opposition to changes in the present tax treatment of credit unions. He defended the differences in the state tax treatment of credit unions verses the other types of in-state financial institutions citing specific reasons for each difference. Mr. Bailey's statement is contained in Appendix K.

The Honorable Harlan Boyles, the State Treasurer, in his remarks before the Committee recommended the repeal of the intangibles tax to place all financial institutions on an equal

footing. He suggested the General Fund would benefit from the repeal. General Fund revenues could then, be argued, be used to replace the revenues lost to cities and counties by the repeal.

The Committee requested of the Revenue Department information regarding taxes imposed by each state on banks, savings and loan associations and credit unions and analysis of the effect of total or partial repeal of the intangibles tax.

Mr. B. E. Dail, Director of the Tax Research Division of the Department of Revenue, presented to the Committee an explanation (Appendix W) and the following tables:

Comparison of State Taxes Imposed by Banks, Savings and Loan Associations, and Credit Unions (Appendix X);

Comparison of Taxes Imposed by States and Local Governments on Intangible Property (Appendix Y);

States Not Taxing Intangible Personal Property (Appendix Z); and

Taxation of Tangible Personal Property of Banks, Savings and Loan Associations and Credit Unions (Appendix AA).

He indicated that there is much variation in the way the states tax financial institutions.

On the issue of total or partial repeal of the intangibles tax, Mr. Dail said that $60,616,000 was collected by the intangibles tax during the 1982-1983 fiscal year, of which local governments received 93.3 percent. Of that amount $12.3 million is the amount of intangibles tax paid on money on deposit by all taxpayers including corporations, less the tax credits allowed to corporations on their franchise taxes. Mr. Dail analysed the impact on state tax revenues, local government revenues, industrial development and in-migration of retired persons if the intangibles tax were repealed. He concluded that replacement revenues would be needed to offset the loss of intangible tax revenues, that under the remaining present tax structure these revenues would not likely develop in a short time period and that it is questionable whether repeal of the their tax would have the necessary dramatic effect on industrial development or on in-migration of retirees to develop large additional state revenues. Mr. Dail's analysis is contained in Appendix BB.

Mr. C. Ronald Aycock, Executive Director of the North Carolina Association of County Commissioners' set forth the position of that Association in a letter, dated November 9, 1984, to Senator Edwards in these words:

"The Association does not support the repeal of the intangibles tax. If the tax is repealed, county government should be held harmless from any revenue loss."

The Committee also was briefed by the staff of the Legislative Research Commission's Committee on Revenue Laws which is also investigating changes to the intangibles tax.

During the period of the Committee's life the General Assembly in its 1984 Regular Session considered a bill, Senate Bill 750--introduced by Senator W. Craig Lawing of Mecklenburg County, which would have phased out the intangibles tax over a five-year period and would have provided local governments with partial compensation for the resulting revenue loss. Senate Bill 750 failed to pass when the Senate refused to appoint a conference committee.

FINDINGS AND RECOMMENDATIONS

The Committee on the Taxation and Regulation of Banks, Savings and Loans and Credit Unions makes the following findings and recommends the following actions to the 1985 General Assembly:

1. Intangibles Tax

A. Findings

(1) The public policy of the State is to reduce its citizen's tax burden, insofar as possible, but not so as to endanger providing needed public services.

(2) The costs and difficulties of collecting the intangible tax on money on deposit and money on hand are an onerous and costly imposition by the State on banks and other corporations.

(3) Money on deposit in banks is subject to the intangibles tax whereas money on deposit in credit unions and savings and loan associations is not. Banks are therefor at a comparative disadvantage with the State's other financial institutions in attracting and retaining depositors.

(4) The intangibles tax on funds on deposit with insurance companies (G.S. 105-205) produces little tax and like the tax on money on deposit is returned to the local governments on the basis of population.

(5) North Carolina's intangibles tax places this State at a comparative disadvantage with other states not imposing this

tax in attracting new industry and those individuals dependent on earnings from invested income.

(6) The repeal of the taxes on these types of intangible personal property would lead to increased economic growth, immigration of retirees to North Carolina, and for certain individuals who maintain residences in North Carolina and other states, the establishment of their official residence in North Carolina.

B. Recommendations

(1) That legislation be enacted to repeal the intangibles tax on money on deposit (G.S. 105-199 and G.S. 105-205), and money on hand (G.S. 105-200), effective for tax years beginning on or after January 1, 1985.

(2) That the 1985 General Assembly coordinate the replacement of revenue loss to local governments resulting from the recommended repeal of tax on these types of intangible personal property.

2. Regulation of Bank Holding Companies

A. Findings

(1) The financial services industry is undergoing rapid and sweeping change both in North Carolina and nationally.

(2) A need exists for the State of North Carolina to be aware of and involved in the continuing development of the financial services industry operating within her borders and affecting the economic well-being of her citizens.

(3) Under the legislation enacted by the 1984 General Assembly relating to interstate regional reciprocal banking and registration of bank holding companies, North Carolina state regulators do not have the authority for a continuing supervision of regional out-of-state bank holding companies acquiring North Carolina banks or bank holding companies while other Southeastern states have been given that authority to their regulators with respect to North Carolina bank holding companies acquiring their in-state banks or bank holding companies.

(4) The state bank regulators of North Carolina need the continuing supervisory and examination authority over bank holding companies afforded other Southeastern states' bank regulators to assure the continuing viability of North Carolina banking and to cooperate with other states bank regulators in an efficient and effective administration of the interstate regional reciprocal banking legislation.

B. Recommendation

That the House and Senate Banking Committees of the 1985 General Assembly study the enactment of legislation to vest in the Commissioner of Banks power to regulate bank holding companies, to approve acquisitions of North Carolina banks by

all bank holding companies operating in this State; and to examine and require reports of those bank holding companies.

H. B. 1142 **CHAPTER 905**

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION AND BY THE COMMISSION ON CHILDREN WITH SPECIAL NEEDS AND MAKING TECHNICAL AMENDMENTS RELATING THERETO.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1983 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

* * *

(28) Regulation and Taxation of Banks, Savings and Loans and Credit Unions (S.J.R. 381 Edwards of Caldwell),

* * * *

Sec. 6. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1984 Session of the General Assembly or to the 1985 General Assembly, or the Commission may make an interim report to the 1984 Session and a final report to the 1985 General Assembly.

* * *

Sec. 13. Bills and Resolution References. The listing of the original bill or resolution in this act is for references purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 14. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1983

S

I

SENATE JOINT RESOLUTION 381

Sponsors: Senator Edwards of Caldwell.

Referred to: Rules and Operation of the Senate.

April 18, 1983

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY PRESENT SYSTEM OF REGULATION AND TAXATION OF BANKS, SAVINGS AND LOANS AND CREDIT UNIONS.

Whereas, the members of the North Carolina General Assembly are keenly aware of changes currently taking place with regard to the operational and organizational strategies of the various financial institutions in North Carolina; and

Whereas, the laws enacted which deal with regulation and taxation are not uniformly applicable to commercial banks, savings and loan associations and credit unions, as dramatically illustrated as follows:

STATE AND LOCAL TAXES LEVIED ON BANKS,
SAVINGS AND LOAN ASSOCIATIONS,
AND CREDIT UNIONS

	Banks	Savings & Loans	Credit Unions
I. Franchise Tax			
General business franchise G.S. 105-122 ($1.50 per $1,000 tax base)	Taxable	Taxable	Exempt

II.	Corporate Income Tax			
	G.S. 105-130	Taxable	Taxable	Exempt
	6% of State taxable income			
III.	Intangibles Tax (Paid by the institutions)			
	Money on Deposit			
	G.S. 105-199	Exempt	Taxable	Exempt
	(10¢ per $100.00)			
	Money on Hand			
	G.S. 105-200	Taxable	Taxable	Exempt
	(25¢ per $100.00)			
	Accounts Receivable			
	G.S. 105-201	Taxable	Exempt	Exempt
	(25¢ per $100.00)			
	Notes Receivable, etc.			
	G.S. 105-202	Taxable	Exempt	Exempt
	(25¢ per $100.00)			
	Shares of Stock			
	G.S. 105-203	Taxable	Exempt	Exempt
IV.	Intangibles Tax (Paid by depositors)			
	Money on Deposit			
	(10¢ per $100.00)	Taxable	Exempt	Exempt
V.	License Tax			
	Annual privilege tax			
	G.S. 105-102.3	Taxable	Exempt	Exempt
	($30.00 per $1,000,000 of average total assets)			

VI. Sales and Use Tax	Taxable	Taxable	Taxable
VII. Ad Valorem Tax	Taxable	Taxable	Taxable

Whereas, the General Assembly has created and provided for separate and autonomous regulatory bodies in the Banking Commission, the Savings and Loan Commission and the Credit Union Commission, all with separate and express jurisdictional responsibilities none of which have an overall authority to develop a State policy for regulation and taxation;

Whereas, the public interest dictates the need for a legislative review of the entire industry, with emphasis upon regulation and taxation; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly hereby directs the Legislative Research Commission to conduct a study of the present regulations and tax levies applicable to commercial banks, savings and loan associations and credit unions.

Sec. 2. The Legislative Research Commission shall report its findings, together with any recommended legislation, to the 1984 Session of the General Assembly or the Commission may make an interim report to the 1984 Session and a final report to the 1985 General Assembly.

Sec. 3. This resolution is effective upon ratification.

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GENERAL ASSEMBLY OF NORTH CAROLINA

1983 SESSION (REGULAR SESSION, 1984)

RATIFIED BILL

CHAPTER 1113
SENATE BILL 706

AN ACT TO PERMIT INTERSTATE BANKING IN NORTH CAROLINA ON A RECIPROCAL BASIS AND TO PROVIDE FOR THE REGISTRATION OF BANK HOLDING COMPANIES.

Whereas, banking organizations play a vital role in the development and growth of a viable local and regional economy; and

Whereas, it is anticipated that banking services in North Carolina will be improved and competition enhanced by the development in the southeastern region of the United States of bank holding companies that are sufficient in size to compete effectively with the largest banking organizations in the United States in all areas of banking; and

Whereas, it is also anticipated that economic growth in North Carolina will be stimulated and aided by the development of such bank holding companies in the southeastern region of the United States; and

Whereas, it is desirable, at the same time, to place certain limitations on the development of bank holding companies serving North Carolina in order to prevent undue concentrations of economic resources and a lessening of competition as a result thereof; and

Whereas, a number of the United States, including states located in the southeastern region of the United States and contiguous to North Carolina, have already authorized some form of interstate banking; and

Whereas, it is desirable to encourage other states located in the southeastern region of the United States to permit the acquisition of their banks and bank holding companies by bank holding companies principally located in North Carolina in order to further the development of bank holding companies in the southeastern region of the United States; and

Whereas, federal law permits each of the United States to determine the extent to which bank holding companies may engage in interstate banking within its borders; and

Whereas, it is in the best interest of North Carolina and its citizens to establish legislation to permit acquisition, on a reciprocal basis, of North Carolina banks and bank holding companies by bank holding companies principally located in other states in the southeastern region of the United States, subject to the supervision and regulation of the North Carolina Commissioner of Banks; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 53 of the General Statutes of North Carolina is amended to add two new Articles as follows:

"ARTICLE 17.

"North Carolina Regional Reciprocal Banking Act.

"§ 53-209. Title.--This Article shall be known and may be cited as the North Carolina Regional Reciprocal Banking Act.

"§ 53-210. Definitions.--Notwithstanding any other section of this Chapter, for the purposes of this Article:

(1) 'Acquire' means:

a. the merger or consolidation of one bank holding company with another bank holding company;

b. the acquisition by a bank holding company of direct or indirect ownership or control of voting shares of another bank holding company or a bank, if, after such acquisition, the bank holding company making the acquisition will directly or indirectly own or control more than five percent (5%) of any class of voting shares of the other bank holding company or the bank;

c. the direct or indirect acquisition by a bank holding company of all or substantially all of the assets of another bank holding company or of a bank; or

d. any other action that would result in direct or indirect control by a bank holding company of another bank holding company or a bank.

(2) 'Bank' means any 'insured bank' as such term is defined in Section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any institution eligible to become an 'insured bank' as such term is defined therein, which, in either event,

a. accepts deposits that the depositor has a legal right to withdraw on demand; and

b. engages in the business of making commercial loans.

(3) 'Banking office' means the principal office of a bank, any branch of a bank, any teller's window of a bank or any other office at which a bank accepts deposits: Provided, however, that 'banking office' shall not mean:

a. unmanned automatic teller machines, point of sale terminals or other similar unmanned electronic banking facilities at which deposits may be accepted;

b. offices located outside the United States; or

c. loan production offices, representative offices or other offices at which deposits are not accepted.

(4) 'Bank holding company' has the meaning set forth in Section 2(a)(1) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(a)(1)).

(5) 'Commissioner' means the Commissioner of Banks of this State.

(6) 'Control' has the meaning set forth in Section 2(a)(2) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(a)(2)).

(7) 'Deposits' means all demand, time, and savings deposits, without regard to the location of the depositor: Provided, however, that 'deposits' shall not include any deposits by banks. For purposes of this Article, determination of deposits shall be made with reference to regulatory reports of condition or similar reports made by or to state and federal regulatory authorities.

(8) 'North Carolina bank' means a bank that:

a. is organized under the laws of this State or of the United States; and

b. has banking offices located only in this State.

(9) 'North Carolina bank holding company' means a bank holding company:

a. that has its principal place of business in this State;

b. the North Carolina bank and regional bank subsidiaries of which hold more than eighty percent (80%) of the total deposits held by all of its bank subsidiaries, other than bank subsidiaries controlled by it in accordance with G.S. 53-212 of this Article; and

c. that is not controlled by a bank holding company other than a North Carolina bank holding company.

(10) 'Principal place of business' of a bank holding company means the state in which the total deposits held by the banking offices of the bank holding company's bank subsidiaries are the largest.

(11) 'Region' means the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, and the District of Columbia.

(12) 'Regional bank' means a bank that:

a. is organized under the laws of the United States or of one of the states in the region other than North Carolina; and

b. has banking offices located only in states within the region.

(13) 'Regional bank holding company' means a bank holding company:

a. that has its principal place of business in a state within the region other than North Carolina;

b. the regional bank and North Carolina bank subsidiaries of which hold more than eighty percent (80%) of the total deposits held by all of its bank subsidiaries, other than bank subsidiaries controlled by it in accordance with G.S. 53-212 of this Article;

c. that is not controlled by a bank holding company other than a regional bank holding company; and

d. that neither is controlled by nor is a foreign bank as defined in the International Banking Act of 1978 (12 U.S.C. 3101(7)).

(14) 'State' means any state of the United States or the District of Columbia.

(15) 'Subsidiary' has the meaning set forth in Section 2(d) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(d)).

"§ 53-211. Acquisitions by regional bank holding companies.--(a) A regional bank holding company that does not have a North Carolina bank subsidiary (other than a North Carolina bank subsidiary that was acquired either pursuant to Section 116 or Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m), 1823(f)) or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company

Act of 1956 as amended (12 U.S.C. 1842(a))) may acquire a North Carolina bank holding company or a North Carolina bank with the approval of the Commissioner. The regional bank holding company shall submit to the Commissioner an application for approval of such acquisition, which application shall be approved only if:

(1) The Commissioner determines that the laws of the state in which the regional bank holding company making the acquisition has its principal place of business permit all North Carolina bank holding companies to acquire banks and bank holding companies in that state;

(2) The Commissioner determines that the laws of the state in which the regional bank holding company making the acquisition has its principal place of business permit such regional bank holding company to be acquired by the North Carolina bank holding company or North Carolina bank sought to be acquired. For the purposes of this subsection, a North Carolina bank shall be treated as if it were a North Carolina bank holding company;

(3) The Commissioner determines either that the North Carolina bank sought to be acquired has been in existence and continuously operating for more than five years or that all of the bank subsidiaries of the North Carolina bank holding company sought to be acquired have been in existence and continuously operating for more than five years: Provided, that the Commissioner may approve the acquisition by a regional bank holding company of all or substantially all of the shares of a bank organized solely for the purpose of facilitating the acquisition of a bank that has been in existence and continuously operating as a bank for more than five years; and

(4) The Commissioner makes the acquisition subject to any conditions, restrictions, requirements or other limitations that would apply to the acquisition by a North Carolina bank holding company of a bank or bank holding company in the state where the regional bank holding company making the acquisition has its principal place of business but that would not apply to the acquisition of a bank or bank holding company in such state by a bank holding company all the bank subsidiaries of which are located in that state.

(b) A regional bank holding company that has a North Carolina bank subsidiary (other than a North Carolina bank subsidiary that was acquired either pursuant to Section 116 or Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m), 1823(f)) or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a))) may acquire any North Carolina bank or North Carolina bank holding company with the approval of the Commissioner. The regional bank holding company shall submit

to the Commissioner an application for approval of such acquisition, which application shall be approved only if:

(1) The Commissioner determines either that the North Carolina bank sought to be acquired has been in existence and continuously operating for more than five years or that all of the bank subsidiaries of the North Carolina bank holding company sought to be acquired have been in existence and continuously operating for more than five years: Provided, that the Commissioner may approve the acquisition by a regional bank holding company of all or substantially all of the shares of a bank organized solely for the purpose of facilitating the acquisition of a bank that has been in existence and continuously operating as a bank for more than five years; and

(2) The Commissioner makes the acquisition subject to any conditions, restrictions, requirements or other limitations that would apply to the acquisition by a North Carolina bank holding company of a bank or bank holding company in the state where the regional bank holding company making the acquisition has its principal place of business but that would not apply to the acquisition of a bank or bank holding company in such state by a bank holding company all the bank subsidiaries of which are located in that state.

(c) The Commissioner shall rule on any application submitted under this section not later than 90 days following the date of submission of a complete application. If the Commissioner fails to rule on the application within the requisite 90-day period, the failure to rule shall be deemed a final decision of the Commissioner approving the application.

"§ 53-212. Exceptions.--A North Carolina bank holding company, a North Carolina bank, a regional bank holding company, or a regional bank may acquire or control, and shall not cease to be a North Carolina bank holding company, a North Carolina bank, a regional bank holding company, or a regional bank, as the case may be, by virtue of its acquisition or control of:

(1) a bank having banking offices in a state not within the region, if such bank has been acquired pursuant to the provisions of Section 116 or Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m), 1823(f));

(2) a bank having banking offices in a state not within the region, if such bank has been acquired in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a)), and if the bank or bank holding company divests the securities or assets acquired within two years of the date of acquisition. A North Carolina bank, a North Carolina bank holding company, a regional bank holding company, or a regional bank may retain these interests for up to three additional periods of one year each if the Commissioner determines that the required divestiture would

create undue financial difficulties for that bank or bank holding company; or

(3) a bank or corporation organized under the laws of the United States or of any state and operating under Section 25 or Section 25(a) of the Federal Reserve Act as amended (12 U.S.C. 601 or 611-31) or a bank or bank holding company organized under the laws of a foreign country that is principally engaged in business outside the United States and that either has no banking office in the United States or has banking offices in the United States that are engaged only in business activities permissible for a corporation operating under Section 25 or Section 25(a) of the Federal Reserve Act as amended.

"§ 53-213. Prohibitions.--(a) Except as expressly permitted by federal law, no bank holding company that is not either a North Carolina bank holding company or a regional bank holding company shall acquire a North Carolina bank holding company or a North Carolina bank.

(b) Except as required by federal law, a North Carolina bank holding company or a regional bank holding company that ceases to be a North Carolina bank holding company or a regional bank holding company shall as soon as practicable and, in all events, within one year after such event divest itself of control of all North Carolina bank holding companies and all North Carolina banks: Provided, however, that such divestiture shall not be required if the North Carolina bank holding company or the regional bank holding company ceases to be a North Carolina bank holding company or a regional bank holding company, as the case may be, because of an increase in the deposits held by bank subsidiaries not located within the region and if such increase is not the result of the acquisition of a bank or bank holding company.

"§ 53-214. Applicable laws, rules and regulations.--(a) Any North Carolina bank that is controlled by a bank holding company that is not a North Carolina bank holding company shall be subject to all laws of this State and all rules and regulations under such laws that are applicable to North Carolina banks that are controlled by North Carolina bank holding companies.

(b) Notwithstanding the provisions of G.S. 53-95, the Commissioner may promulgate rules, including the imposition of a reasonable application and administration fee, to implement and effectuate the provisions of this Article.

"§ 53-215. Appeal of commissioner's decision.--Notwithstanding any other provision of law, any aggrieved party in a proceeding under G.S. 53-211 or G.S. 53-212(2) may, within 30 days after final decision of the Commissioner and by written notice to the Commissioner, appeal directly to the North Carolina Court of Appeals for judicial review on the record. In the event of an appeal, the Commissioner shall certify the record to the Clerk of the Court of Appeals within 30 days after filing of the appeal.

"§ 53-216. Periodic reports; interstate agreements.--The Commissioner may from time to time require reports under oath in such scope and detail as he may reasonably determine of each regional bank holding company subject to this Article for the purpose of assuring continuing compliance with the provisions of this Article.

The Commissioner may enter into cooperative agreement with other bank regulatory authorities for the periodic examination of any regional bank holding company that has a North Carolina bank subsidiary and may accept reports of examination and other records from such authorities in lieu of conducting its own examinations. The Commissioner may enter into joint action with other bank regulatory authorities having concurrent jurisdiction over any regional bank holding company that has a North Carolina bank subsidiary or may take such actions independently to carry out its responsibilities under this Article and assure compliance with the provisions of this Article and the applicable banking laws of this State.

"§ 53-217. Enforcement.--The Commissioner shall have the power to enforce the provisions of this Article, including the divestiture requirement of G.S. 53-213(b), through an action in any court of this State or any other state or in any court of the United States, as provided in G.S. 53-94 and G.S. 53-134, for the purpose of obtaining an appropriate remedy for violation of any provision of this Article, including such criminal penalties as are contemplated by G.S. 53-134.

"§ 53-218. Nonseverability.--It is the purpose of this Article 17 to facilitate orderly development of banking organizations that have banking offices in more than one state within the region. It is not the purpose of this Article to authorize acquisitions of North Carolina bank holding companies or North Carolina banks by bank holding companies that do not have their principal place of business in this State on any basis other than as expressly provided in this Article. Therefore, if any portion of this Article pertaining to the terms and conditions for and limitations upon acquisition of North Carolina bank holding companies and North Carolina banks by bank holding companies that do not have their principal place of business in this State is determined to be invalid for any reason by a final nonappealable order of any North Carolina or federal court of competent jurisdiction, then this entire Article shall be null and void in its entirety and shall be of no further force or effect from the effective date of such order: Provided, however, that any transaction that has been lawfully consummated pursuant to this Article prior to a determination of invalidity shall be unaffected by such determination.

"ARTICLE 18.

"Bank Holding Company Act of 1984.

"§ 53-225. Title and scope.--(a) This Article shall be known and may be cited as the North Carolina Bank Holding Company Act of 1984.

(b) This Article provides for the registration of bank holding companies in North Carolina. Nothing contained in this Article shall be deemed to apply to the registration, examination or supervision of banks or trust companies.

(c) Actions by the Commissioner under this Article shall not be subject to review by the State Banking Commission but shall be reviewable pursuant to G.S. 53-231.

"§ 53-226. Definitions.--For the purposes of this Article:

(a) 'Bank' means any insured bank as the term is defined in Section 3(h) of the Federal Deposit Insurance Act, (12 U.S.C.

Section 1813(h)), or any institution eligible to become an insured bank as the term is defined therein, which, in either event:

(1) Accepts deposits that the depositor has a legal right to withdraw on demand; and

(2) Engages in the business of making commercial loans.

(b) 'Bank holding company' means any company which has control over any bank.

(c) 'Commissioner' means the Commissioner of Banks of this State.

(d) 'Company' means a corporation, joint stock company, business trust, partnership, voting trust, association, and any similar organized group of persons, whether incorporated or not, and whether or not organized under the laws of this State or any other state or any territory or possession of the United States or under the laws of the foreign country, territory, colony or possession thereof, other than a corporation all the capital of which is owned by the United States or a corporation which is chartered by the Congress of the United States; 'company' includes subsidiary and parent companies.

(e) 'Control' means that:

(1) Any company directly or indirectly or acting through one or more persons owns, controls, or has power to vote twenty-five per centum (25%) or more of the voting securities of the bank;

(2) The company controls in any manner the election of a majority of the directors, managers or trustees of the bank or company; or

(3) The Commissioner determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.

(f) 'Subsidiary', with respect to a bank holding company, means:

(1) Any company twenty-five per centum (25%) or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is held by it with power to vote;

(2) Any company the election of a majority of whose directors is controlled in any manner by a bank holding company; or

(3) Any company with respect to the management or policies of which a bank holding company has the power, directly or indirectly, to exercise control, as determined by the Commissioner.

(g) For the purposes of any proceeding under subdivisions (e)(3) and (f)(3) of this section, there is a presumption that any company which directly or indirectly owns, controls, or has power to vote less than 5 percent (5%) of any class of voting securities of a given bank or company does not have control over that bank or company.

"§ 53-227. Registration of bank holding companies.--Every bank holding company, not later than July 1, 1985, or within 180 days after becoming a bank holding company controlling a North

Carolina federally or State-chartered bank or banks, or within 180 days after acquiring control over a nonbank subsidiary or subsidiaries having offices located in this State shall register with the Commissioner on forms approved by the Commissioner.

"§ 53-228. Cease and desist.--Upon a finding that any action of a bank holding company or nonbank subsidiary subject to this Article may be in violation of any North Carolina banking law, the Commissioner, after a reasonable notice to the bank holding company or its nonbank subsidiary and an opportunity for it to be heard, shall have the authority to order it to cease and desist from such action. If the bank holding company or nonbank subsidiary fails to appeal such decision in accordance with G.S. 53-231 hereof and continues to engage in such action in violation of the Commissioner's order to cease and desist such action, it shall be subject to a penalty of one thousand dollars ($1,000), to be recovered with costs by the Commissioner in any court of competent jurisdiction in a civil action prosecuted by the Commissioner. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a bank holding company's or its nonbank subsidiary's failure to comply with an order of the Commissioner.

"§ 53-229. Acquisition and control of certain nonbank banking institutions.--Notwithstanding any other provision of this Article or any other provision of the General Statutes of this State, no bank holding company or any other company may acquire or control any banking institution that:

(1) has offices located in this State; and

(2) is not a bank as defined in G.S. 53-226(a) of this Article.

For purposes of this section, 'company' means any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, and 'banking institution' means any institution organized under Article 2 of Chapter 53 (G.S. 53-2, et seq.) or Article 11 of Chapter 53 (G.S. 53-136, et seq.) of the General Statutes of this State or under Chapter 2 of Title 12 of the United States Code (12 U.S.C. § 21, et seq.). Provided, the provisions of G.S. 53-229 shall not apply to applications by any company which is chartered by the Congress of the United States and which application is pending before the Commissioner on the effective date of this section.

"§ 53-230. Rules.--Notwithstanding the provision of G.S. 53-95, the Commissioner may promulgate such reasonable rules as may be necessary to effectuate the purposes of this Article.

"§ 53-231. Appeal of commissioner's decision.--Notwithstanding any other provision of law, any aggrieved party may, within 30 days after final decision of the Commissioner and by written notice to the Commissioner, appeal directly to the North Carolina Court of Appeals for judicial review on the record. In the event of an appeal, the Commissioner shall certify the record to the Clerk of the Court of Appeals within 30 days thereafter. Such record shall include all memoranda, briefs and any other documents, data, information or evidence submitted by any party

to such proceeding except for material such as trade secrets normally not available through commercial publication for which such party has made a claim of confidentiality and requested exclusion from the record which the Commissioner deems confidential. All factual information contained in any report of examination or investigation submitted to or obtained by the Commissioner's staff shall also be made a part of the record unless deemed confidential by the Commissioner.

"§ 53-232. Fees.--Each bank holding company subject to this act shall pay the following fees:

(a) An initial registration fee of $1,000.

(b) An annual registration fee of $750.00.

(c) A fee of $50.00 for the issuance of any certified copies of documents plus $1.00 per page over a number of pages specified by the Commissioner."

Sec. 2. G.S. 7A-29(a) is amended by inserting the words "the Commissioner of Banks pursuant to Articles 17 and 18 of Chapter 53 of the General Statutes," after the words "the North Carolina Utilities Commission".

Sec. 3. The question of the extent of authority beyond that conferred by Article 17 upon the Commissioner of Banks with regard to the acquisition of a North Carolina bank or bank holding company by an out-of-State regional bank holding company is referred to the Committee on Taxation and Regulation of Banks, Savings and Loan Associations, and Credit Unions of the Legislative Research Commission for study and report to the 1985 Session of the General Assembly.

Sec. 4. Article 17 of Chapter 53 of the General Statutes contained in Section 1 of this act shall become effective January 1, 1985. The rest of this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1984.

JAMES C. GREEN

James C. Green
President of the Senate

LISTON B RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

APPENDIX D

GENERAL ASSEMBLY OF NORTH CAROLINA

1983 SESSION (REGULAR SESSION, 1984)

RATIFIED BILL

CHAPTER 1087
SENATE BILL 807

AN ACT TO PERMIT INTERSTATE MERGERS AND ACQUISITIONS OF SAVINGS AND LOAN ASSOCIATIONS AND SAVINGS AND LOAN HOLDING COMPANIES ON A RECIPROCAL BASIS WITHIN A SPECIFIED REGION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 54B of the General Statutes is amended by adding a new Article 3A to read as follows:

"Article 3A.
"North Carolina Regional Reciprocal Savings and Loan Acquisition Act.

"§ 54B-48.1. Title.--This Article shall be known and may be cited as the North Carolina Regional Reciprocal Savings and Loan Acquisition Act.

"§ 54B-48.2. Definitions.--Notwithstanding the provisions of G.S. 54B-4, as used in this Article, unless the context requires otherwise:

(1) 'Acquire', as applied to an association or a savings and loan holding company, means any of the following actions or transactions:
   a. The merger or consolidation of an association with another association or savings and loan holding company or a savings and loan holding company with another savings and loan holding company.
   b. The acquisition of the direct or indirect ownership or control of voting shares of an association or savings and loan holding company if, after the acquisition, the acquiring association or savings and loan holding company will directly or indirectly own or control more than five percent (5%) of any class of voting shares of the acquired association or savings and loan holding company.
   c. The direct or indirect acquisition of all or substantially all of the assets of an association or savings and loan holding company.
   d. The taking of any other action that would result in the direct or indirect control of an association or savings and loan holding company.

(2) 'Administrator' means the Administrator of the Savings and Loan Division.

(3) 'Association' means a mutual or capital stock savings and loan association, building and loan association or savings bank chartered under the laws of any one of the states or by the Federal Home Loan Bank Board, pursuant to the 'Home Owners'

Loan Act of 1933', 12 U.S.C. Section 1464, as amended.

(4) 'Branch office' means any office at which an association accepts deposits. The term branch office does not include:

a. Unmanned automatic teller machines, point-of-sale terminals, or similar unmanned electronic banking facilities at which deposits may be accepted;

b. Offices located outside the United States; and

c. Loan production offices, representative offices, service corporation offices, or other offices at which deposits are not accepted.

(5) 'Company' means that which is set forth in the Federal Savings and Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(1)(C), as amended.

(6) 'Control' means that which is set forth in the Federal Savings and Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(2), as amended.

(7) 'Deposits' means all demand, time, and savings deposits, without regard to the location of the depositor: Provided, however, that 'deposits' shall not include any deposits by associations. For purposes of this Article, determination of deposits shall be made with reference to regulatory reports of condition or similar reports made by or to State and federal regulatory authorities.

(8) 'Federal association' means an association chartered by the Federal Home Loan Bank Board pursuant to the 'Home Owners' Loan Act of 1933', 12 U.S.C. Section 1464, as amended.

(9) 'North Carolina association' means an association organized under the laws of the State of North Carolina or under the laws of the United States and that:

a. Has its principal place of business in the State of North Carolina;

b. Which if controlled by an organization, the organization is either a North Carolina association, Southern Region association, North Carolina savings and loan holding company, or a Southern Region savings and loan holding company; and

c. More than eighty percent (80%) of its total deposits, other than deposits located in branch offices acquired pursuant to Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law, are in its branch offices located in one or more of the Southern Region states.

(10) 'North Carolina Savings and Loan Holding Company' means a savings and loan holding company that:

a. Has its principal place of business in the State of North Carolina;

b. Has total deposits of its Southern Region association subsidiaries and North Carolina association subsidiaries that exceed eighty percent (80%) of the total deposits of all association subsidiaries of the savings and loan holding company other than those association subsidiaries held pursuant to Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law.

(11) 'Principal place of business' of an association means the state in which the aggregate deposits of the association are the largest. For the purposes of this Article, the principal place of business of a savings and loan holding company is the state where the aggregate deposits of the association subsidiaries of the holding company are the largest.

(12) 'Savings and loan holding company' means any company which directly or indirectly controls an association or controls any other company which is a savings and loan holding company.

(13) 'Service Corporation' means any corporation, the majority of the capital stock of which is owned by one or more associations and which engages, directly or indirectly, in any activities which may be engaged in by a service corporation in which an association may invest under the laws of one of the states or under the laws of the United States.

(14) 'Southern Region association' means an association other than a North Carolina association organized under the laws of one of the Southern Region states or under the laws of the United States and that:

a. Has its principal place of business only in a Southern Region state other than North Carolina;

b. Which if controlled by an organization, the organization is either a Southern Region association or a Southern Region savings and loan holding company; and

c. More than eighty percent (80%) of its total deposits, other than deposits located in branch offices acquired pursuant to Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law, are in its branch offices located in one or more of the Southern Region states.

(15) 'Southern Region savings and loan holding company' means a savings and loan holding company that:

a. Has its principal place of business in a Southern Region state other than the State of North Carolina;

b. Has total deposits of its Southern Region association subsidiaries and North Carolina association subsidiaries that exceed eighty percent (80%) of the total deposits of all association subsidiaries of the savings and loan holding company other than those association subsidiaries held pursuant to Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law.

(16) 'Southern Region states' means the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

(17) 'State' means any state of the United States and the District of Columbia.

(18) 'State association' means an association organized under the laws of one of the states.

(19) 'Subsidiary' means that which is set forth in the Federal Savings and Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(1)(H), as amended.

"§ 54B-48.3. Acquisitions by Southern Region savings and loan holding companies and Southern Region associations.--(a) A Southern Region savings and loan holding company or a Southern Region association that does not have a North Carolina association subsidiary (other than a North Carolina association subsidiary that was acquired either pursuant to Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)), or comparable provisions in state law, or in the regular course of securing or collecting a debt previously contracted in good faith) may acquire a North Carolina savings and loan holding company or a North Carolina association with the approval of the Administrator. The Southern Region savings and loan holding company or Southern Region association shall submit to the Administrator an application for approval of such acquisition, which application shall be approved only if:

(1) The Administrator determines that the laws of the state in which the Southern Region savings and loan holding company or Southern Region association making the acquisition has its principal place of business permit North Carolina savings and loan holding companies and North Carolina associations to acquire associations and savings and loan holding companies in that state;

(2) The Administrator determines that the laws of the state in which the Southern Region savings and loan holding company or Southern Region association making the acquisition has its principal place of business permit such Southern Region savings and loan holding company or Southern Region association to be acquired by the North Carolina savings and loan holding company or North Carolina association sought to be acquired;

(3) The Administrator determines either that the North Carolina association sought to be acquired has been in existence and continuously operating for more than five years or that all of the association subsidiaries of the North Carolina savings and loan holding company sought to be acquired have been in existence and continuously operating for more than five years: Provided, that the Administrator may approve the acquisition by a Southern Region savings and loan holding company or Southern Region association of all or substantially all of the shares of an association organized solely for the purpose of facilitating the acquisition of an association that has been in existence and continuously operating as an association for more than five years; and

(4) The Administrator makes the acquisition subject to any conditions, restrictions, requirements or other limitations that would apply to the acquisition by a North Carolina savings and loan holding company or North Carolina association of an association or savings and loan holding company in the state where the Southern Region savings and loan holding company or Southern Region association making the acquisition has its principal place of business but that would not apply to the acquisition of an association or savings and loan holding company in such state by an association or a savings and loan holding company all the association subsidiaries of which are located in that state;

(5) With respect to acquisitions involving the merger or consolidation of two associations resulting in a Southern Region association, the application includes a business plan extending for an initial period of at least three years from the date of the acquisition which shall be renewed thereafter for as long as may be required by the Administrator. The association may not deviate without the prior written approval of the Administrator from the business plan which shall address such matters as the Administrator may deem appropriate for the protection of the depositors and members of the acquired North Carolina association and the general public. The business plan shall address, without limitation:

a. insurance of depositors' accounts.
b. limitation of services and activities to those permitted under this Chapter to North Carolina associations.
c. conversion of corporate form or other fundamental changes.
d. closing, selling or divesting any or all North Carolina branches.
e. protection of the voting rights of North Carolina members.

(b) A Southern Region savings and loan holding company or Southern Region association that has a North Carolina association subsidiary (other than a North Carolina association subsidiary that was acquired either pursuant to Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)), or comparable provisions in North Carolina law, or in the regular course of securing or collecting a debt previously contracted in good faith) may acquire any North Carolina association or North Carolina savings and loan holding company with the approval of the Administrator. The Southern Region savings and loan holding company shall submit to the Administrator an application for approval of such acquisition, which application shall be approved only if:

(1) The Administrator determines either that the North Carolina association sought to be acquired has been in existence and continuously operating for more than five years or that all of the association subsidiaries of the North Carolina savings and loan holding company sought to be acquired have been in existence and continuously operating for more than five years: Provided, that the Administrator may approve the acquisition by a Southern Region savings and loan holding company or Southern Region association of all or substantially all of the shares of an association organized solely for the purpose of facilitating the acquisition of an association that has been in existence and continuously operating as an association for more that five years; and

(2) The Administrator makes the acquisition subject to any conditions, restrictions, requirements or other limitations that would apply to the acquisition by the North Carolina savings and loan holding company or North Carolina association of an association or savings and loan holding company in the State where the Southern Region savings and loan holding company or Southern Region association making the acquisition has its principal place of business but that would not apply to the acquisition of an association or savings and loan holding company in such state by a savings and loan holding company all the association subsidiaries of which are located in that state.

(3) With respect to acquisitions involving the merger or consolidation of two associations resulting in a Southern Region association, the application includes a business plan extending for an initial period of at least three years from the date of the acquisition which shall be renewed thereafter for as long as may be required by the Administrator. The association may not deviate without the prior written approval of the Administrator from the business plan which shall address such matters as the Administrator may deem appropriate for the protection of the depositors and members of the

acquired North Carolina association and the general public. The business plan shall address, without limitation:

a. insurance of depositors' accounts.
b. limitation of services and activities to those permitted under this Chapter to North Carolina associations.
c. conversion of corporate form or other fundamental changes.
d. closing, selling or divesting any or all North Carolina branches.
e. protection of the voting rights of North Carolina members.

(c) The Administrator shall rule on any application submitted under this section not later than 90 days following the date of submission of a complete application. If the Administrator fails to rule on the application within the requisite 90-day period, the failure to rule shall be deemed a final decision of the Administrator approving the application.

"§ 54B-48.4. Exceptions.--A North Carolina savings and loan holding company, a North Carolina association, a Southern Region savings and loan holding company, or a Southern Region association may acquire or control, and shall not cease to be a North Carolina savings and loan holding company, a North Carolina association, a Southern Region savings and loan holding company, or a Southern Region association, as the case may be, by virtue of its acquisition or control of:

(1) An association having branch offices in a state not within the region, if such association has been acquired pursuant to the provisions of Section 123 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)), or comparable provisions of state law;

(2) An association which is not a Southern Region association if such association has been acquired in the regular course of securing or collecting a debt previously contracted in good faith, and if the association or savings and loan holding company divests the securities or assets acquired within two years of the date of acquisition. A North Carolina association, a North Carolina savings and loan holding company, or a Southern Region association may retain these interests for up to three additional periods of one year if the Administrator determines that the required divestiture would create undue financial difficulties for that association or savings and loan holding company.

"§ 54B-48.5. Prohibitions.--(a) Except as may be expressly permitted by federal law, no savings and loan holding company that is not either a North Carolina savings and loan holding company or a Southern Region savings and loan holding company shall acquire a North Carolina savings and loan holding company or a North Carolina association.

(b) Except as required by federal law, a North Carolina savings and loan holding company or a Southern Region savings and loan holding company that ceases to be a North Carolina savings and loan holding company or a Southern Region savings and loan holding company shall as soon as practicable and, in all events, within one year after such event divest itself of control of all North Carolina savings and loan holding companies and all North Carolina associations: Provided, however, that such divestiture shall not be required if the North Carolina savings and loan holding company or the Southern Region savings and loan holding company ceases to be a North Carolina savings and loan holding company or a Southern Region savings and loan holding company, as the case may be, because of an increase in the deposits held by association subsidiaries not located within the region and if such increase is not the result of the acquisition of an association or savings and loan holding company. Provided further that nothing in this Article shall be construed to permit interstate branching by associations nor to require the divestiture of a North Carolina association or a North Carolina savings and loan holding company by a savings and loan holding company which acquired its subsidiary North Carolina association or North Carolina savings and loan holding company prior to the effective date of this Article. Nor shall anything in this Article be construed to prohibit any savings and loan holding company which has acquired a North Carolina association or North Carolina savings and loan holding company prior to the effective date of this Article from acquiring additional North Carolina associations or North Carolina savings and loan holding companies. Nor shall anything in this Article be construed to limit the authority of the Administrator pursuant to G.S. 54B-44.

"§ 54B-48.6. Applicable laws, rules and regulations.--(a) Any North Carolina association that is controlled by a savings and loan holding company that is not a North Carolina savings and loan holding company shall be subject to all laws of this State and all rules and regulations under such laws that are applicable to North Carolina associations that are controlled by North Carolina savings and loan holding companies.

(b) The Administrator may promulgate rules, including the imposition of a reasonable application and administration fee, to implement and effectuate the provisions of this Article.

"§ 54B-48.7. Appeal of Administrator's decision.--Notwithstanding any other provision of law, any aggrieved party in a proceeding under G.S. 54B-48.3 or G.S. 54B-48.4(2) may, within 30 days after final decision of the Administrator and by written notice to the Administrator, appeal directly to the North Carolina Court of Appeals for judicial review on the record. In the event of an appeal, the Administrator shall certify the record to the Clerk of the Court of Appeals within 30 days after filing of the appeal.

"§ 54B-48.8. Periodic reports; interstate agreements.--(a) The Administrator may from time to time require reports under oath in such scope and detail as he may reasonably determine of each Southern Region savings and loan holding company or Southern Region association subject to this Article for the purpose of

assuring continuing compliance with the provisions of this Article.

(b) The Administrator may enter into cooperative agreements with other savings and loan regulatory authorities for the periodic examination of any Southern Region savings and loan holding company or Southern Region association that has a North Carolina association subsidiary and may accept reports of examination and other records from such authorities in lieu of conducting its own examinations. The Administrator may enter into joint actions with other savings and loan regulatory authorities having concurrent jurisdiction over any Southern Region savings and loan holding company or Southern Region association that has a North Carolina association subsidiary or may take such actions independently to carry out his responsibilities under this Chapter and assure compliance with the provisions of this Article and the applicable laws of this State.

"§ 54B-48.9. Enforcement.--The Administrator shall have the power to enforce the provisions of this Article, including the divestiture requirement of G.S. 54B-48.5(b), through an action in any court of this State or any other state or in any court of the United States for the purpose of obtaining an appropriate remedy for violation of any provision of this Article, including such criminal penalties as are contemplated by G.S. 54B-66."

Sec. 2. G.S. 7A-29(a) is amended by inserting the words "the Administrator of savings and loans pursuant to Article 3A of Chapter 54B of the General Statutes," after the words "the North Carolina Utilities Commission".

Sec. 3. Nonseverability. It is the purpose of this Article to facilitate orderly development of thrift organizations that have branch offices in more than one state within the Southern Region. It is not the purpose of this Article to authorize acquisitions of North Carolina savings and loan holding companies or North Carolina associations by savings and loan holding companies that do not have their principal place of business in this State on any basis other than as expressly provided in this Article. Therefore, if any portion of this Article pertaining to the terms and conditions for and limitations upon acquisition of North Carolina savings and loan holding companies and North Carolina associations by savings and loan holding companies that do not have their principal place of business in this State is determined to be invalid for any reason by a final nonappealable order of any North Carolina or federal court of competent jurisdiction, then this entire Article shall be null and void in its entirety and shall be of no further force or effect from the effective date of such order: Provided, however, that any transaction that has been lawfully consummated pursuant to this Article prior to a determination of invalidity shall be unaffected by such determination.

Sec. 4. G.S. 54B-261(c) is rewritten to read as follows:

"(c) A savings and loan holding company may invest in any investment authorized by its Board of Directors, except as limited by regulations promulgated by the Administrator pursuant to this Article."

Sec. 5. A new subsection (d) is added to G.S. 54B-261 to read as follows:

"(d) Any entity which controls a state stock association, or acquires control of a state stock association, is a savings and loan holding company."

Sec. 6. Article 11 of Chapter 54B of the General Statutes is repealed.

Sec. 7. Section 6 of this act is effective upon ratification. Sections 1 through 5 shall become effective on the earlier of:

(1) the date on which legislation becomes effective in one of the states listed in G.S. 54B-48.2(16) which authorizes regional acquisitions of savings and loan associations and savings and loan holding companies on a reciprocal basis and which applies to savings and loan associations and savings and loan holding companies in North Carolina; or

(2) July 1, 1986.

In the General Assembly read three times and ratified, this the 5th day of July, 1984.

JAMES C. GREEN

James C. Green
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

STATE

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
I. Regulatory Structure	Administrator appointed by Secretary of Commerce. Staff of ~~fourteen~~ EIGHTEEN. Seven-member Savings and Loan Commission appointed by Governor with general oversight authority. Meets quarterly.	Commissioner of Banks Appointed for four year term by Governor subject to confirmation by General Assembly in joint session. State Banking Commission Fifteen members. State Treasurer, Chairman and ex officio member. Public members eight: seven appointed by Governor; one appointed by General Assembly. Practical Bankers six: five appointed by Governor; one appointed by General Assembly.	Credit Union Division A special fund agency supported entirely from fees assessed on credit unions, headed by the Administrator of Credit Unions who is appointed by the Secretary of Commerce and serves at the pleasure of the Secretary and the Governor. The Division's regulatory, supervisory, and examination functions are carried-out by a full time staff of the Administrator, Deputy, seven examiners, and two administrative-clerical employees. Credit Union Commission Seven members appointed for four year terms by the Governor; four from the public sector and three from the credit union industry. Meetings are usually held three times each year. Among its powers the Commission has the authority to review, approve, or modify any action taken by the Administrator of Credit Unions in the exercise of all powers, duties, and functions vested by law in the Administrator of Credit Unions.
II. Regulatory Powers	Executes all powers provided in Chapter 54B, unless otherwise provided by the Chapter. Major ministerial powers include the following: Recommends approval or denial of charters - Rules on branching matters, conversions of charters, form of ownership, mergers, dissolutions, and combinations of these - Conducts examinations - May subpoena books, records, officers, agents and employees, and other persons, and may administer oaths - May order entries corrected, and may require test appraisals, employ appraisers, and provide approved appraisers list.	Powers of Commissioner of Banks Execute and enforce all laws relating to banks - Examine affairs of banks for safety and soundness - Approval of new banks and trust companies - Approve increase and decrease in capital stock - Approve all charter amendments - Approve mergers, consolidations and reorganizations - Approve conversions of National banks to State banks - Close and liquidate banks - Approve reopening of closed banks - Approve changes of bank control - Approve temporary overinvestments in real estate, securities, and loans - Approve branches -	A broad range of statutory power, authority, and responsibilities of the Administrator, are specified throughout Chapter 54, Subchapter III, of the North Carolina General Statutes. The Administrator has the power, authority, and responsibility to: Approve the corporate charter and articles of incorporation for new credit unions - Prepare standard bylaws which may be used by credit unions in their day to day operations and approve amendments thereto - Approve or disapprove branch offices - Collect and maintain information about credit unions in regard to the organization of new credit unions - Conduct

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
Regulatory Powers	Major remedial powers: May require short form mergers, consolidations, conversions, or combination mergers and conversions when safety and soundness require - Take custody of books records and assets of an association if statutorily enumerated operational and business problems exist - May compel involuntary liquidation of an association - Assess civil penalties against associations, officers, directors and employees - Enforce criminal penalties in a court of competent jurisdiction - Remove officers, directors, and employees, and issue temporary restraining orders pending hearings.	Approve days of operation of banks - Declare emergencies for bank holidays - Require reports from banks - Approve assets of banks - Remove bank officers and employees following statutory guidelines - Fix assessments on banks to defray costs of operation of Commissioner's Office - Appoint conservator for troubled banks - Approve issuance of preferred stock - License banks to act as fiduciaries without posting bond. Powers of Banking Commission Promulgate rules and regulations for banks - Review actions of Commissioner of Banks.	examinations at least once each year of all credit unions - Fix the amount of the required surety bond and issue regulations thereto. Other statutory power and authority to: Revoke charters, liquidate credit unions - Assess penalties - Require annual and semi-annual financial and statistical reports - Prescribe records and accounting systems and procedures for credit unions, and issue regulations thereto - Remove officers and employees - See that the powers exercised by credit unions are in keeping with the law and general purpose of credit unions - See that the investments of credit unions are legal, safe and sound - See that statutory reserves are proper and in keeping with the law - Suspend the operations of credit unions due to insolvency or unsafe and unsound conditions - Appoint operating officers to manage problem credit unions - Approve or disapprove mergers or conversions - Determine and fix each year the scale of supervisory and examination fees which will be assessed - Direct the administrative affairs and operations of the Credit Union Division involving planning and providing administrative direction to the examination process, which is the primary work of the Deputy and the Credit Union Examiners. The broad statutory powers of the Administrator are best described in G.S. 54-109.12 which read as follows: "In addition to any and all other powers, duties and functions vested in the Administrator of Credit Unions under the provisions of this Article, the Administrator of Credit Unions shall have general control, management and supervision over all corporations organized under the provisions of Article 14A. All corporations organized under the provisions of 14A shall be subject to the management, control and supervision of the Administrator of Credit Unions as to their conduct, organization, management, business practices and

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
Regulatory Powers			their financial and fiscal matters. The Administrator of Credit Unions may prescribe rules and regulations for the administration of this Article, as well as rules and regulations relating to financial records, business practices and the conduct and management of credit unions, and it shall be the duty of the board of directors and of the various officers of the credit union to put into effect and to carry out such regulations."
III. Association Powers	LENDING AND INVESTMENTS Loans may be secured or unsecured, but loan procedures must be written in association's bylaws Some examples of statutorily permitted security as follows: pledged withdrawable accounts, real property, beneficial interest of real property trust, security of bonds of the State, United States, counties, cities, and other political subdivisions, surrender value of life insurance policies, mobile homes, and any other collateral deemed sufficient by the Board. Prohibited security: Capital stock or mutual capital certificates of the association making the loan.	Powers of Banks All powers conferred by law upon private corporations - Receive deposits - Make loans subject to statutory limits - Discount and negotiate notes, drafts, and bills of exchange - Buy and sell exchange, coin and bullion - Purchase real property subject to statutory limit - Purchase and sell securities without recourse on order for the account of customers - Underwrite general obligation U. S. Government and State, county, municipal obligations - Operate trust departments - Issue letters of credit - Receive money for transmission - Perform bank service corporation services - Invest in securities subject to statutory limits - Create bank acceptances - Branch statewide - Invest in stock, partnership and other business interests including acquiring subsidiary corporations subject to statutory limitations - Engage in safe deposit business.	Credit Union Powers (General Statement) The basic powers of credit unions are specified in the law and are in keeping with their longtime philosophy and statutory purpose, i.e. As a cooperative, non-profit association to encourage thrift (savings) among its members, to create a source of credit (loans) at a fair and reasonable rate of interest; and to provide an opportunity for its members to use and control their own money in order to improve their economic and social condition. Credit Unions have specific powers in regard to savings, loans, investments, and other powers dealing with its members. Under its general powers a credit union may: Savings: Receive savings from its members in the form of shares, deposits, or special-purpose thrift accounts in such amounts and upon such terms as the Board of Directors may determine - Permit shares to be subscribed to, paid for, transferred and withdrawn in such manner as the bylaws prescribe - Declare dividends on shares in the manner and form as provided in the bylaws; and determine interest rates which will be paid on deposits - Set the number of shares and the amount of deposits which may be owned by a member.

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
Association Powers	Limitations on Lending Authority: Association limited in amounts of loans to one borrower. Insider loans carry additional disclosure and approval requirements. Loans cannot carry conditions that borrower contract with specific persons or organizations for particular services. Additional Investments: Association can make any investment otherwise lawful that its Board approves. Can make any investment or engage in any activity approved for Federal association. Examples of statutorily approved investments: Federal and State obligations, FHLB obligations, deposits in banks and other associations, FNMA obligations, municipal and county obligations, stock in educational agencies, and the like. Association can invest in a service corporation up to 10% of the association's total assets. DEPOSITS AND ACCOUNTS Associations raise capital through solicitation of investments from persons or corporations. These take the form of withdrawable accounts, negotiable orders of withdrawal, and certificates of deposit in various denominations. Limitations: No interest ceiling, but Administrator can limit an individual association if solvency and safe and proper operation issues arise.		Loans: Make loans to its members for such purposes and upon such security and terms as the Board of Directors may prescribe - Can set interest rates but not to exceed 18% APR - Can make secured and unsecured (signature) loans - Can make consumer type loans, home improvement, and first mortgage loans (Over 85% are consumer type loans; 10% to 15% home improvement or first mortgage loans) - Can offer line of credit - Can declare and make interest refunds on loans. Investments: Investment of credit union funds is quite limited and restricted by law to primarily the following: In loans to its members - In fully secured obligations of the State of North Carolina, U. S., including bonds and securities - In savings accounts and time deposits in state-chartered banks, savings and loans, credit unions, and institutions insured by FDIC or FSLIC - In loans to other credit unions and deposits with central type credit unions - In investments in the North Carolina Savings Guaranty Corporation, College Foundation, etc. - In U. S. issued debentures, etc. Other Powers: Acquire, lease, hold and dispose of property - Borrow from any source in accordance with policy established by the Board of Directors - Sell all or substantially all of its assets or purchase all or substantially all of the assets of another financial institution, subject to the approval of the Administrator of Credit Unions - Sell travelers checks and money orders and charge a reasonable fee for such services, provided the instruments are payable at institutions other than a credit union - Act as fiscal agent for and receive deposits from the Federal government, this State, and any agency or political subdivision thereof - Contribute to, support or participate in any non-profit service facility whose services will benefit the credit union or its membership

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
Association Powers			subject to such regulations as are prescribed by the Administrator - Purchase or make available insurance for its directors, officers, agents, employees, and members.
IV. Deposit Insurance	Insurance of accounts required by G.S. 54B-17. Accounts insured up to $100,000. Two sources of insurance are as follows: Financial Institutions Assurance Corporation, a North Carolina mutual deposit guaranty association organized under Chapter 54B, and the Federal Savings and Loan Insurance Corporation, a national agency governed by the Federal Home Loan Bank Board.	None required under North Carolina Banking Laws.	Oepository Insurance Requirements: Mandatory Federal or State share insurance on member savings accounts - Member savings and deposit accounts must be insured by the National Credit Union Administration's Share Insurance Fund (NCUSIF) or from a mutual deposit guaranty association established under G.S. 54B, Article 12 - Any credit union which does not maintain such insurance must be dissolved by the Administrator - All accounts are insured up to a maximum of $100,000.
V. Taxation	Refer to comparative listing of taxes shown in Senate Joint Resolution 381 of the 1983 General Assembly.	Refer to comparative listing of taxes shown in Senate Joint Resolution 381 of the 1983 General Assembly.	Refer to chart in Senate Joint Resolution 381.

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
FEDERAL			
I. Regulatory Structure	The Federal Home Loan Bank Board, consisting of three members appointed by the President, governs the Federal Home Loan Bank System, and the Federal Savings and Loan Insurance Corporation. It, along with its ten major departments, is located in Washington, D. C. The Federal Home Loan Bank System is divided into twelve Districts for administrative purposes, with North Carolina being in the 4th District, headquartered in Atlanta, with an area office located at 230 S. Tryon Street, Suite 816, Charlotte, North Carolina 28202.	Comptroller of the Currency Administrator of National Banks - Part of the United States Department of the Treasury and under general direction of the Secretary of the Treasury - Appointed by the President with advice and consent of Senate for five year terms. Federal Reserve System Board of Governors: Seven members appointed by President for fourteen year terms and confirmed by Senate - Twelve Federal Reserve Banks in geographic regions - Federal Reserve Banks operated not for profit are owned by the Member banks in each district (All National banks must be members) - All depository institutions maintain legal reserves on deposits at Federal Reserve Banks - Federal Reserve Banks examine state-chartered Member banks - Open market operations, issuance of paper currency and coins, fiscal agency services - Lender of last resort to depository institutions - Enforce Federal Bank Holding Company Act. Federal Deposit Insurance Corporation Insures deposits of National and State Banks - Managed by three member Board of Directors: two appointed by President, confirmed by Senate for six year terms and one is the Comptroller of the Currency - Examines insured nonmember banks.	National Credit Union Administration Board A full-time, three member board appointed by the President; serving for six year (staggered) terms. From the three, the President designates the chairman and not more than two members may be from the same political party. The Board is responsible for the management of three agencies: The National Credit Union Administration (NCUA), the National Credit Union Share Insurance Fund (NCUSIF), and the National Credit Union Central Liquidity Facility (The Facility). National Credit Union Administration An independent agency established by Congress within the executive branch. Responsible for: (1) The day to day regulation, supervision, and examination of over 11,000 Federal credit unions, insuring the members' savings of Federal and State credit union shares; chartering and liquidation procedures, etc. (2) The administration of the National Credit Union Share Insurance Fund (NCUSIF) and the National Credit Union Central Liquidity Facility (Central Liquidity Facility). All three of the above (NCUA, NCUSIF, and the Facility) operate entirely from fees from Federal credit unions and insurance premiums from Federal and State chartered credit unions. The agency is subject to audit by the General Accounting Office. The NCUA is under the management of the three member Board. (Whereas, the NCUA is an independent agency; the Credit Union Division, at the State level, is a Division within the Department of Commerce.)

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
II. Regulatory Powers	The Board is responsible for the administration and enforcement of the Federal Home Loan Bank Act, Homeowners Loan Act of 1933, Title IV of the National Housing Act, and other major legislation affecting the thrift industry and insurance of accounts. Some of its major powers include the following: Supervision of the Federal Home Loan banks, and promulgation of regulations and orders in furtherance thereof - Organization, incorporation, examination, operation and regulation of Federal savings and loan associations, including such things as regulation of corporate structure, distribution of earnings, lending and other investment powers, approval of facility offices, regulation of mergers, conversions and dissolutions involving such associations, appointment of conservators and receivers, and the enforcement of laws, regulations or conditions against such associations or the officers or directors thereof - Direction of the Federal Savings and Loan Insurance Corporation, and examination of insured institutions, with enforcement of applicable laws, regulations, or conditions against insured institutions or officers or directors thereof.	Powers of the Comptroller of the Currency Execute laws relating to National banks and promulgate rules and regulations governing operation of National banks - Approve National bank charters - Approve mergers and conversions - Examine National banks for safety and soundness - Approve conversions of State banks to National banks - Approve branches - Approve changes of bank control - Declare emergency bank holidays - Issue cease-and-desist orders and levy fines - Close National banks, naming FDIC as receiver - Examine banks for compliance with Federal Consumer Protection Laws - Approve trust powers of National banks - Enforce Federal Securities Laws and Regulations. Powers of Federal Reserve Examine State Member banks for safety and soundness and compliance with Federal Consumer Protection Laws - Approve mergers and consolidations - Approve changing control of banks and bank holding companies - Approve acquisition by bank holding companies - Examine bank holding companies - Enforce Federal Securities Laws and Regulations - Issue cease-and-desist orders and levy fines. Powers of Federal Deposit Insurance Corporation Insures deposits of banks - Examine insured, nonmember banks for safety and soundness and compliance with Federal Consumer Protection Laws - Approve mergers and consolidations - Approve changes of bank control - Enforce Federal Securities Laws and Regulations - Issue cease and-desist orders and levy fines - Act as receiver for closed banks (FDIC must be appointed receiver of National. Commissioner of Banks must appoint FDIC, but not required).	NCUA Board Chairman Powers (See State-Chartered Credit Unions) Powers of the Chairman are quite similar to those of the State regulator, but they are broader in scope and more inclusive. Example of additional responsibilities and powers would be: Management of the National Credit Union Share Insurance Fund which insures member savings of all Federal credit unions (Over 11,000) and approximately 5,000 state-chartered credit unions - Management of a Central Liquidity Fund - In addition to total supervision and regulation of all Federal credit unions, has some control and jurisdiction over the 5,000 State credit unions because of the share insurance function - Can issue cease-and-desist orders and take possession of a credit union's business and assets.

III.	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
Association Powers	LENDING AND INVESTMENTS Statutorily approved investments, including procedures by which loans are considered, approved and made by Federal charters are set out in detail in Federal association regulations. These include, but are not limited to the following: Loans secured for residential or non-residential real estate, homes, condominiums or cooperatives, farm residences, and the like. Federal associations may also make insured and guaranteed loans, loans on low-rent housing, community development loans, home improvement loans, state housing corporation investment insured loans, finance manufactured homes, make commercial loans, overdraft loans, issue letters of credit, make loans on securities, consumer loans, issue credit cards, and make loans secured by savings accounts. They may finance leasings also. Other types of loans are also permitted. Limitations on Lending Authority: Limitations are contained throughout the Federal regulations, and relate not only to limiting certain categories of loans to a defined percentage of the assets of associations, but also relate to loans to one borrower, and loans to affiliated persons, in much the same manner as is applicable to state-chartered associations. Rules governing such are found both in the Federal association regulations and insurance of account regulations. Additional Investments: Some other enumerated investments permitted include government obligations, service corporations, commercial paper and corporate debt securities, open-end management investment companies, real estate for office and related facilities, small business investment companies, and the like.	National Bank Powers Virtually the same as State banks except National banks may not invest in and own stocks - National banks may branch to the same extent permitted state-chartered banks in the State where the National bank is located - National banks may not provide general insurance agency services (State banks not so prohibited) - National banks may charge the highest rate of interest allowed by State law for any state lender in making loans (Most favored lender).	Federal Credit Union Powers (See State-Chartered Credit Unions) Powers of Federal credit unions are quite similar to those powers of North Carolina state-chartered credit unions with the following exceptions: The various savings accounts are classified under a share account, i.e., share, share certificate, share draft accounts, therefore can offer share accounts as opposed to share and deposit accounts - The authority to charge up to 21% APR on loans or a rate as determined by the NCUA Board in concert with leaders of Congress - Can offer custodial and testamentary trust services.

Association Powers

Limitation on Investment Authority: Investments authority of Federal associations is limited in that they are specifically enumerated by regulations. Compare the North Carolina authority to the effect that an association may make any investment approved by its Board of Directors. Compare also the limitation upon investments in service corporations permitted Federals to not in excess of 3% of assets of the association, with the requirement that any investment in excess of 2% serve primarily community, inner-city or community development purposes. State-chartered associations may invest up to 10% of assets in a service corporation. One other prohibited investment of Federal associations is any transaction involving gold or gold-related instruments or securities.

DEPOSITS AND ACCOUNTS

Federal associations raise capital in the same manner as State associations, that being by solicitation of investments from persons or corporations. These take the form of withdrawable accounts, negotiable orders of withdrawal, and certificates of deposit in various denominations.

Limitations: Recent Federal legislation and regulations have removed virtually all interest rate restrictions which theretofore existed with respect to Federal charters. The major exception to this is that a maximum passbook rate of 5-1/2% is retained for Federal charters and FSLIC insured associations.

	SAVINGS AND LOAN ASSOCIATIONS	BANKS	CREDIT UNIONS
IV. Deposit Insurance	National Housing Act requires that the Federal Savings and Loan Insurance Corporation insure the accounts of all Federal savings and loan associations, and all Federal savings banks, except those Federal savings banks insured by the FDIC. Accounts insured up to $100,000.	Deposit Insurance Requirements: National banks must have FDIC insurance. State-chartered Member banks must have FDIC insurance.	Depository Insurance Requirement: All Federal credit unions must have member share accounts insured by the NCUSIF. Accounts insured up to $100,000.
V. Taxation	Taxed in general in the same manner as other business corporations, with the major exception being that referred to as the "Bad debt" deduction. Broadly stated, an association may deduct a full 40% of its reserves which it may establish for bad debts, if no less than 82% of its assets consist of certain defined qualifying assets, the principal being real estate loans. The deduction reduces on a scale with reduction in qualifying assets, until it is lost when qualifying assets fall below 60%.	All banks are subject to the same Federal income taxes applicable to business corporations.	Exempted from all Federal, State, and local taxes, but are subject to local property taxes.

A BRIEF HISTORY OF STATE BANK SUPERVISION IN NORTH CAROLINA

BY: James S. Currie, Commissioner of Banks

The duty of the State to supervise banks was not recognized by the General Assembly until 1887, at which session banks operating in North Carolina were required to make reports to the State Treasurer at least twice each year, and some limited authority was given to make special examinations to determine a bank's solvency.

The first consolidated statement of the banks of the State was made by the State Treasurer in 1887, and the total resources were slightly more than $3,000,000.

At the session of 1899 the Corporation Commission was created, and the supervision of banks was placed under its jurisdiction. Prior to creation of the Corporation Commission all corporations, including banks, were chartered by the General Assembly.

In 1903 the Legislature gave the Corporation Commission authority to make rules to govern banks, provided such rules were not inconsistent with the banking law.

The General Assembly of 1921 enacted the first real statutes with reference to supervision and examination of banks, including discretionary powers to refuse bank charters, providing for the organization of a Banking Department within the Corporation Commission, and the naming of a Chief State Bank Examiner.

The General Assembly of 1927 passed the Liquidation Act, placing the liquidation of all closed banks under the Corporation Commission. This method of liquidating closed banks has been proved to be very satisfactory.

The Seawell Bill passed by the 1931 General Assembly and ratified on April 2, 1931, created the position of Commissioner of Banks, and gave him the duties, power and authority to supervise and liquidate all State Banks which had been exercised by the Corporation Commission since 1899. This Bill also provided for an Advisory Commission to consist of the State Treasurer, Attorney General, two practical bankers and one business man.

The authority to license banks to do a trust business was transferred from the Insurance Commissioner to the Commissioner of Banks at the 1931 session, and provision was made for a closer supervision of trust business in the future.

The 1939 session of the General Assembly created the State Banking Commission which superseded the Advisory Commission to the Commissioner of Banks, becoming effective April 1, 1939. This Commission consisted of the State Treasurer and the Attorney General as ex officio members, the State Treasurer to serve as Chairman of the Commission, and five members appointed by the Governor, four of whom were practical bankers and one a business man who is not an executive officer of any bank, the appointive members serving for a period of four years.

Since May 27, 1931, there have been eight Commissioners of Banks, including the present Commissioner, James S. Currie, who has served since September 1, 1978.

The State Banking Commission is today comprised of 15 members as follows:

(a) State Treasurer, Chairman and ex officio member.

(b) Eight public members. Seven appointed by the Governor and one appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives.

(c) Six practical banker members. Five appointed by the Governor and one appointed by the General Assembly upon recommendation of the President of the Senate.

The Commissioner of Banks is appointed for four-year terms by the Governor subject to confirmation by the General Assembly in joint session.

Attached is a list of the State Banking Commission as it is presently constituted.

Today, in addition to supervision over state banks, the Commissioner of Banks is responsible for licensing and supervising consumer finance companies, the sales of checks and money orders, and funeral and burial trust funds. There are 90 consumer finance licensees operating at 573 locations in North Carolina. There are 372 funeral and burial trust fund licensees.

There are presently 20 National banks with 869 branches in North Carolina, and the 50 State banks have 918 branches. We also have two state trust companies which do not accept deposits.

Attached is a listing of all banks in North Carolina, both National and State. These schedules show the banks ranked by assets and by deposits as of September 30, 1983, which is the latest date available. You will note that the three largest banks, NCNB, Wachovia and First Union National, have 53.47% of all deposits and 60.58% of all commercial bank assets in North Carolina. These banks are National banks which are not under the jurisdiction of the Commissioner of Banks or the General Assembly.

STATE BANKING COMMISSION

The Honorable Harlan E. Boyles
Chairman, State Banking Commission
325 North Salisbury Street
Raleigh, North Carolina 27611

Mr. John C. Bolt, Jr.
Member, State Banking Commission
Post Office Box 641
Wilson, North Carolina 27893

* Mr. W. Frank Comer
Member, State Banking Commission
801 Blessing Drive
Dobson, North Carolina 27017

* Mr. Donald A. Davis
Member, State Banking Commission
Post Office Box 1007
Raleigh, North Carolina 27602

* Mr. Robert H. Gage
Member, State Banking Commission
305 College Street
Morganton, North Carolina 28655

* Mr. C. Frank Griffin
Member, State Banking Commission
Post Office Drawer 99
Monroe, North Carolina 28110

* Mr. A. D. "Zander" Guy
Member, State Banking Commission
Post Office Box 340
511 New Bridge Street
Jacksonville, North Carolina 28540

* Mrs. Katherine Harper
Member, State Banking Commission
Post Office Box 11411
Charlotte, North Carolina 28220-1411

** Mr. Steven A. Hockfield
Member, State Banking Commission
Suite 100 Civic Plaza
801 E. Trade Street
Charlotte, North Carolina 28202

** Mr. Paul L. Jones
Member, State Banking Commission
Post Office Box 3334
Kinston, North Carolina 28501

** Mr. Joe I. Marshall
Member, State Banking Commission
Post Office Box 610
Madison, North Carolina 27025

* Mr. Robert V. Owens, Jr.
Member, State Banking Commission
Route 1, Box 729
Nags Head, North Carolina 27959

* Ms. Helen Ann Powers
Member, State Banking Commission
Crowfields Drive CC-2
Asheville, North Carolina 28803

* Mr. J. J. Sansom, Jr.
Member, State Banking Commission
Post Office Box 1932
Durham, North Carolina 27702

** Mr. E. Rhone Sasser
Member, State Banking Commission
Post Office Box 632
Whiteville, North Carolina 28472

* Term Expires 4-1-85
** Term Expires 4-1-87

December 21, 1983

CERT	ST	CITY	BANK NAME	RC/DEPOSITS	SHARE	CL	RANK
817	NC	WINSTON-SALEM	WACHOVIA BANK AND TR	4,787,600	20.23	N	1.
4922	NC	CHARLOTTE	NCNB NATIONAL BANK O	4,762,582	20.12	N	2.
6535	NC	CHARLOTTE	FIRST UNION NATIONAL	3,124,524	13.12	N	3.
15525	NC	NORTH WILKESB	THE NORTHWESTERN BAN	1,950,670	8.24	NM	4.
11253	NC	RALEIGH	FIRST-CITIZENS BANK	1,644,120	6.95	NM	5.
9845	NC	WILSON	BRANCH BANKING AND T	1,449,551	6.12	NM	6.
2225	NC	WHITEVILLE	UNITED CAROLINA BANK	854,221	3.61	NM	7.
4893	NC	LUMBERTON	SOUTHERN NATIONAL BA	819,129	3.46	N	8.
2233	NC	DURHAM	CENTRAL CAROLINA BAN	699,691	2.96	N	9.
5242	NC	ROCKY MOUNT	PEOPLES BANK & TRUST	493,838	2.11	NM	10.
1927	NC	ROCKY MOUNT	THE PLANTERS NATIONA	437,052	1.85	N	11.
2029	NC	SANFORD	THE CAROLINA BANK	210,135	0.89	NM	12.
9252	NC	SALISBURY	SECURITY BANK AND TR	153,512	0.80	NM	13.
12267	NC	HIGH POINT	HIGH POINT BANK AND	142,997	0.60	NM	14.
16799	NC	LEXINGTON	LEXINGTON STATE BANK	128,353	0.54	NM	15.
11507	NC	FUQUAY-VARINA	THE FIDELITY BANK	110,071	0.47	NM	16.
9252	NC	DAVIDSON	PIEDMONT BANK AND TR	108,493	0.46	SM	17.
15359	NC	MOUNT OLIVE	SOUTHERN BANK AND TR	97,486	0.41	NM	18.

5952	NC	GRANITE FALLS	BANK OF GRANITE	86,762	0.37	NM	19
4910	NC	SHELBY	THE FIRST NATIONAL B	75,232	0.32	N	20
4879	NC	ASHEBORO	THE FIRST NATIONAL B	71,095	0.30	N	21
22221	NC	RALEIGH	STATE BANK OF RALEIG	69,768	0.29	NM	22
2017	NC	ENGELHARD	THE EAST CAROLINA BA	69,232	0.29	NM	23
23657	NC	CHARLOTTE	REPUBLIC BANK & TRUS	67,578	0.29	NM	24
4926	NC	REIDSVILLE	FIRST NATIONAL BANK	63,364	0.27	N	25
17018	NC	OXFORD	THE UNION NATIONAL B	58,189	0.25	N	26
5956	NC	CATAWBA	PEOPLES BANK	54,142	0.23	NM	27
15319	NC	TROY	BANK OF MONTGOMERY	51,209	0.22	NM	28
4886	NC	CONCORD	THE CONCORD NATIONAL	49,284	0.21	N	29
12266	NC	DURHAM	MECHANICS & FARMERS	48,473	0.20	NM	30
14541	NC	GATESVILLE	TARHEEL BANK & TRUST	46,260	0.20	NM	31
2236	NC	GRANITE QUARR	FARMERS & MERCHANTS	45,273	0.19	NM	32
21652	NC	SANFORD	MID-SOUTH BANK AND T	44,436	0.19	NM	33
15117	NC	ROCKINGHAM	RICHMOND COUNTY BANK	42,449	0.18	NM	34
812	NC	CONCORD	CITIZENS NATIONAL BA	42,293	0.18	N	35
23145	NC	GREENSBORO	COMMUNITY BANK OF GA	42,038	0.18	NM	36
376	NC	WINTERVILLE	FIRST STATE BANK	40,291	0.17	NM	37

373	NC	SUNBURY	FARMERS BANK OF SUNB	40,233	0.17	NM	38.
4912	NC	WADESBORO	THE FIRST NATIONAL B	36,965	0.16	N	39.
9939	NC	LUCAMA	THE HERITAGE BANK	36,330	0.15	NM	40.
21513	NC	PILOT MOUNTAI	BANK OF PILOT MOUNTA	35,251	0.15	NM	41.
21344	NC	WINSTON-SALEM	CITIZENS NATIONAL BA	31,169	0.13	N	42.
13260	NC	SMITHFIELD	FIRST NATIONAL BANK	31,110	0.13	N	43.
3630	NC	PILOT MOUNTAI	FARMERS BANK	28,724	0.12	NM	44.
2039	NC	MOYOCK	THE BANK OF CURRITUC	25,774	0.11	NM	45.
22234	NC	GRAHAM	BANK OF ALAMANCE	24,471	0.10	NM	46.
14611	NC	CHERRYVILLE	CHERRYVILLE NATIONAL	24,392	0.10	N	47.
19961	NC	ELKIN	YADKIN VALLEY BANK A	23,185	0.10	NM	48.
24382	NC	GREENSBORO	TRIAD BANK	22,922	0.10	NM	49.
21114	NC	LUMBERTON	CANAL TRUST COMPANY	22,822	0.10	NI	50.
22746	NC	ASHEBORO	RANDOLPH BANK & TRUS	22,284	0.09	NM	51.
21052	NC	ABBEVILLE	COLUMBUS NATIONAL BA	19,932	0.08	N	52.
23165	NC	HIGHLANDS	CAROLINA MOUNTAIN BA	18,370	0.08	NM	53.
13191	NC	NEWLAND	AVERY COUNTY BANK	18,222	0.08	NM	54.
11506	NC	FOUR OAKS	BANK OF FOUR OAKS	17,280	0.07	NM	55.
2045	NC	LANDIS	MERCHANTS & FARMERS	15,228	0.06	NM	56.

9949	NC	DURHAM	GUARANTY STATE BANK	14,696	0.06	NM	57.
9853	NC	HIGH POINT	CENTRAL SAVINGS BANK	14,271	0.06	NM	58.
23715	NC	CHAPEL HILL	THE VILLAGE BANK OF	14,188	0.06	NM	59.
0534	NC	GREENSBORO	GREENSBORO NATIONAL	11,800	0.05	N	60.
14427	NC	ASHEVILLE	FIRST COMMERCIAL BAN	10,246	0.04	NM	61.
21689	NC	CHARLOTTE	METROLINA NATIONAL B	10,111	0.04	N	62.
0559	NC	PEMBROKE	LUMBEE BANK	9,653	0.04	NM	63.
1057	NC	PINE LEVEL	BANK OF PINE LEVEL	9,452	0.04	NM	64.
2751	NC	MOREHEAD CITY	COUNTY BANK & TRUST	8,553	0.04	NM	65.
3925	NC	CANDOR	THE BANK OF CANDOR	7,661	0.03	NM	66.
2962	NC	BLADENBORO	THE BANK OF BLADENBO	7,281	0.03	NM	67.
4525	NC	LINCOLNTON	LINCOLN BANK OF NORT	5,061	0.02	NM	68.
9937	NC	BURLINGTON	THE MORRIS PLAN INDU	4,411	0.02	NM	69.
2238	NC	FAYETTEVILLE	UNITED NATIONAL BANK	4,251	0.02	N	70.
4535	NC	STATESVILLE	THE BANK OF IREDELL	3,999	0.02	NM	71.
4531	NC	MURPHY	CITIZENS BANK	3,117	0.01	NM	72.
		08/30/83		23,669,500 TOTAL			

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CERT	ST	CITY	BANK NAME	RC/ASSETS	SHARE	CI	RA
4992	NC	CHARLOTTE	NCNB NATIONAL BANK O	7,274,932	22.40	N	
817	NC	WINSTON-SALEM	WACHOVIA BANK AND TR	6,407,731	19.73	N	
4935	NC	CHARLOTTE	FIRST UNION NATIONAL	5,990,734	18.45	N	
15505	NC	NORTH WILKESB	THE NORTHWESTERN BAN	2,415,800	7.44	NM	
11063	NC	RALEIGH	FIRST-CITIZENS BANK	1,880,673	5.79	NM	
9848	NC	WILSON	BRANCH BANKING AND T	1,644,944	5.07	NM	
2025	NC	WHITEVILLE	UNITED CAROLINA BANK	999,355	3.05	NM	
4899	NC	LUMBERTON	SOUTHERN NATIONAL BA	901,327	2.78	N	
2033	NC	DURHAM	CENTRAL CAROLINA BAN	797,192	2.45	N	
5942	NC	ROCKY MOUNT	PEOPLES BANK & TRUST	583,125	1.79	NM	1
4977	NC	ROCKY MOUNT	THE PLANTERS NATIONA	521,997	1.55	N	1
2029	NC	SANFORD	THE CAROLINA BANK	256,389	0.79	NM	1
9859	NC	SALISBURY	SECURITY BANK AND TR	210,710	0.65	NM	1
12267	NC	HIGH POINT	HIGH POINT BANK AND	151,335	0.50	NM	1
9853	NC	DAVIDSON	PIEDMONT BANK AND TR	152,338	0.47	SM	1
15799	NC	LEXINGTON	LEXINGTON STATE BANK	144,550	0.45	NM	1
11527	NC	ROCKY-VARINA	THE FIDELITY BANK	124,173	0.38	NM	1
15259	NC	MOUNT OLIVE	SOUTHERN BANK AND TR	110,331	0.34	NM	1

5952	NC	GRANITE FALLS	BANK OF GRANITE	98,563	0.30	NM	1
4912	NC	SHELBY	THE FIRST NATIONAL B	95,180	0.30	N	2
22667	NC	CHARLOTTE	REPUBLIC BANK & TRUS	83,509	0.26	NM	2
4879	NC	ASHEBORO	THE FIRST NATIONAL B	82,271	0.25	N	2
22891	NC	RALEIGH	STATE BANK OF RALEIG	76,797	0.24	NM	2
2017	NC	ENGELHARD	THE EAST CAROLINA BA	76,196	0.23	NM	2
4906	NC	REIDSVILLE	FIRST NATIONAL BANK	72,982	0.22	N	2
12018	NC	OXFORD	THE UNION NATIONAL B	69,467	0.21	N	2
5956	NC	CATAWBA	PEOPLES BANK	62,634	0.19	NM	2
15219	NC	TROY	BANK OF MONTGOMERY	57,337	0.18	NM	2
4936	NC	CONCORD	THE CONCORD NATIONAL	55,909	0.17	N	2
12235	NC	DURHAM	MECHANICS & FARMERS	54,316	0.17	NM	3
14544	NC	GATESVILLE	TARHEEL BANK & TRUST	52,857	0.16	NM	3
2036	NC	GRANITE QUARR	FARMERS & MERCHANTS	50,473	0.16	NM	3
21652	NC	SANFORD	MID-SOUTH BANK AND T	49,739	0.15	NM	3
15117	NC	ROCKINGHAM	RICHMOND COUNTY BANK	49,132	0.15	NM	3
912	NC	CONCORD	CITIZENS NATIONAL BA	47,392	0.15	N	3
22145	NC	GREENSBORO	COMMUNITY BANK OF CA	47,156	0.15	NM	3
375	NC	WINTERVILLE	FIRST STATE BANK	45,851	0.14	NM	3

373	NC	SUNBURY	FARMERS BANK OF SUNB	43,234	0.13	NM	38.
4912	NC	ADESBORO	THE FIRST NATIONAL B	42,160	0.13	N	39.
9636	NC	LUCAMS	THE HERITAGE BANK	41,962	0.13	NM	40.
11513	NC	PILOT MOUNTAI	BANK OF PILOT MOUNTA	39,469	0.12	NM	41.
13230	NC	SMITHFIELD	FIRST NATIONAL BANK	37,988	0.12	N	42.
21344	NC	WINSTON-SALEM	CITIZENS NATIONAL BA	35,874	0.11	N	43.
9630	NC	PILOT MOUNTAI	FARMERS BANK	32,123	0.10	NM	44.
2239	NC	MOYOCK	THE BANK OF CURRITUC	29,583	0.09	NM	45.
22232	NC	GRAHAM	BANK OF ALAMANCE	28,757	0.09	NM	46.
14611	NC	CHERRYVILLE	CHERRYVILLE NATIONAL	27,291	0.09	N	47.
19861	NC	ELKIN	YADKIN VALLEY BANK A	26,214	0.08	NM	48.
24032	NC	GREENSBORO	TRIAD BANK	26,140	0.08	NM	49.
21114	NC	LUMBERTON	CANAL TRUST COMPANY	26,140	0.08	NM	50.
22746	NC	ASHEBORO	RANDOLPH BANK & TRUS	25,440	0.08	NM	51.
13191	NC	NEWLAND	AVERY COUNTY BANK	22,417	0.07	NM	52.
21352	NC	WHITEVILLE	COLUMBUS NATIONAL BA	21,589	0.07	N	53.
11526	NC	FOUR OAKS	BANK OF FOUR OAKS	20,094	0.06	NM	54.
23155	NC	HIGHLANDS	CAROLINA MOUNTAIN BA	19,822	0.06	NM	55.
2046	NC	LANDIS	MERCHANTS & FARMERS	17,701	0.05	NM	56.

23715	NC	CHAPEL HILL	THE VILLAGE BANK OF	16,933	0.05	NM	57.
9955	NC	HIGH POINT	CENTRAL SAVINGS BANK	16,612	0.05	NM	58.
9849	NC	DURHAM	GUARANTY STATE BANK	16,398	0.05	NM	59.
21439	NC	CHARLOTTE	METROLINA NATIONAL B	14,432	0.04	N	60.
20534	NC	GREENSBORO	GREENSBORO NATIONAL	13,457	0.04	N	61.
21427	NC	ASHEVILLE	FIRST COMMERCIAL BAN	13,392	0.04	NM	62.
20563	NC	PEMBROKE	LUMBEE BANK	10,908	0.03	NM	63.
11067	NC	PINE LEVEL	BANK OF PINE LEVEL	10,848	0.03	NM	64.
22791	NC	MOREHEAD CITY	COUNTY BANK & TRUST	9,402	0.03	NM	65.
12952	NC	BLADENBORO	THE BANK OF BLADENBO	8,599	0.03	NM	66.
3925	NC	CANDOR	THE BANK OF CANDOR	8,558	0.03	NM	67.
24505	NC	LINCOLNTON	LINCOLN BANK OF NORT	5,596	0.02	NM	68.
24526	NC	STATESVILLE	THE BANK OF IREDELL	5,996	0.02	NM	69.
9837	NC	BURLINGTON	THE MORRIS PLAN INDU	5,997	0.02	NM	70.
24591	NC	MURPHY	CITIZENS BANK	4,832	0.01	NM	71.
22238	NC	FAYETTEVILLE	UNITED NATIONAL BANK	4,213	0.01	N	72.
		08/30/83		32,473,177	TOTAL		

HERFENDAHL INDEX = 0.137

APPENDIX G

Mr. Hugh
Exhibit I

COMMENTS TO THE LEGISLATIVE RESEARCH COMMISSION

ON THE

STUDY OF THE REGULATION AND TAXATION OF

BANKS, SAVINGS & LOAN ASSOCIATIONS, AND CREDIT UNIONS

JANUARY 12, 1984

Chairmen Edwards and Warren, Members of the Commission:

Gentlemen, thank you for inviting me to appear before you today. As Administrator of Credit Unions, I will try to provide you some information about state chartered credit unions as it might relate to the questions of taxation and regulation.

I believe, however, Secretary Hope (Secretary of Commerce, C. C. Hope) has just provided you with the Commerce Department's thoughts and comments in regard to the specific areas on which I was asked to make comments. Therefore, I will not take up your time to repeat them. His comments and the information he gave you should provide some comparisons between the three regulatory agencies.

I was asked, however, to outline the history and jurisdiction of the Credit Union Commission. Before I do, I would like to give you a few facts about our Division and the number, size, and types of state-chartered credit unions we regulate.

THE DIVISION

The Credit Union Division is a Special Fund agency and our operation

is supported entirely by supervisory and examination fees paid by the state credit unions. Absolutely no General Fund monies are involved in our budget. But since the funds are invested by the State Treasurer, the General Fund does receive the interest earned on our cash balances. Our 1983-84 budget is $526,856. Although we have 13 budgeted positions, we have operated the last three years with 11 filled positions -- Administrator, Deputy, seven Examiners and two administrative-clerical positions.

During the reorganization of state government in 1971, the Credit Union Division was transferred from the N. C. Department of Agriculture to the Commerce Department as a type II transfer. The Administrator and the division exercises all of their prescribed statutory powers independent of the Secretary of Commerce, but the general administration and management functions are performed under the direction and supervision of the Secretary.

NUMBER AND SIZE OF CREDIT UNIONS

Presently there are 202 state chartered credit unions and 125 federal credit unions located in North Carolina. As of December, 1982, total assets of state chartered credit unions were just over $1 billion or $1,054,000,000, compared to assets of approximately $550,000,000 for the federal credit unions.

Less than one-tenth of the population or approximately 530,000 people are members of the 202 credit unions. It is estimated that over one-third of the federal and state chartered credit unions have less than one full-time employee; and there are approximately

there are various state-wide religious association credit unions, church credit unions, and credit unions for handicapped groups such as an association of all blind people in North Carolina. There are approximately twenty rural-community type credit unions.

CREDIT UNION COMMISSION

In regard to the history and jurisdiction of the Credit Union Commission, it was established in 1971 and had its first meeting in 1972. It is made up of seven members appointed by the Governor; four from the public sector and three from the credit union industry.

The Commission usually meets three times each year. During the last five years, the average Commission cost per fiscal year has been approximately $1,550.00.

Since 1971, the Commission has functioned primarily in a review and advisory capacity. Although the Administrator has statutory powers to issue various rules and regulations, the Commission is vested with full power and authority to review, approve, or modify any action taken by the Administrator of Credit Unions in the exercise of all powers, duties, and functions vested by law and exercised by the Administrator under the credit union laws of the state.

Therefore, since they have review power, most rules are adopted during a public hearing and in conjunction with a Commission meeting so that the Administrator has the opportunity to receive the

5,000 non-compensated, volunteer credit union directors and officials.

Some 1982 data from the National Credit Union Administration (NCUA) indicates that for all of our state chartered credit unions, the average savings per member in our 202 credit unions is approximately $1,910.00 and the average loans outstanding per member is $2,192.00. This illustrates that the vast majority of the credit union loans are the small consumer-type. There are other statistics which indicate that out of the total savings on deposit in all the financial institutions in North Carolina, the savings on deposit in the 327 credit unions make up about 4-5% of the total.

So in terms of total assets, percent of total deposits, average size of a member's savings account, and average amount of a member's loans outstanding, these figures for credit unions would probably appear relatively small when compared with those of the other financial institutions.

TYPES OF CREDIT UNIONS

There are about as many different types of credit unions as there are credit unions (202). These are primarily occupational or employer types, or associational, residential or community types. In the employer type, there are credit unions made up of employees of governmental units (state and local); employees of the postal service; newspaper companies; textile and manufacturing companies; farm, meat, dairy business; insurance companies; public utilities; hospitals; paper and tobacco companies; etc. Under associational,

Commission's advice and concurrence. There are a few rules which can not be adopted without the advice and consent of the Commission.

The Commission has provided a needed link between the Credit Unions and the Administrator and vice versa.

This concludes my remarks. Thank you for inviting me to appear. The Credit Union Division and the Commission will be glad to provide you with any information which we have, or which we are able to provide.

Ray L. Wyse

George Young
Exhibit III

APPENDIX H

COMMENTS TO THE LEGISLATIVE RESEARCH COMMISSION

ON THE

STUDY OF THE REGULATION AND TAXATION OF

BANKS, SAVINGS & LOAN ASSOCIATIONS, AND CREDIT UNIONS

JANUARY 12, 1984

Chairmen Edwards and Warren, Members of the Commission:

I appreciate the invitation to appear before you today. Secretary Hope has covered several of the specific areas that I was asked to make comments about and I see no reason to restate them.

The Savings and Loan Division regulates a total of 82 state chartered savings and loans with total assets of about $5.5 billion. One year ago, we had 90 state chartered associations with combined assets of just over $5 billion. To give you more perspective, 7 years ago there were 138 state chartered institutions with $4.8 billion in assets. At the end of 1979, the number increased to 157, with $6.5 billion in assets. Industry consolidation has brought us back to our present number of 82.

At year end 1983, there were 68 federally chartered savings and loans located in North Carolina representing combined assets of just over $9.3 billion. This compares with 48 associations and total assets of $4.9 billion at the end of 1979.

The Savings and Loan Division is a special fund agency and our operation is supported by supervisory and examination fees plus various application fees paid by the state chartered associations. No general fund monies are involved in our budget.

Our 1983-84 budget is $761,181. I am appointed by the Secretary of Commerce and serve at his pleasure. Our staff consists of a Deputy Administrator, Chief Examiner, nine Field Examiners, Legal Specialist, Administrative Secretary, and Clerk Typist. Our main statutory duty is the protection of the investing public by assuring the safety and soundness of the state chartered associations.

The Division was placed in the Department of Commerce as a Type II Transfer in the reorganization of state government that took place in the early 1970's. The Division exercises all of its prescribed statutory powers independent of the head of the Department of Commerce, except that management functions are performed under the direction and supervision of the Secretary of Commerce.

The Savings and Loan Commission is composed of seven members appointed by the Governor to four year staggered terms. A majority of the members must be public members and at least two members must be active managing officers of state chartered associations. The Commission may review, approve, disapprove, or modify any action taken by the Administrator. Quarterly meetings are required for the Savings and Loan Commission.

The changes that have and are continuing to take place throughout the financial industry have been responded to by the Division and the General Assembly. The General Assembly approved a complete recodification of the statutes regulating state chartered associations in the 1981 session. Significant changes and additions to the new statutes were made by the General Assembly both in the short session of 1982 and the session just completed. These modifications were necessary in order to keep

pace with the rapidly developing new approaches in the financial institution regulatory environment.

The statutory changes I have briefly mentioned have allowed the state chartered savings and loans the additional flexibility and powers to enable them to better meet the competitive forces in the marketplace. The associations are ~~more~~ better able to serve their market and can offer a wider range of services than was possible three years ago. In spite of all this, we continue to see today a savings and loan industry that is still predominantly gearing its investments and business to real estate lending. A number of our associations are being innovative in their approaches to real estate lending and as a result, are better able to meet the public's needs in this very important area.

I think we will continue to see the savings and loan industry in a consolidation and growth posture that has been prevalent for the last two years. Although our final statistical information is not complete for 1983, we have had eight mergers take place during the year and the real deposit growth just for state chartered associations will be in the $500 to $600 million range. We anticipate that the new charter activity will begin to show life after several years of being dormant. We do not, however, expect the level of new charter application activity we experienced in the 1978-1980 time period.

Again, I thank you for your invitation to appear here today. We will be glad to provide whatever information you would want and are capable of providing.

APPENDIX I

REMARKS OF JOHN R. JORDAN, JR., LEGISLATIVE COUNSEL NORTH CAROLINA BANKERS ASSOCIATION, TO A MEETING OF THE LEGISLATIVE RESEARCH COMMISSION STUDY COMMITTEE ON THE REGULATION AND TAXATION OF BANKS AND OTHER FINANCIAL INSTITUTIONS

Senator Edwards, Representative Warren, distinguished members of the Study Commission. I appreciate the opportunity to speak a brief word on behalf of the North Carolina Bankers Association. First, let me say that it is the position of the banking industry of North Carolina that the structure of providing financial services to the people of North Carolina is sound. Indeed, as to the portion of the structure relating to banks, I can tell you that the banking system of North Carolina is the envy of many other jurisdictions to which my practice takes me.

Nevertheless, we deem it appropriate that you further concern yourselves with the topics set out in your notice of 16 December 1983. They are:

(1) whether there should be a single state regulatory agency to regulate and supervise all financial institutions in North Carolina;

(2) whether there are state statutory and regulatory provisions resulting in inequitable treatment of different types of financial institutions and whether the provisions ought to be changed; and

(3) whether there are inequities in the state taxation of different types of financial institutions, and to indicate specifically how these inequities should be remedied.

As is known to most in this room, these are areas of interest which have already received much study in the past. Nevertheless, we welcome the opportunity to assist you in every way as you begin further consideration of them.

Finally, as to the necessity of a single state regulatory agency. The North Carolina Bankers Association has not taken a specific position on this issue at this time. Since you have asked me to express my personal opinion on the single [illegible] concept and I am glad to do so. I would offer a word of caution. [illegible] Banking throughout the nation is in a transition period. We have all seen the sweeping changes which have taken place within the last few years. Even greater changes lie immediately ahead. Therefore, it is my view that we should proceed with a while before changing the existing regulatory [illegible] in North Carolina. Nevertheless, you may be sure that we will abide by the decision of the General Assembly regardless of what form that decision might take.

As to the specific [illegible] which items set out in your notice, I will address them [illegible] The question of financial institutions has been undergoing study and [illegible] for some 12 years now beginning with the legislative session of [illegible]

[illegible] This is particularly true as to savings and loan associations who sought and obtained from this

General Assembly the right to pay income taxes on the basis of a business corporation. In this particular light exemption from Intangibles Tax of savings accounts in savings and loan associations becomes glaringly inequitable.

You have been very patient here today in hearing out a series of speakers. I will not impose upon your time further. I have, as evidence of our good faith and our desire to cooperate with you fully the NCBA has created a special task force which has been assigned to this Study Committee. The members of this task force stand ready to provide you with any information you require of us to assist you in every way possible. I would like to introduce them at this time as all four members of the task force are present. They are:

Mr. Joseph Sandlin, of Southern National Bank

Mr. Larry Hazeltine, of NCNB National Bank

Mr. Thomas Sanders, of Wachovia National Bank

Mr. Jim Early, of First Union National Bank

Now, Mr. Chairman, I again thank you for your courtesy and stand ready to respond to any questions I can answer.

Presentation on Behalf of the
NORTH CAROLINA LEAGUE OF SAVINGS INSTITUTIONS
by
Gordon P. Allen, Legislative Agent
January 12, 1984

Chairmen Edwards and Warren, Members of the Committee:

My name is Gordon Allen and I serve as Legislative Agent for the North Carolina League of Savings Institutions. We appreciate the opportunity to appear before you today to respond to the questions asked by your staff and to make suggestions as to those issues which the League feels merit consideration by this Committee.

If I may spend a moment to share with you some recent history concerning regulation and taxation of savings and loans, I will be better able to address your specific questions. During the 1981 Session of the North Carolina General Assembly, two major pieces of legislation were passed which will have a dramatic impact on our industry in the years ahead. First, the entire body of law governing the organization and operation of state chartered savings and loan associations was rewritten. The result of a year long study ably guided by Senator Edwards and former Representative Ruth Cook, this rewrite accomplished a change in philosophy in the regulation and supervision of savings and loans. It considerably broadened the operational latitude for S&L's while providing for regulators the tools necessary to assure that any new powers were exercised in a manner designed to preserve the safety and soundness of the institution and thus protect the funds of the depositors. The second piece of legislation revised the method of taxation of S&L's to one which parallels that applicable to business corporations generally in North Carolina. These two acts were ratified within an economic environment of excessively high interest rates which saw virtually the entire savings and loan industry losing substantial sums of money. That state of economy made clear the need to permit S&L's sufficient diversity of investments to remain viable throughout any economic cycles. It also

underscored the unfairness of the then current system of taxation which, because it was not tied to income, became confiscatory in nature as taxes remained high while the taxpaying S&L's were losing money.

Over the past several years, the laws and regulations governing the organization and operation of federally chartered S&L's have also been greatly modified, primarily by two Congressional Acts: the Depository Institutions Deregulation and Monetary Control Act of 1980 and the Garn-St Germain Depository Institution Amendments of 1982. As the 1981 state law did for state chartered savings and loans these two acts broadened considerably the investment authority of federal S&L's. They also deregulated completely, for all practical purposes, the rates which financial institutions could pay for savings deposits. As with the state law changes, the primary impetus behind the federal enactments was the need to assure that federal S&L's had sufficient investment flexibility to assure that they would be viable even during severe economic cycles of high interest rates.

One comment is in order regarding what was not accomplished by these changes in state and federal law. Savings and loans were not magically converted to banks. The major component of our industry's investment portfolios continues to be residential mortgages. More importantly, despite the breadth of new investment authorities, S&L's in North Carolina continue to invest the vast majority of new deposits in residential mortgages. The role our industry was created to fulfill has not changed at all. The new powers were intended, and have been used, and will continue to be used, to assure our ability to remain the primary provider of home mortgage financing.

With this background in mind, we can turn to the specific questions posed in the Committee's letter requesting our appearance today.

(1) Should there be a single state regulatory agency to regulate and supervise all financial institutions in North Carolina?

We believe the current regulatory structure to be adequate and efficient. There are substantial functional and structural differences among banks,

savings and loans, and credit unions. Properly so, as these different types of institutions play different roles in our state's economy. This is not to suggest that there is no overlap in those roles. That overlap, however, serves only to create healthy competition which inures to the benefit of the consuming public. This competitive overlap should not obscure the fundamental differences which define the different types of financial institutions and which warrant separate regulators. If an effort were made to consolidate the regulatory function; we believe it would then become necessary to establish separate divisions within that new agency to deal with each type of institution. We would, in effect, be right where we are now, with three separate agencies in a single departmnt.

The savings and loan industry has just emerged, is still emerging, from the most devastating period in its history. During that period, the Savings and Loan Division was extremely effective in dealing with any potential problems before they became critical. Other financial institutions were impacted differently by the high interest rates which caused so much trouble for our industry. There is no reason to believe that a single agency could have responded better, or indeed as well, to the traumas of the past few years. The North Carolina League of Savings Institutions opposes consolidation of the state's financial regulators.

(2) Are there state statutory and regulatory provisions resulting in inequitable treatment of different types of financial institutions and should such provisions be changed?

As noted above, the statutes governing regulation and taxation of savings and loans were substantially rewritten in 1981, with the tax changes effective in 1982. Our industry's lack of experience with these new laws makes it very difficult to judge the existence of inequities which might warrant the consideration of this Committee. As a general matter, however, the General Assembly has traditionally treated financial institutions differently when, in that body's collective opinion, the different roles played by the various types of financial institutions made such different treatment appropriate. This Committee may wish to consider whether or not such a functional approach retains its basic fairness. If not, the approach should be changed.

If it is still fair, differences in treatment should continue to be assessed with respect to the different functions performed by financial institutions.

(3) Are there inequities in the state taxation of different types of financial institutions, and how specifically should these inequities be remedied?

Our comments to the second question are equally applicable here. Certainly, differences in taxation exist. Whether such differences are inequitable, however, can only be determined by the General Assembly in light of the reasons which may exist for perpetuating those differences.

Once again I would like to thank the members of the Committee for inviting us to appear today. With me is Paul Stock, Executive Vice President and Counsel for the League. Paul and I would be happy to try to answer any questions you might wish to ask.

LEGISLATIVE RESEARCH COMMISSION

COMMITTEE ON THE TAXATION AND REGULATION

OF BANKS, SAVINGS AND LOAN ASSOCIATIONS

AND CREDIT UNIONS

Presentation of Mr. Gordon P. Allen

North Carolina League of Savings Institutions

November 9, 1984

Mr. Chairman and Members of the Committee:

On behalf of the North Carolina League of Savings Institutions, thank you for the opportunity to appear before you today and for the considerable amount of diligent effort you have already devoted to fulfilling the charge given you by the General Assembly.

In his letter to us, Mr. Sullivan stated that this Committee had chosen to "turn its attention once again to the issue of taxation of. . . financial institutions and their depositors." He requested that we present "our specific beliefs and their underlying reasons as to what inequities, if any, exist regarding differing state tax treatment of the various types of financial institutions. . ." He asked that we relate the burdens imposed by such inequities and any legislative recommendations for eliminating them.

With respect to the general taxation of savings and loan associations by the state, as most of you know, the General Assembly rewrote Article 8D of G.S. Chapter 105 during the 1981 Session. Prior to that revision, S&L's paid a tax based on total deposits that was unrelated to the institutions' profitability or ability to pay. In support of our contention that such a method of taxation was unfair and could even prove to the confiscatory during periods when our members were losing money, we presented a study and analysis of the taxation of savings and loan associations prepared by the accounting firm of Peat, Marwick, Mitchell & Co. The 1981 revision was intended by the General Assembly to result in a method of taxation comparable to that imposed on other businesses in North Carolina. When we received this Committee's request to appear today, we asked Peat Marwick to analyze the current state tax structure for S&Ls to see if that legislative intent has been realized. The results of their analysis are attached to the copies of our written presentation which have been distributed to the members of the Committee. Without taking time to review their entire report, let me just say that the revisions appear to be working as intended.

In turning next to briefly address the Committee's question about inequities in the taxation of financial instiutions and their depositors, please allow me to restate some of the points made by the League when you first discussed these same issues. Differences in treatment of the various financial institutions are not rendered inquitable merely because they are not the same. Where those differences are founded on valid distinctions among the entities being taxed and are consistent with a valid goal or policy to be fostered, it would, in fact, be inequitable to treat those institutions alike. Credit unions pay no state taxes. This treatment is clearly a benefit our membership would like to share. Credit unions, however, are afforded this benefit because they are seen as being different from other types of financial institutions in that they are not free to deal with the public generally, but are restricted to a membership sharing a common bond or community of interest. The services they can offer are limited to those which are consistent with that limited membership. The Congress of the United States and the North Carolina General Assembly have identified this "different" type of institution as deserving of "different" tax treatment. We would not presume to suggest that merely because this treatment is different, it is also inequitable.

Contrary to a frequently expressed misconception, savings and loan associations have not become commercial banks, nor will they. Some of the differences which previously distinguished these two types of entities have disappeared, it is true. Very fundamental differences, however, continue to exist. Foremost

among these differences is the continuing commitment of the thrift industry to the financing of residential estate. Having witnessed the devastating impact of downturns in the real estate market coupled with high costs of deposits created by deregulation of savings accounts, both Congress and the General Assembly have moved to broaden the investment authority of savings and loans. This was not done to lure thrifts away from making home loans, but rather to provide sufficient tools to retain sufficient financial strength to continue to make home loans. These broadened powers have greatly increased the direct competition between banks and S&Ls for establishment of relationships with retail consumers. In marketing many of these services, like interest bearing checking accounts, thrifts have encouraged the blurring of the lines of distinction between themselves and commercial banks as a means of penetrating a market which has belonged exclusively to the banks in years past.

But when you examine the other structural differences which have traditionally distinguished banks from thrifts, little has changed despite all the deregulation which has taken place. The wholesale or commercial market is still the domain of the commercial banks. Commercial demand deposit authority, the cornerstone of the relationship between a bank and its business, as opposed to consumer, customers remains the exclusive province of the banks. The lending patterns of commercial banks do not have the home mortgage emphasis which continues to characterize the savings and loan industry. If the importance of this distinction is unclear, let me point out that the difference in investment portfolios resulted during 1981, when interest rates were at unprecedented levels, in record earnings for the commercial banking industry and record losses for the savings and loan industry. Even at today's much lower levels, 1984 will probably be a break-even year for our industry in North Carolina. I do not know, but suspect, that the banking industry will fare somewhat better.

If I might make one more brief point in closing. The last time you addressed this subject, a member of this Committee asked if S&Ls would remains S&Ls or if they would all become banks. To some extent, the answer to that question rests heavily on the actions taken by Committees such as yours and the entire General Assembly. If you continue to place a high priority on home finance; and if you adopt policies that foster and encourage that priority; S&Ls will continue to be home lending specialists. If policies are adopted that encourage a change in emphasis to more lucrative forms of investment, our industry may well be deprived of any choice in the matter.

Although each type of financial institution is treated somewhat differently by the state, we believe these differences to be based on value judgments made by the General Assembly and can identify no inequities which we feel must be elminated.

TAXATION OF NORTH CAROLINA SAVINGS AND LOAN ASSOCIATIONS BY THE STATE OF NORTH CAROLINA

Prepared for the
North Carolina League of Savings Institutions

by

Peat, Marwick, Mitchell & Co.
Raleigh, North Carolina

Taxation of North Carolina Savings and Loan Associations by the State of North Carolina

The purpose of this report is to present an analysis of the taxation of North Carolina savings and loan associations by the State of North Carolina and to compare this tax structure with that of other North Carolina business corporations. This study also compares present law with prior law to illustrate that several prior inequities between savings and loan associations and general business corporations have been remedied.

I. Applicability of Various State Taxes to Savings and Loan Associations and Other Business Corporations

The following table lists the types of state taxes to which savings and loan associations and general business corporations are subject.

Type of Tax
Income
Franchise
Intangible personal property
Sales and use
Real property
Tangible personal property

This study will focus only on franchise, income and intangible personal property taxes because the other taxes are comparable for savings and loan associations and general business corporations.

II. Description of North Carolina Taxes

A. Income Tax

Under prior law, savings and loan associations and general business corporations were both taxed on net income. The tax on savings and loan associations was called an excise tax. The rates assessed on net income were as follows:

1.	Savings and loan associations	7½%
2.	General business corporations	6%

As a result of a previous study of North Carolina taxation of savings and loan associations, the law was changed effective for taxable years beginning on or after January 1, 1982 so that savings and loan associations are now subject to the income tax at the same 6% rate as general business corporations.

The major difference in the determination of net income for savings and loan associations and general business corporations is the computation of the bad debt deduction. Savings and loan associations are entitled to partial relief from federal income tax by use of a bad debt deduction computed by statutory formula. Because North Carolina taxable income is computed by starting with federal taxable income and making certain adjustments thereto, this bad debt deduction also reduces North Carolina taxable income. Savings and loan associations are entitled to a bad debt deduction computed under one of three methods. The percentage-of-eligible-loans method allows a deduction for the amount required to raise the loan loss reserve to 0.6% of eligible loans. A second method allows savings and loan associations to write-off the actual losses incurred during the year with respect to these loans. Alternatively, a savings and loan association may claim a bad debt deduction equal to 40% of its taxable income.

Under the Tax Equity and Fiscal Responsibility Act of 1982, the bad debt deduction computed under the percentage-of-eligible-loans method or the percentage-of-taxable-income method must be reduced by 15% of the amount by which the deduction exceeds actual losses incurred, effective for taxable years beginning after 1982. The Tax Reform Act of 1984 increased the cutback in the deduction to 20% effective for taxable years beginning after 1984.

B. Franchise Tax

The franchise tax is computed at the rate of $1.50 per $1,000 of taxable value and is now assessed against all corporations other than exempt organizations. It is assessed on the highest of the following three values:

1. Total of capital stock, surplus and undivided profits (net worth);

2. Investment (generally book value) in tangible property, real and personal, located in North Carolina;

3. Total assessed value of all property located in North Carolina including the net value of all property subject to North Carolina intangible tax.

Both savings and loan associations and general business corporations are now subject to the franchise tax. Under prior law, savings and loan associations were liable for the share and deposit tax rather than the franchise tax.

The old share and deposit tax (known as the capital stock tax prior to a 1979 law change) was assessed against savings and loan associations at the rate of $.75 per $1,000 of the aggregate amount of savings deposits held by such associations. This tax was similar to the franchise tax assessed against general business corporations, in that it is a tax for the privilege of doing business in North Carolina. However, the franchise tax is assessed either on asset value or net worth; the net worth base reflects the association's profitability because it includes undivided profits. The share and deposit tax was assessed on liabilities and did

not relate to the association's profitability. This tax was assessed on both stock associations, which are owned by shareholders, and on mutual associations in which the depositors are considered to be the corporate shareholders. Again, as a result of a previous study showing that the savings and loan industry paid a disproportionate share of taxes to the State of North Carolina, the law was changed effective December 31, 1982 to make savings and loan associations liable for the franchise tax rather than the share and deposit tax.

C. Intangible Personal Property Tax

This tax is assessed on the following classes of intangible property at the rate specified:

	Rate
1. Money on deposit based upon the average of bank deposit balances at February 15, May 15, August 15, and November 15	$.10 per $100
2. Money on hand at the end of the taxable year	$.25 per $100
3. Excess of accounts receivable over accounts payable at the end of the taxable year	$.25 per $100
4. Excess of notes, bonds, mortgages and other written evidences of debt over similar types of debt payable	$.25 per $100
5. Shares of stock based upon market value at December 31	$.25 per $100

Savings and loan associations are required to pay intangible tax on deposits in banks and money on hand. However, they are exempt from taxation on accounts receivable; notes, bonds, mortgages and other evidences of debt; and shares of stock. Also, customers of savings and loan associations do not have to pay intangible tax on their deposits in savings and loans.

Conclusion

According to a previous tax study, North Carolina savings and loan associations paid a disproportionate share of state taxes under prior law. However, savings and loan associations are currently taxed by the State of North Carolina in basically the same manner as general business corporations, with the exceptions noted above.

Gentlemen:

It is a pleasure to appear before you and to state the position for the credit unions in North Carolina in connection with your consideration of the question of regulatory and taxation provisions as they apply to commercial banks, savings and loan associations and credit unions.

We are, and have been, well aware of the 1981-82 annual report of the State Treasurer and his premise for his recommendations and agree that during the past several years there have been many changes of great magnitude in the commercial banking business and the savings and loan industry. While he may be right in his conclusion that in the eyes of the public, these two types of institutions are all financial institutions offering similar or identifiable services, the hard fact is that credit unions are neither commercial banks nor savings and loans. The historical distinction between commercial banking business, the savings and loan industry on the one hand, and credit unions on the other, has not, as a practical matter, disappeared and we are here concerned primarily with retaining the uniqueness of the credit unions in North Carolina and preserving the ability of these institutions to effectively carry out the purposes for which they were organized.

The Treasurer suggested that the regulatory process should be made uniform and standardized if these institutions (including credit unions) are to compete fairly and equitably. Historically, these financial institutions have not been homogenized and, in our opinion, and especially for the survival of credit unions, they should not be homogenized into a single group.

We oppose any change in the present regulatory and tax provisions as they relate to credit unions and don't wish to be involved in problems that may or may not exist in connection with the commercial banking or the building and loan industries. We do wish, however, to point out that there has been no basic change in philosophy or structure or, if you please, the uniqueness of the credit union and its role as a financial institution.

What is a credit union? A credit union might best be defined as groups of people within identifiable boundaries who save their money together and make low cost loans to each other from the accumulated funds. G.S. §54-109.1 defines a credit union and states the purposes of a credit union as follows:

> "A credit union is a cooperative, non-profit association incorporated under Articles 14(a) to 14(l) of this Chapter for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest and providing an opportunity for its members to use and control their own money in order to improve their economic and social condition."

The credit union was born out of a real need of people of average means - many of them wage earners, employee groups, and some of them community groups, mostly minority groups - to obtain credit for consumer goods, a void that existed in the early days and which, without credit unions, would exist today. People saving their money together and helping each other - a truly cooperative effort. As time has passed, this objective has not changed and the credit union philosophy is the same today. As you will see, these groups are not in the public domain making commercial loans, they have and still remain a source of consumer credit for their members and in addition to providing this consumer credit, credit unions encourage systematic thrift and educate members and their families in the prudent management of their own money.

In North Carolina we have 327 credit unions. 202 or 61.8% of these are State chartered, and 125 or 38.2% are Federally chartered. More than 165 or 50.5% of these credit unions have less than $500,000 in assets. Over one-third of the credit unions have less than one full-time employee and there are approximately 5,000 volunteers, non-compensated, who provide the services of the credit unions to members.

How is the credit union unique? Unlike any other financial institution today, the credit unions do not serve the general public. They are limited to accepting savings and making

loans to those who are within the credit union's defined field of membership. They are mutual, non-profit organizations whose activities are confined to its members. No one may obtain a loan or other benefit unless he falls within the defined field of membership and has savings in the credit union. The members own and control the credit union and they share in its distribution of earnings as well as in the retained reserves in the event of dissolution. Each member, unlike in ordinary stock corporations, has one vote regardless of the number or size of his accounts. All income after expenses and required reserves ultimately is returned to the members in the form of dividends. These dividends are fully taxable as interest and there are no exemptions or exclusions such as the exclusion allowed by stock dividends under the Internal Revenue Code.

The non-tax status insofar as income tax is concerned is well established by the Federal government and has been well reasoned and supported by the State governments.

In this presentation to you the Committee to study the regulation and taxation of these three separate and distinct types of institutions, I would like to point out in outline form the following:

UNIQUENESS OF CREDIT UNIONS

Credit Unions are non-profit, member-owned cooperative financial institutions. Membership is limited to persons within a well-defined field of membership -- general employment, association, or geographic in nature. Credit unions are democratically controlled with each individual member of the credit union having one vote, regardless of the number of accounts or of dollars on deposit at the credit union. As democratically controlled financial cooperatives, the consumer orientation of these institutions is insured. These unique financial institutions return to their owner-members every penny of money earned in excess of operating expenses and required reserves.

STATUTORY FRAMEWORK

The North Carolina Credit Union Act and the Federal Credit Union Act establish a statutory framework that ensures the unique character of credit unions. The key features common to credit union statutes include:

1. A well defined field of membership.
2. Volunteer leadership.
3. Democratic control with each member having one vote regardless of the number of dollars they have deposited with the credit union.

4. Non profit status and no capital stock.

5. Statutory reserves.

6. Exemption from federal and state income taxation.

During the past half century, the fundamental purposes, goals and objectives of credit unions have remained unchanged.

INCOME TAX

Under the present law, credit unions, both federally and state chartered, are and have been exempt from federal income tax since 1917 as result of a ruling of the Attorney General and later by specific statutory provisions and North Carolina likewise has exempted credit unions from corporate income tax.

OTHER TAXES

G.S. §105-122 is not applied to credit unions because they do not have any capital stock. Intangible taxes paid by the institution under G.S. §105-199 is not collected from credit unions because the credit union itself has no ownership interest in money on hand. As to the exemption from the other intangible taxes, accounts receivable, notes receivable, shares of stock, under G.S. §§105-201, 202 and 203, respectively, this is valid because a credit union obtains money from its members to lend to its members and it makes these loans, mostly small consumer loans only to its members. With respect to intangibles tax paid by

depositors, this exemption was a concession made when the administration or regulation of credit unions was made self sufficient and supported solely by fees from credit unions. More than two-thirds of the credit unions, both state and federally chartered, do not have automated data processing and maintain all of their record keeping manually. The cost of handling such an item would be prohibitive.

If we go to a system which would assess some taxes against our state chartered credit unions, and not against federally chartered credit unions, we would soon have no more state chartered credit unions as all would immediately convert to federally chartered credit unions. On the other hand, if it is a question of imposing these additional taxes on credit unions so as to weaken the position of these institutions, then we can assume that we would eventually do away with the majority of the credit unions in existence in North Carolina today.

The license tax provisions of G.S. §105-102.3 is a special provision applying only to banks or banking institutions and was worked out in an overall scheme of taxation applying uniquely to commercial banks.

State chartered credit unions do pay all sales and use taxes and all ad valorem taxes.

CHARACTERISTICS OF CREDIT UNIONS

FIELD OF MEMBERSHIP

Credit unions are not open to the general public. In North Carolina 84.5% of the state chartered credit unions are occupational or governmental employee related (64.5% or 129 credit unions have occupational fields of membership; 20% or 40 credit unions are made up of governmental employees, federal, state or local fields of membership). Of the total credit unions, federally and state chartered in North Carolina, 67.9% or 220 credit unions are occupational fields; 17.3% or 56 credit unions are government employee fields (either federal, state or local). The remaining are limited to associations or community groups. It is easy to see that the vast majority of credit unions are perceived to be an employee benefit supported by the employer.

Credit unions continue to rely on member savings to generate funds for loans. Nationally, credit union membership has grown from approximately 5 million in 1951 to now more than 47 million individuals. However, despite this growth the percentage of deposits in credit unions in relation to those of all financial institutions has remained about 4% in the last decade. Response to changing economic conditions and the use of new technology have not altered the uniqueness of credit unions either in structure or basic savings and lending services.

VOLUNTEERS

North Carolina and federally chartered credit unions rely heavily on the use of volunteers to run credit unions. By statute board members and committee members may not be compensated for their service as such. As stated earlier, in North Carolina, over one-third of the credit unions have less than one full-time employee. We have already referred to the democratic control and mutual ownership not for profit but for service philosophy to its members posture of credit unions. And while there have been changing member needs from the original low cost consumer loans to, in some cases, share draft accounts and mortgage loans available, this has been done without changing the structure or philosophy of the credit unions (the opportunity of its members to use and control their own money). Credit unions have not become banks, lending is still restricted to its members and while credit unions are authorized a fairly broad range of consumer lending powers, credit unions offer only those loan services sought by their members. Only a small percentage of credit unions engage in mortgage lending and only 14 of the 202 North Carolina State chartered credit unions offer share draft accounts. Clearly, credit unions today remain a reflection of their members' wishes.

REGULATION

A dual chartering system of credit unions has worked well in North Carolina; sixty-one point seven (61.7%) percent of the credit unions operating in North Carolina are state chartered. Our credit union division, a part of the Department of Commerce, headed by a competent administrator, has done a good job in assuring the survival of the credit unions in North Carolina and has done a lot to preserve the very valuable services rendered to the members of the credit unions. The Credit Union Commission, which is vested with the power and authority to review, approve or modify actions of the administrator, is appointed by the Governor, whose administration is basically responsible for the overall policy as regards all financial institutions and the Banking Commission, Savings and Loan Commission, as well as, the Banking Commissioner and the Savings and Loan Administrator, are all under the Department of Commerce and responsible to the same administration. Credit unions are entirely different and unique-type institutions, large and small, and should remain so in order to preserve the valuable services rendered by the members to themselves through this unique opportunity.

SUMMARY

From the standpoint of credit unions, it is certainly true that this type financial institution has maintained a

historical distinction between either the commercial banking business or the savings and loan industry. It has today retained that distinction and should not be homogenized into a group as suggested by the State Treasurer. The credit union offers very distinct services to its members, and only its members and to place them under the same regulatory body as the other commercial financial institutions and to upset the balance that now exists would be to destroy the whole concept which has so well served the people of our State.

Dan Bell's Handout
Exhibit VI

State of North Carolina
Department of the Secretary of State
Raleigh 27611

THE CAPITOL

THAD EURE
SECRETARY OF STATE

LEGISLATIVE OFFICE BUILDING

CLYDE SMITH
DEPUTY SECRETARY OF STATE
BRENDA E GIBBS
CORPORATIONS ATTORNEY
F DANIEL BELL III
DEPUTY SECURITIES ADMINISTRATOR
CHARLES W MOORE
DEPUTY UCC FILING OFFICER
JOHN L CHENEY JR
DIRECTOR OF PUBLICATIONS
LUDELLE R HATLEY
NOTARIES PUBLIC DEPUTY

MEMORANDUM

TO: The Committee on Regulation and Taxation of Banks, Savings and Loans, and Credit Unions

FROM: F. Daniel Bell, III
Deputy Securities Administrator

RE: Regulation of Money Market Funds

DATE: March 15, 1984

I. BACKGROUND

Money market funds are defined in the NASAA[1] glossary of securities terms as follows:

> "Also called a liquid asset or cash fund, it is a mutual fund whose primary objective is to make higher interest securities available to the average investor who wants immediate income and high investment safety. This is accomplished through the purchase of high yield money market instruments such as U.S. government securities, bank certificates of deposit and commercial paper."

[1]The North American Securities Administrators Association, Inc. or "NASAA" is an association of the Securities Administrators of the fifty states, Canadian providences and territories, Mexico, Puerto Rico, and District of Columbia dedicated to the cause of investor protection

Money market funds, are a type of mutual fund (open-end, management investment companies) which invest in short-term money market instruments such as commercial paper, certificates of deposit and United States Government obligations. There are mutual funds designed for every sort of investment objective - mutual funds invested in common stocks, or invested in corporate bonds - in addition to money market funds.

Mutual funds provide an economical way by which an investor of modest means can obtain the same professional advice and diversification of investments as an institution or a wealthy individual. Mutual funds enable thousands of investors to pool their resources in a fund which invests in a large number of securities under the supervision of a professional investment adviser. The shareholders of the fund are its owners and are entitled to all of its net income, which consists of the gross income generated by the fund's investments less operating expenses such as investment advisory, custodial and accounting fees. A fund is required to buy back (redeem) a share whenever requested to do so by a shareholder.

II. FEDERAL REGULATION OF MONEY MARKET FUNDS

A. Securities Act of 1933:

Unlike other corporations, money market funds and other mutual funds offer their shares to the public on a continuous basis. Therefore, fund shares must always be registered for sale with the Securities and Exchange Commission ("SEC") under the Securities Act of 1933. Consequently, a money market fund must provide potential investors with a current prospectus which makes detailed disclosures about the fund's management, its investment policies and objectives and its investment activities. These prospectuses are reviewed by the SEC staff to

determine their adequacy and completeness. The Securities Act of 1933 also limits the types of advertisements which may be used by a money market fund.

Under SEC rules, money market funds must include a yield quotation in their prospectuses, and this quotation must be computed by use of a standardized method in accordance with SEC rules. In order to provide comparability and uniformity in advertising, money market funds which advertise yield must also utilize this method in their advertisements.

B. Securities and Exchange Act of 1934:

The purchase and sale of money market fund shares, as with all securities, are subject to the anti-fraud provisions of the Securities and Exchange Act of 1934, most notably Rule 10b-5. Rule 10b-5 makes it unlawful in connection with the purchase or sale of any security, for any person, directly or indirectly by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

1. to employ any device, scheme, or artifice to defraud;
2. to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
3. to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

C. Investment Advisers Act of 1940:

Investment advisers to money market funds must register

with the SEC under the Investment Advisers Act of 1940. The Advisers Act prohibits advisers from engaging in various transactions which would constitute conflicts of interest, and requires them to maintain and preserve various books and records which are subject to SEC inspection.

D. Investment Company Act of 1940:

Moreover, the money market fund itself, unlike other corporations, must be registered with the SEC under the Investment Company Act of 1940. In addition to requiring periodic reports to shareholders and the SEC, the Investment Company Act of 1940 contains numerous provisions designed to prevent self-dealing and other conflicts of interests, to maintain the integrity of fund assets and to prevent the payment of excessive fees and charges by the fund and its shareholders.

Among other requirements, the Investment Company Act of 1940:

1. requires that at least 40% of a funds' directors be independent of its investment adviser;
2. requires that the fund's investment advisory contract be approved by a majority of these independent directors;
3. sets forth broad provisions prohibiting transactions between the fund and its investment adviser or any "affiliated" person;
4. provides for judicial remedies with respect to the level of compensation received from the fund and its shareholders by fund affiliates;
5. prohibits a fund from deviating from its fundamental investment policies without shareholder approval;

6. requires the bonding of fund officers and employees;
7. requires that fund shares be valued daily to assure a fair price for both sales and redemptions; and
8. authorizes the SEC to bring action against affiliated persons who have engaged or are about to engage in any act or practice constituting a "breach of fiduciary duty involving personal misconduct."

The Investment Company Act of 1940 spells out requirements for the custodianship of mutual fund assets and pursuant to its rulemaking authority the SEC has adopted detailed regulations relating to the custodianship of such assets, which also are subject to periodic audit. The Act also contains provisions permitting criminal prosecution for any serious violation of that statute.

Money market funds are also subject to SEC examination and each money market fund has been inspected on at least three separate occasions since late 1979.[2] These inspections focus upon compliance with specific requirements of the federal securities laws summarized above.

III. STATE REGULATION OF MONEY MARKET FUNDS

A. Regulation of the Issuance:

Chapter 78A of the North Carolina General Statutes, commonly referred to as the North Carolina Securities Act is based upon the Uniform Securities Act and was adopted April 13, 1974, effective April 1, 1975 replacing the predecessor Securities Act. The State of North Carolina has regulated the securities industry since the 1920's.

G.S. 78A-24 provides that it is unlawful for any person to offer or sell any security in North Carolina unless

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[2]Data provided by the Investment Company Institute ("ICI"), a national association of the American mutual fund industry.

the security is registered under Chapter 78A of the General Statutes or the security or transaction is exempt pursuant to G.S. 78A-16 or 78A-17. A money market fund unit or share is a security as defined in G.S. 78A-2(11) and due to the absence of an applicable exemption, registration with the Securities Division, Department of the Secretary of State is required.

The registration requirements are prescribed by G.S. 78A-26 as coordinated process in conjunction with federal registration of the securities with the SEC pursuant to the Securities Act of 1933. The applicant is required to file with the Securities Division the following documents and information; along with a consent to service of process naming the Secretary of State as service agent:

1. an application for registration of securities;
2. a copy of the latest prospectus filed under the Securities Act of 1933;
3. a copy of any indenture or other instrument governing the issuance of the security;
4. all future amendments;
5. appropriate filing and registration fees; and
6. any other information or copies of any other documents filed under the Securities Act of 1933 as the Administrator may request.

Upon review of the documents and information submitted, the Administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of any registration statement pursuant to G.S. 78A-29 if he finds that there are deficiencies or problems with the money market fund and that such an order is in the public interest. Circumstances giving rise to such an order include:

1. The registration statement, or any amendments thereto, is incomplete in any material respect or contains any false or misleading statements;
2. The person filing the registration statement, the issuer - including any partner, officer, director, or any person directly or indirectly controlling or controlled by the issuer - or any underwriter has willfully violated any provision of the Securities Act or any rule, order, or condition thereunder;
3. The money market fund is the subject of an administrative stop order or preliminary or permanent injunction entered by any court of competent jursidiction under any State or federal act which applies to the offering;
4. The money market fund's method of business includes any illegal activities;
5. The offering has worked or tended to work a fraud upon purchasers;
6. The offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation; and
7. The issuer failed to file any amendments to the prospectus.

The securities laws of North Carolina also provide for regulation of advertising and contains antifraud provisions similar to the federal Rule 10b-5 minus the interstate commerce requirement. Whenever it appears to the Administrator that any person has engaged or is about to engage in any act or practice in violation of the state securities laws, the Administrator may seek a court ordered injunction. The court may appoint a receiver or conservator for the defendant or the defendant's assets. The Administrator is equipped with investigatory powers and may refer any willful violation of the securities laws to the

appropriate district attorney for criminal prosecution. A willful violation is a felony punishable by fine up to $5,000 and/or imprisonment up to 5 years. Additionally, civil remedies are provided to any investor aggrieved due to the defendants violation of the Securities Act.

B. Regulation of the Seller:

A second level of investor protection is provided by G.S. 78A-2(2) and 18 NCAC 6.1305 in the requirement that all mutual funds, including money market funds, in excess of $500,000 or 100 purchasers be sold by a registered securities dealer other than the issuer. G.S. 78A-36(a) also requires that every applicant for a securities dealer license be registered with the SEC and that any person representing or proposing to represent a dealer in effecting transactions in securities be licensed as a securities salesman. G.S. 78A-39 provides the Administrator a process of screening all dealer or salesman applicants by providing the ability to deny an application for certain reasons where denial is within the public interest. Also the Administrator may issue public censures or suspend or revoke, in whole or in part, a dealer or salesman's license where certain violations have occurred and such action is within the public interest.

Dealers are subject to both federal and state minimum net capital or bonding requirements, record keeping requirements, antifraud provisions, supervisory responsibilities, prohibitions against unethical or dishonest practices in the securities business; civil remedies and criminal sanctions. Salesmen applicants must pass federal and state examinations and are likewise subject to federal and state antifraud provisions, prohibitions against unethical or dishonest practices, civil remedies and criminal sanctions.

Dealers and salesmen are federally regulated by the National Association of Securities Dealers, Inc. ("NASD"), a self regulatory organization chartered by the SEC in addition to regulation by the SEC.

IV. REVIEW OF MONEY MARKET FUNDS BY 1981 GENERAL ASSEMBLY

On April 1, 1981, Senate Bill 353 entitled "An Act to Amend Chapter 53 of the General Statutes to Require that Money Market Investment Programs Offered By Persons Who Are Not Banks, Savings And Loan Associations, Industrial Banks or Credit Unions Shall Hereafter Be Regulated Under the State Banking Laws" was introduced by Senator Robert Jordan. The effect of the proposal would have been to bring money market funds under the definition of banks, subjecting them to all statutory provisions of Chapter 53 and the rules thereunder. The Secretary of State opposed the bill because, since such funds cannot qualify as a bank, the effect would have been to prohibit the sale of such funds to residents of this State thereby precluding North Carolina investors from seeking the higher yield provided by these funds. Further the Secretary of State asserted that the problems with these funds as perceived by competing financial institutions are best addressed by Congress as a national policy rather than a regional prohibition.

Senator Jordan subsequently offered a substitute Senate Joint Resolution to the Senate Banking Committee entitled "A Joint Resolution Memorializing Congress to Study the Expansion of the Jurisdiction of the Federal Reserve Board to Include Money Market Funds for the Purpose of Implementing National Economic and Monetary Policy". Although the resolution passed the Senate, its passage failed in the House.

V. INCOMPATABILITY OF BANKING LAWS

Investment companies are organized and structured pursuant to the Investment Company Act of 1940. Current State banking regulation is not designed for an entity of this nature. The imposition of Chapter 53 upon investment companies offering money market funds would have the effect of eliminating such funds as an investment opportunity for North Carolina residents whereas the State's banking laws may be suitable for bank deposits which create a debtor-creditor relationship, they are inappropriate for money market funds offering equity shares.

For example, G.S.§53-80, requires that a least three-quarters of the directors of a bank be residents of North Carolina. G.S.§53-2 requires that a bank have its principal office in North Carolina. Compliance with these provisions would be virtually impossible for nearly all funds. Similarly, G.S. §53-50 of the banking laws requires a bank to maintain reserves. The maintenance by money market funds of such non-interest bearing reserves would reduce the investment return to fund shareholders, not only in North Carolina but throughout the nation. In order to protect the rights of fund shareholders in the other 49 states, the funds would probably be forced to cease offering their shares in North Carolina.

The North Carolina banking laws also contain a variety of restrictions on the capital structure of banks. In addition to the reserve requirements, shareholders must pay into a surplus fund 50% of the value of their common stock, and increases and decreases in capital stock require special approval of shareholders. These requirements are appropriate for banks because two groups of persons "invest" in a bank: one or more classes of shareholders who own the bank and share in its profits, and its depositors who are guaranteed a specific rate of return. Money market funds, on the other hand, under federal law may have only one class of investors, their share-

holders, and the rights of all shareholders must be identical. The shareholders of a money market fund own 100% of the fund and under federal law are entitled to their proportionate share of a fund's assets and undistributed income when they redeem their shares.

The primary thrust of both federal and state securities regulation is to provide full and fair disclosure to investors. Thus all prospective investors in money market funds must be provided with a prospectus, prepared and delivered pursuant to both federal and state securities laws, to provide adequate information upon which a potential investor may base his or her investment decision. Federal and North Carolina banking laws do not impose similar disclosure requirements.

In addition, under the Internal Revenue Code, money market funds must pay at least 90% of their income as dividends. G.S. §53-87 and G.S. §53-88 contain restrictions on the payment of dividends which are inconsistent with federal law.

I. DISTINCTIONS BETWEEN MONEY MARKET FUNDS AND BANK DEPOSITS

A money market fund share is a share of common stock upon which dividends are declared only to the extent of the fund's net income which varies from time to time. The value of an investor's interest in a fund can also fluctuate as the value of the fund's portfolio rises or falls. On the other hand, a bank deposit creates a debtor-creditor relationship and represents a liability of the bank to the depositor, providing a fixed rate of return in the form of interest, and deposit insurance up to specified amounts.

Notwithstanding this fundamental distinction, many who have attempted to equate money market funds with bank deposits have focused on the so-called "check-writing" feature offered by the funds. Today money market mutual funds and other mutual

funds offer investors expedited methods of redemption, that is, methods by which an investor may obtain part or all of the current value of his investment in the fund.

Because the customary mutual fund share redemption procedures can be cumbersome and time consuming, money market funds have devised methods of expedited share redemption. For example, many money market funds have entered into arrangements with banks whereby fund shareholders can write checks against their fund account. When an investor writes a check, the bank verifies that the customer's account is sufficient and obtains the funds from the account to cover the check.

According to ICI, the check redemption system has been examined by several regulatory authorities, including the Comptroller of the Currency, the Assistant Attorney General of the U.S. Department of Justice, the General Counsel of the Federal Reserve Board, SEC Commissioners and Attorneys General in several states, who have unanimously concluded that check redemption procedures do not cause a money market fund to be engaged in the business of banking.

Dan Bell's Handout

State of North Carolina
Department of the Secretary of State
Raleigh 27611

THE CAPITOL
THAD EURE
SECRETARY OF STATE

LEGISLATIVE OFFICE BUILDING
CLYDE SMITH
DEPUTY SECRETARY OF STATE
BRENDA E GIBBS
CORPORATIONS ATTORNEY
F DANIEL BELL III
DEPUTY SECURITIES ADMINISTRATOR
CHARLES W MOORE
DEPUTY UCC FILING OFFICER
JOHN L CHENEY JR
DIRECTOR OF PUBLICATIONS
LUDELLE R HATLEY
NOTARIES PUBLIC DEPUTY

M E M O R A N D U M

TO: The Committee on Regulation and Taxation of Banks, Savings and Loans, and Credit Unions

FROM: F. Daniel Bell, III
Deputy Securities Administrator

RE: Merrill Lynch Cash Management Account

DATE: March 15, 1984

I. INTRODUCTION:

Although practically every major brokerage firm and many regional firms now offer a program similar to Merrill Lynch's Cash Management Account ("CMA"), this memo will describe the structure and regulation of the CMA since this program was the first of its kind having originated in 1977 and because the CMA has served as the basic framework for the establishment of competing programs. The CMA is in actuality not an account but rather a service that links together several accounts. The component parts have been linked together by utilization of computer technology. The three components are as follows:

II. SECURITIES ACCOUNT

A. Description:

The initial component, the securities account is a traditional brokerage account that allows a customer to buy securities on a fully paid or margin basis. Each customer's securities account is insured up to $500,000 from the Securities Investors Protection Corporation

("SIPC"). Some brokerage firms secure additional insurance coverage. Purchase of securities on a margin basis is a means where the customer may leverage the account or purchase securities on credit. The brokerage firm will advance credit to the customer secured by the securities in the account. The credit limits are regulated by the Federal Reserve Board but generally amount to 50% of the value of the securities in the account. The interest rate on margin loans ranged from 11 1/4% to 12 3/4% for Merrill Lynch on August 2, 1983, for example. In other words for every present dollar of value in securities the customer may purchase another dollar of securities on credit or may receive fifty cents in cash. The end result is that no more than 50% of the securities account may be purchased on credit and that credit amount is secured by securities in the account. Should the value of the securities decline such that the extended credit exceeds 50%, the customer will receive a "margin call" for the deposit of additional funds.

B. Regulation:

The extension of credit on margin is regulated by the Federal Reserve Board under Regulation T. The brokerage firm, the stockbroker, and the handling or maintenance of the account is regulated by the Securities and Exchange Commission ("SEC") under the Securities Exchange Act of 1934; the National Association of Securities Dealers, Inc. ("NASD") a self regulatory association of all brokerage firms, supervised and chartered by the SEC, the New York Stock Exchange and the Securities Division of the North Carolina Department of Secretary of State. Such federal and state regulation includes the licensing of brokerage firms and stockbrokers which may be suspended, revoked or restricted; record keeping requirements; minimum net capital or bonding requirements of brokerage firms; examination of stock brokers; prohibitions against

unethical or unfair practices of both brokerage firms and stockbrokers; audits of brokerage firms; and anti-fraud provisions. Additional federal and state laws provide for censure, cease and desist orders, court ordered injunctions, receiverships, civil remedies and criminal sanctions.

III. MONEY MARKET FUND:

NOTE: Refer to memo encaptioned "Regulation of Money Market Funds" for a description and discussion of the regulation of such funds.

Within the context of the CMA, the money market fund is maintained at a value of $1.00 per share, thereby the total of shares owned by the customer also represents dollar value. Dividends are declared daily, after allowance for expenses, and automatically purchase additional shares. Also any free credit balances in the securities margin account (i.e. any cash that may be transferred out of the securities account without giving rise to interest charges) are automatically invested in the money market fund. Free credit balances may arise from the proceeds of the sale of securities or from accumulated dividends paid on the securities deposited in the account. For free credit balances less than $1,000, the sweep in the money market fund is weekly and for amounts of $1,000 or more, the sweep is daily. The daily declaration of dividends by the money market fund and the sweeping of free credit balances into the fund are designed to maximize earnings for the customer. These purchases of money market fund shares do not generate a sales commission for the brokerage firm. A customer may redeem shares upon request. Daily dividends continue until settlement which is usually five days.

The money market fund is not held by the brokerage firm but rather the funds are wired through the banking system to a bank serving as custodian. Therefore the fund is not insured by SIPC nor is it insured by FDIC at the bank since the bank serves as custodian rather than a depository. The question of safety of such funds in the custody of the bank should be directed to banking regulators, however the SEC does exercise audit powers over a bank in its performance as custodian for a money market fund.

Due to the success of the money market fund CMA, Merrill Lynch has made available under essentially the same framework a CMA Tax Exempt Fund for investment in tax exempt securities, a CMA Government Securities Fund for investment in government securities, and a CMA Insured Savings Account Program which is an insured savings account. The customer is free to choose one of these funds in lieu of the money market fund.

IV. ZERO BALANCE CHECKING ACCOUNT:

This checking account is maintained at the bank and is provided to mutual customers of the bank and the brokerage firm. The account is opened with the bank; however the checks are printed by the brokerage firm. The customer does not make an initial deposit into the checking account but rather is provided a line of credit. The authorization limit is computed as the total of the uninvested free credit balance in the security account, the net assets value of the money market fund shares, and the available margin loan value of the securities in the securities account as determined pursuant to Regulation T. The authorization limit will fluctuate daily and therefore is "refreshed" daily. The authorization limit is not based upon credit rating but rather a measure of real value.

The customer may use this line of credit to make purchases of merchandise and services or to receive cash advances.

The checking account has two access vehicles: a Visa charge card and a check book. Unlike standard credit card account procedures where bills are rendered monthly, the bank will notify the brokerage firm daily as to the amount of any Visa card or check charges that have been received and paid by the bank. The brokerage firm will promptly make payment to the bank, thereby avoiding interest payments to the bank, to the extent that sufficient funds can be provided: first from the free credit balances, if any, held in the securities account; second, from the proceeds of redemption of money market fund shares; and third, should these sources prove insufficient, the brokerage firm, within the available margin loan value, will advance such moneys to the bank. Any such advancement by the brokerage firm is secured by securities in the securities account and interest is charged the customer by the brokerage firm from the day the brokerage firm makes payment to the bank at the same rate and in the same manner as the interest charged by the brokerage firm for other margin loans.

Should the sources of funds noted above prove to be insufficient to satisfy all amounts owing the checking account, the bank may advance the balance and will impose a charge of up to 18% per annum. Also should the customer enter a stop payment or have a check returned for insufficent funds, the bank will charge its customary fee.

V. PERIODIC REPORTS AND VARIOUS FEES:

Each month the customer receives from the brokerage firm a statement detailing all securities bought or sold in the customer's securities account, whether on margin or on a fully paid basis; margin interest charges, if any; the number of money market fund shares that were purchased or redeemed and all purchases of merchandise and services and cash advances that were made with the checking account.

The customer also will be billed for an annual CMA fee, presently $50. This fee partially defrays the costs of maintaining and servicing the CMA accounts, including the processing charges of the bank which is paid by the brokerage f m. The brokerage firm also receives a distribution fee from the money market fund and a deposit brokerage fee from the depository institutions with respect to deposits in the money market deposit accounts available through CMA Insured Savings Account Program.

The customer will receive a periodic billing statement from the bank which will detail any overdrafts honored by the bank plus finance charges thereon, payments, credits and the balance due.

VI. CONCLUSION

The Merrill Lynch CMA is a packaging of three regulated accounts linked together by computer. The securities account and money market fund as discussed above are subject to regulation by the Securities Division of the Department of Secretary of State. It is my opinion that the State's securities regulation of these two components is sufficient particularly when considered in conjunction with the applicable federal securities regulation. The third component, the zero balance checking account, is provided by a bank through the brokerage firm. The question of adequacy of banking regulation of this component should be directed to banking regulators. Further in view of the fact that the CMA is a packaging of services, each of which have been independently available for some time, the CMA has provided a vehicle to deliver these services to a customer in a convenient manner that minimizes time delays and cost, and at the same time seeks to maximize earnings for the customer. In my view, I see no reason for further state regulation and I have not witnessed any groundswell of securities regulatory concern over CMA type programs. Due to the national character of

the securities industry and specifically the activity discussed herein, any regulatory concern is more appropriately a matter for Congressional action.

State of Wisconsin \ OFFICE OF THE COMMISSIONER OF SECURITIES

Anthony S. Earl
Governor

Richard R. Malmgren
Commissioner of Securities

Stephen L. Morgan
Deputy Commissioner

111 WEST WILSON STREET
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GENERAL (608) 266-3431
GENERAL COUNSEL (608) 266-8556
REGISTRATION (608) 266-3431
LICENSING (608) 266-3693
FRANCHISE (608) 266-3364
ENFORCEMENT (608) 266-8557

April 20, 1984

Mr. Terrence D. Sullivan
Director of Research
State of North Carolina
Legislative Research Commission
State Legislative Building
Raleigh, North Carolina 27611

Dear Mr. Sullivan:

Re: NASAA Questionnaire Data Regarding Cash Management Accounts

This letter will serve to provide both a final summary of the information received in the above-referenced matter, and to confirm information previously communicated to you by telephone in March while Questionnaire data was still being received. Enclosed for your information is a copy of the Questionnaire as distributed by the NASAA Financial Institutions Sub-Committee to all NASAA member states seeking information as to whether any state was aware of legislation, rule-making, administrative proceedings or court cases in their state regarding so-called "cash management accounts."

This will confirm that:

(1) At the time of our initial telephone contact on March 13, 1984, the Questionnaire had been distributed (approximately 2 weeks previously) and the first responses were coming in. It was indicated to you that 12 responses had been received as of that date and none indicated they were aware of any developments regarding CMA's. I indicated to you I would give you a follow-up call in approximately two weeks with updated information.

(2) On April 2, 1984, I indicated to you by telephone that an additional 12 responses had been received since our initial conversation and that only one state--Arkansas--stated that there had been developments regarding CMA's (see attached copy of this returned Questionnaire with my notes beneath question 2). The Arkansas Questionnaire (received March 28, 1984) did not enclose any draft legislation, etc. regarding the particulars of the CMA developments in Arkansas, and as I mentioned to you I then called Arkansas Commissioner

Lee Thalheimer on that day regarding specifics. As I confirmed to you, Commissioner Thalheimer stated that he was aware that a bill had been introduced in their legislature a year or so previously by a bankers group requiring CMA cash to be invested in Arkansas. However, for a number of reasons (the sponsoring legislator was a very "junior" legislator without much clout and the form and language of the bill was not put together well--apparently the bill was introduced with a page missing) the legislation never got out of committee and nothing subsequent has been heard on the issue. I had asked Commissioner Thalheimer if he could track down a copy of the legislation and forward a copy. I have not received a copy yet but did make a follow-up call to him last week on the matter. I will forward you a copy as soon as I receive it.

(3) As of the date of this letter, an aggregate of 30 NASAA member states have responded, with Arkansas being the only one which indicated an awareness of CMA related developments.

Inasmuch as only one Questionnaire has been received in the last week, I anticipate that the above-summarized information represents the "bottom line" data on this matter, and that this seems like an appropriate point at which to wrap up this study (however, if any subsequent Questionnaires come in indicating CMA activity in a state, I immediately will give you a call). In summary, the Questionnaire data received indicates that there does not seem to be any current activity, and little prior activity, on this subject at the state level--activity of any visibility, that is.

I trust that this information has been of help to you and your state's Legislative Research Commission, and if NASAA or this Sub-Committee can be of assistance to you on future matters, please give us a call.

Very truly yours,

Randall E. Schumann
On behalf of the
NASAA Financial Institutions
Sub-Committee

RES:nj

cc: Mr. Franklin Tom, Committee Chairperson
Mr. Daniel Bell

North American Securities Administrators Association, Inc.

To: All NASAA State Securities Administrators

FROM: NASAA Financial Institutions Sub-Committee

RE: Cash Management Accounts

One of the NASAA member state has requested that this Committee prepare and forward to all NASAA member states a Questionna seeking information as to whether any state is aware of legislation, rule-making, administrative proceedings or court cases in their state regarding so-called "cash management accounts." These are arrangements sponsored by certain securities brokerage firms by which cash deposits are accepted from clients, deposited in money market funds, and orders of withdrawal from the clients are honored. The information is being sought by the member state in connection with an inquiry by its state legislature into the regulation of banks and other financial institutions.

On behalf of the NASAA Financial Institutions Committee, it is requested that you review and complete the enclosed Questionnai with the information you are able to provide, and return it as soon as practicable to the member of the Committee addressed below who will correlate the response data. Thank you for your cooperation and assistance.

ARKANSAS

1. Are you aware of any legislation, rule-making or administrative hearing proceedings in your state regarding cash management accounts? Yes ✓ No ✗

2. If your answer to Question 1 is yes, please describe it, its present status and enclose a copy of any written materials available. Bankers introduced bill requiring CMA cash to be deposited invested in Ark. Published without 1 page - Amend. got out of Committee

3. Regarding the form of any legislation or rule-making,

   (a) Would any regulation of such accounts be by bank regulators? Yes ✓ No ____

   (b) Did the legislation/rule try to restrict the way funds could be invested? Yes ✓ No ____

4. Has there been any litigation on the subject that you are aware of? If so, please provide case citations and copies of any decisions or pleadings you have in your possession.

5. If the litigation has ended, what was the result?

   If the litigation has not ended what is the current status?

7. With regard to Questions 1 and 4, who is/was the moving party?

8. Is there any movement towards future legislation or litigation?
Yes _____ No ✓

9. If the answer to Question 8 is Yes, by whom? _____
_____.

This questionnaire and any accompanying information should be returned to:

Randall E. Schumann
Office of the Wisconsin Commissioner of Securities
P.O. Box 1768
Madison, Wisconsin 53701

RES:nj

State of Wisconsin \ OFFICE OF THE COMMISSIONER OF SECURITIES

nthony S. Earl
overnor

ichard R. Malmgren
ommissioner of Securities

tephen L. Morgan
eputy Commissioner

RECEIVED
APR 27
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ENFORCEMENT (608) 266-8557

April 23, 1984

Mr. Terrence D. Sullivan
Director of Research
State of North Carolina
Legislative Research Commission
State Legislative Building
Raleigh, North Carolina 27611

Dear Mr. Sullivan:

Re: NASAA Questionnaire Data Regarding Cash Management Accounts

Supplementing my April 20, 1984 letter on the above-referenced subject, enclosed is a photocopy of the Arkansas legislation as received today.

Very truly yours,

Randall E. Schumann
General Counsel

RES:sk

cc: Mr. Franklin Tom, Committee Chairperson
Mr. Daniel Bell

State of Arkansas
73rd General Assembly
Regular Session, 1981

A Bill HOUSE BILL 564

By: Representative G. Wilson

For An Act To Be Entitled

"AN ACT TO PROVIDE FOR THE FILING OF A COMMUNITY REINVESTMENT STATEMENT BY PERSONS WHO SELL SECURITY INTERESTS IN MONEY MARKET FUNDS, AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Definitions and use of Terms. As used in this Act, unless the context otherwise requires·

(a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral trust agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; variable annuity cont-act; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general any interest or instrument commonly known as a "Security" or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security"does not include any insurance or endowment policy or annuity contract or variable annuity contract issued by any insurance company.

(b) The Commissioner may apply to the Circuit Court of Pulaski County for the enforcement of any order pursuant to this section and such court shall have jurisdiction and power to order and require compliance therewith.

(c) Any person who shall violate any provision hereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed Five Thousand Dollars ($5,000.00). Each day or part of a day during which such violation is continued or repeated shall constitute separate offense.

SECTION 4. Regulations. The Commissioner shall have the power to enact and promulgate such regulations as he deems necessary or appropriate

to carry out the provisions of this Act.

SECTION 5. If any provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are hereby declared severable.

SECTION 6. All laws and parts of laws in conflict herewith are hereby repealed.

State of Arkansas
73rd General Assembly
Regular Session, 1981

A Bill

HOUSE BILL 585

By: Representative J. Gregory Wilson

For An Act To Be Entitled

"AN ACT TO PROTECT DEPOSITORY FINANCIAL INSTITUTIONS AND DEPOSITORS THEREIN FROM MISLEADING ADVERTISING; TO PROHIBIT THE USE OF CERTAIN TERMS BY PERSONS OTHER THAN DEPOSITORY FINANCIAL INSTITUTIONS; TO PROVIDE PENALTIES FOR VIOLATION; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Definitions and Use of Terms. As used in this Act, unless the context otherwise requires:

(a) "Commissioner" means the Bank Commissioner of the State of Arkansas or his designee.

(b) "Person" means any individual, business association, corporation, trust where the interests of beneficiaries are evidenced by a security, two or more persons having a joint or common interest, or any other legal or commercial entity.

(c) "Depository Financial Institution" means any bank, trust company, or savings bank chartered under the banking laws of the State and a national banking association chartered under the banking laws of the United States; any savings and loan association chartered under the laws of this State or the United States; and any credit union chartered under the laws of this State or the United States.

SECTION 2. No person other than a bona fide depository financial institution shall in any manner directly or indirectly in written or verbal advertising or description of its services make use of the terms savings account, savings deposit, certificate of deposit, savings certificate, money market certificate, or passbook or checking account.

SECTION 3. Cease and Desist Order; Enforcement; Penalty

(a) Whenever it shall appear to the Commissioner that any person has violated this Act, the Commissioner may issue and serve upon such person

a notice, by registered mail, containing a statement of the facts constituting the alleged violation or violations, and fixing a time and place at which a hearing with such person will be held to determine whether an order to cease and desist therefrom should be issued. If the alleged violator fails to appear at the hearing it shall be deemed to have consented to the issuance of a cease and desist order. In the event of such consent, or if after the hearing the Commissioner shall find that any violation has been established, the Commissioner may issue and serve upon such person an order to cease and desist from any such violation.

MEMORANDUM

RE: INSURANCE OF INVESTMENTS BY NORTH CAROLINIANS IN MONEY MARKET MUTUAL FUNDS

DATE: March 30, 1984

The question has been raised whether the North Carolina Legislature should be the only state in the country to adopt a statutory requirement that any investment in shares of a money market mutual fund made by a state's investor be insured. For the reasons set forth below, the North Carolina Legislature should not impose such a requirement and may even lack the authority to do so.

Constitutionality. It is possible that any attempt by North Carolina to require insurance of money market fund shares will be found to be unconstitutional as an impermissible burden on interstate commerce. The Supreme Court has said that "[w]here uniformity is essential for the functioning of commerce, a state may not interpose its local regulation". Morgan v. Commonwealth of Virginia, 328 U.S. 373, 377 (1946) quoted in State Ex Rel. Util. Com'n v. So. Bell Tel., 217 S.E.2d 543 (N.C., 1975) at 549.

Make Funds Unavailable. An insurance requirement would force money market funds to stop offering their shares to citizens in North Carolina and non-insured shares in the other forty-nine states would be in violation of the federal Investment Company Act of 1940. The Act, which was specifically enacted to protect mutual fund shareholders and to regulate mutual funds, does not permit money market funds to have more than one class of shareholders. If a money market fund sought to offer insured shares in North Carolina and

uninsured shares in the other forty-nine states, two classes of securities would be created. This two-class structure would be in violation of the Investment Company Act. Moreover, the boards of directors of money market funds would not decide to avoid this problem by having all shares of the money market fund insured since investors nationwide have indicated a clear preference for money market funds which are not insured. Nationally, fewer than .0002 percent of shareholder accounts invested in money market funds are invested in insured money market funds. Given the choices of violating the Investment Company Act, purchasing insurance which is not desired by the vast majority of investors, or ceasing sales in North Carolina, money market fund directors will be forced to decide to cease sales in the State.

It is unlikely that fund groups would create insured money market funds specifically for North Carolina investors. The costs of forming and operating a separate fund for North Carolina are likely to make this approach economically unfeasible. This is particularly true in this case since investors in North Carolina have also demonstrated that they have little interest in investing in an insured money market fund.

Conceptually Unsound. Money market fund shares are equity investments in companies and, as such, need insurance no more than do other equity investments in securities. Shares of money market funds can only be offered to investors when accompanied or preceded by a statutory prospectus, the content of which is specified by regulations adopted by the federal Securities and Exchange Commission

(SEC). These prospectuses are subject to review by the SEC and by the North Carolina Securities Commission. They explain clearly the nature of the investment as equity shares in a company. Furthermore, advertisements for money market funds are subject to regulation by the SEC and the North Carolina Securities Commission.

The Legislature would be requiring North Carolina investors to obtain insurance which they have decided is not necessary. North Carolinians have weighed the expense of investing in an insured money market fund[1] against investing in non-insured funds, and have overwhelmingly determined to invest in non-insured funds.

Conclusion. An insurance requirement may well be unconstitutional and is unnecessary, unwanted and inappropriate. Enactment of the proposal would have one certain effect -- making North Carolina the only state to deprive its citizens from investing in high-yielding money market funds.

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[1] The cost of insurance involves not only the cost of the insurance premium, which may be as high as 45 basis points, but also the reduced yield resulting from complying with the investment restrictions imposed by the insurance company, which can be about 10 basis points. Thus the costs of insurance may reduce yields of money market funds by over one-half of 1% (e.g., from 8% to 7 1/2%).

JDB208/F

STATEMENT OF THE INVESTMENT COMPANY INSTITUTE
BEFORE THE NORTH CAROLINA COMMITTEE ON THE
TAXATION OF BANKS, SAVINGS AND LOAN ASSOCIATIONS
AND CREDIT UNIONS

I am Matthew P. Fink, Senior Vice President and General Counsel of the Investment Company Institute. With me is Mary Bellamy, Assistant Counsel of the Institute. The Institute is the national association of the American mutual fund industry. Its membership includes over 1,100 open-end investment companies, or mutual funds, and their investment advisers and principal underwriters. Of those mutual funds almost 300 are money market funds.

We thank you for this opportunity to appear before you today.

Mutual funds, organized in corporate or trust form, are companies which permit thousands of investors to pool their resources to invest in a diversified pool of securities. Some mutual funds invest in common stock, corporate bonds, or tax-exempt state and municipal bonds. One type of mutual fund, a money market fund, invests in money market instruments, such as U.S. Treasury bills, bank certificates of deposit and commercial paper. All of the net income earned by the fund from these securities is distributed to its shareholders. A mutual fund shareholder may cash in (redeem) his shares at any time and receive his pro rata portion of the fund's investment.

The legal structure of the money market fund and the relationships among the parties are determined by federal and state securities laws, particularly the Investment Company Act of 1940.

Mutual funds, including money market funds, have been characterized as the most strictly regulated business entities under the federal securities laws. In the words of a former Chairman of the United States Securities and Exchange Commission, Ray Garret, Jr., "No issuer of securities is subject to more detailed regulation than mutual funds."

At the federal level, the Securities Act of 1933 requires a mutual fund to provide prospective investors with a current prospectus containing detailed information about the fund and its investment policies. The anti-fraud provisions of the Securities Exchange Act of 1934 apply to the purchase and sale of fund shares. Investment advisers to mutual funds are registered with the SEC under the Investment Advisers Act of 1940 and are subject to the restrictions in that Act. Most importantly, the mutual fund itself must register with the SEC under the Investment Company Act of 1940, which is a highly detailed regulatory statute. In addition to requiring periodic reports to shareholders and the SEC, the Investment Company Act contains numerous direct regulatory provisions designed to prevent self-dealing, to maintain the integrity of fund assets and to prevent the payment of excessive fees and charges by the fund and its

shareholders. Finally, mutual funds are subject to inspections by the SEC staff.

In addition to this extensive federal regulation, mutual funds which offer their shares in North Carolina must also register their shares in North Carolina and are subject to regulation by the Securities Division of the Department of State.

There are many kinds of money market funds. Generally, money market funds invest in all types of high quality money market instruments, i.e., U.S. government obligations, bank certificates of deposit and high quality commercial paper. However, some money market funds invest only in U.S. government obligations, while others invest only in tax-exempt short-term municipal securities. Some money market funds are marketed to a wide variety of individuals through advertisements. Other money market funds are marketed to the customers of brokerage firms. Still other money market funds are dedicated to specific purposes. For example, some money market funds are sold only to institutional investors, such as banks which sweep cash balances of their trust and other accounts into money market funds. Other money market funds are sold to insurance company separate accounts which use them to fund variable annuity and variable life insurance contracts. Still other money market funds are only sold to customers of securities firms who have asset management accounts. Asset management accounts are financial services which many securities firms offer to investors. They link a customer's regular securities account

and zero balance checking account with money market fund shares owned by that customer.

Most money market funds and many other mutual funds offer investors expedited methods of redemption, that is methods by which an investor may obtain part of or all of the current value of his investment in the fund. Investors desire, and sometimes require, that they receive their money on an expedited and convenient basis. They also desire the ability to direct payments to a third party to purchase, for instance, an automobile, or to pay college tuition or to send money to a child in college.

The expedited methods of redemption, however, do not transform a mutual fund into a bank. Federal and state officials, including SEC Commissioners, the Comptroller of the Currency, the Assistant Attorney General of the U.S. Department of Justice, the General Counsel of the Federal Reserve Board, and state Attorneys General, have stated that investors in money market funds, like other mutual funds, are equity shareholders in a company, and are not depositors. As the opinion of the Assistant U.S. Attorney General stated: "It is patent...that a depositor is only a creditor of his depository... It is equally patent that one who invests in a money market fund is the owner pro tanto of the fund."

Money market funds compete with some of the services offered by banks and thrifts. To make that competition as fair as possible, Congress has permitted banks and thrifts, since December of 1982, to offer market rates of return on their Money Market

Deposit Accounts which Congress required to be "directly equivalent to and competitive with money market mutual funds."

Banks and thrifts have been very successful in attracting deposits with this new account: they currently have more than $383.2 billion in Money Market Deposit Accounts. Meanwhile, assets of money market mutual funds have declined more than $52.7 billion since November 1982 to less than $182.4 billion by mid-September, 1984. Thus, the bank and thrift Money Market Deposit Accounts now have more than twice the assets of money market mutual funds and banks and thrifts hold another $43.3 billion in the Super Now accounts. The total deposits of banks and thrifts exceed $3.7 trillion.

In recent years committees in both houses of Congress have held hearings on money market funds. Six federal regulatory agencies concerned with some aspect of the regulation of money market funds, including the Federal Reserve Board, the Comptroller of the Currency, and the SEC appeared and testified that they were satisfied with the current regulation of money market funds. They recommended no additional regulation and Congress adopted none. Similarly, legislation providing for additional regulation of money market funds has been considered in over twenty states, including North Carolina, but has not been enacted in any state.

We do not believe that there is a need for any additional regulation of money market funds. That opinion is apparently shared by the relevant regulators in North Carolina. When legislation was introduced in North Carolina in 1981 to bring

money market funds under the definition of bank for purposes of the state banking code, the Secretary of State opposed the bill. More recently, when Daniel Bell, North Carolina's Deputy Securities Administrator, testified before this panel, he did not call for any additional regulation of money market funds.

We would be happy to answer any questions you may have.

Exhibit II

FIAC

Financial Institutions Assurance Corporation

Statement Of

DONALD R. BEASON

President and Chief Executive Officer
FINANCIAL INSTITUTIONS ASSURANCE CORPORATION

Before

The Committee on Taxation and Regulation of
Banks, Savings and Loan Associations, and Credit Unions
Legislative Research Commission
NORTH CAROLINA GENERAL ASSEMBLY

March 15, 1984

We appreciate this opportunity to present to you the information requested in your letter dated January 30, 1984 for your study of the important issues concerning the oversight and taxation of financial institutions. The information you have asked us to present concerns; how we regulate, how we are regulated, a comparison to other private insurers (with emphasis on the Nebraska Fund), and a comparison to the FSLIC.

As the deposit insurer for 34 state chartered savings and loans and 25 credit unions in North Carolina, we have a concerned interest in your activities and, we hope, some insights into the activities of our insured institutions that will aid you in your study.

The FIAC, since its inception in 1967, has grown from insuring $50 million in deposits to nearly $2.8 billion in deposits at the end of 1983. In that time period, we have not incurred any insurance losses or claims--a record unmatched by any other deposit insurer, public or private.

This period of time encompassed a number of business cycles including one of the most volatile swings of interest rate levels in recent years. For example, from 1978-1983 the 3 month Treasury security rose from as low as 7.19% in 1978, to 14.03% in 1981, and back down to 9.3% in 1983 (Exhibit 1). This economic turmoil dramatically affected the industry as illustrated by Exhibit 2 which shows the number of mergers and liquidations experienced by the federal deposit insurers. There are a number of reasons that account for our record of safety during this period. First, by signing our insurance contract, each member of our corporation agrees to adhere to our Standards and Procedures. These rules and regulations are very straightforward, concise, and speak strictly to those safety and soundness issues which we feel are necessary to insure the continued viability of our members. As a consequence they do not contain references to various "social engineering" issues nor do they impose burdensome regulatory requirements.

On the other hand, they do provide us with the powers that are needed to properly perform the deposit insurance function--for example, special examinations can be performed, or independent consultants can be retained to address specific problem situations. We also reserve the right to take more harsh actions if needed. Such actions, which could include the removal of officers or board members, are not taken without consultation with the appropriate state regulator. At the heart of our supervisory oversight function is our Financial Analysis System which is based on the monthly financial information sent to us by our members. Exhibits 3, 4, and 5 are examples of the monthly information which is compiled by our state-of-the-art computerized system. The reports we prepare are designed to give us timely, accurate data about the financial condition of each of our members.

Of course a system such as this would be virtually useless if it were not analyzed and interpreted by competent staff. We are very proud of the talent we have assembled for our supervisory staff which includes CPA's, MBA's, former internal auditors, and former state examiners. They perform detailed reviews from the monthly information and prepare a monthly report for our Underwriting Committee.

The Underwriting Committee is composed entirely of public members of the Board of Trustees in order to insure the confidentiality of our member information. The Committee members include individuals with many years of experience in various disciplines including risk management, public accounting, management of financial institutions, and business. The Underwriting Committee, in effect, reviews the recommendations of staff and makes their own recommendations concerning the appropriateness of actions taken or contemplated. The monthly report prepared for their use is quite detailed and contains many of the computer-generated statistics and graphs that the staff has prepared to summarize financial information. Exhibits 6 and 7 are the resumes of the Underwriting Committee and staff.

The other part of our oversight function is the on-site visitation program we employ to obtain additional information concerning the operations of our members. In this program we are able to obtain information of the type that does not necessarily show up in the monthly reports we receive and analyze. Information concerning management's planning process, their products and services are discussed and we are used "as a sounding board" to discuss the financial and operating ramifications of new ideas or plans. By making these visits and staying attuned to what is happening in the industry, we are able to act almost as consultants to our members.

One of the services we provide to our members, the diagnostic review, is a management consulting project that would cost $8,000 to $20,000 if prepared by an independent consultant. The diagnostic review is an operational audit. As a third party, we are able to bring our areas of expertise in financial planning, productivity, and strategic planning to bear in those areas we believe improvements can be made and profitability increased. We believe these capabilities set us apart from other private insurers and the federal insurers, and is partly responsible for the national reputation we have acquired. A sample diagnostic review is included in Section 8 of this booklet.

External Regulation

The FIAC is regulated by the North Carolina Department of Commerce. The examination itself is conducted jointly by a combination of savings and loan and credit union examiners from that department. During the examination process, our underwriting procedures, quality and liquidity of the investment portfolio, and condition of insured institutions are reviewed as well as tests performed on our financial records. We feel very strongly that one of the keys to our success is the strength of the various regulatory authorities and the excellent level of communication that we maintain with them. In fact, as a part of our planning process we have adopted the position that we will not enter into a new state until we have determined the adequacy of the regulatory process, the quality of the examining staff, and our ability to maintain the lines of contact and communication similar to those we built in North Carolina. Regulatory oversight exercised by the other states in which we do business is modelled on the North Carolina process. The key point in the regulatory system is that we are examined by the regulators in the same

manner as they examine our insured members, with safety and soundness as the driving forces.

Nebraska Situation

A detailed report on the Nebraska situation is included in this booklet. In summary the Nebraska Guaranty Corporation was nothing more than a fund of money with no professional risk management capabilities or powers. In fact there was no management.

The fund made a practice of refunding to its insured members the excess of its revenues over expenses each year. Its only employee was a part-time clerk whose sole function was to collect the annual assessment of members. Its Board of Directors consisted entirely of members affiliated with insured institutions. As a consequence, there was no one to monitor the financial condition of the entities other than the state regulator, who was so concerned about the ramifications of a failure that he was reluctant to take the stringent measures that were required.

When Commonwealth Savings and Loan got into financial difficulty, the regulator allowed them to satisfy capital requirements by accepting real estate contributed to the company by its owner. Exhibit 8 shows the liquidity problems of the Commonwealth Company. The capital ratios appear steady, when in reality it was a "pumping in" of capital which really had no value. Exhibit 9 shows details of these problems and indicates that problems were apparent as early as 1978.

Commonwealth was owned by one of the state's most well-known real estate developers, whose reputation exceeded his business acumen. Many questionable practices were uncovered when all the investigations were completed, such as loans with no amortization requirements, insider loans, questionable profit recognition of real estate sales, possible illegal arrangements with the State Attorney General, and a host of other unsound business practices.

At the time of closing, it was estimated that the company was the largest single land owner in the city of Lincoln, owning enough undeveloped residential lots to supply Lincoln's building needs for the next ten years. It is our considered opinion that this situation could not develop under the FIAC system.

Comparisons to FSLIC

Finally, we have provided some comparative information on FIAC and FSLIC. The information assembled will show how we stack up as an insurance company with FSLIC as well as compare certain information on the institutions insured. Exhibit 10, the Comparative Balance sheet shows a breakdown of each fund's assets and liabilities as a percentage of total assets and liabilities respectively. It shows that FIAC's balance sheet consists almost entirely of liquid assets while FSLIC has significant amounts tied up in loans to failing institutions and "net worth certificates". Exhibits 11 and 12 graphically shows this to be true.

As to the liability side of the balance sheet, FSLIC has recorded loss reserves of $705 million which does not include $422 million in contingent liabilities under existing contribution agreements with successors to failed institutions.

Turning to the income statement in Exhibit 13, this chart shows how the gross revenues of the two funds were distributed. In 1983, 62 cents of every gross revenue dollar earned by FIAC, after paying administrative expenses, was added to our general reserves. By contrast, in 1982, FSLIC after paying for the cost of assistance and liquidations, only added 12 cents of each revenue dollar to its reserves.

Our investment portfolio of December 31, 1983, had an average remaining term of about 18 months. We believe it is very important to keep a prudent amount of liquid assets on hand to meet any unforeseen needs. Exhibit 14 shows a break down of our investment portfolio as to maturity date. These figures do not include over $8 million of cash that we had at December 31, 1983. Because FSLIC does not present similar data in its annual reports it is difficult to present comparable figures.

While FSLIC's reserves have remained relatively stable, Exhibit 15 shows the increase in FIAC's reserves over the past five years. In 1979, FIAC had approximately $18.9 million in available funds to cover losses. By 1981 the available funds increased to $42 million and by 1983, to over $70 million in funds available to cover losses.

Of course, the insurer's net worth is only a secondary reserve from which losses must be absorbed. The net worth of the insured institution is the primary source from which losses can be paid.

The contrast of our members' net worth to FSLIC-insured institutions is graphically portrayed in Exhibit 16. FIAC institutions consistently have maintained about one full percentage point higher net worth ratios over the past five years.

It should be pointed out that for the FSLIC's purposes, net worth could consist of items in addition to that which is allowable under Generally Accepted Accounting Principles (GAAP). FIAC uses GAAP in calculating net worth. Under Regulatory Accounting Purposes (RAP) used by FSLIC, a savings and loan is allowed to write off certain losses over a period of years rather than immediately charging them against net worth. In addition, under RAP a savings and loan may write up the value of its land and buildings to their appraised values and add this write up to net worth. FSLIC savings and loans may use so-called "net worth certificates" issued by the FSLIC as net worth.

In addition to mandating the use of GAAP to determine net worth, FIAC requires all its savings and loans to maintain a net worth of at least 5% of savings. FSLIC uses a sliding scale to determine required net worth levels based on the length of time the association has been operating and generally allows net worth to fall below 3% of assets before beginning to consider what actions to take. Additionally FIAC insured savings and loans enjoy higher levels of liquidity ratios than FSLIC associations as demonstrated in Exhibit 17. As to levels of fund balances to insured

savings, Exhibit 18 presents those ratios for various insurers, both private and government. FIAC enjoys one of the highest ratios of any of these insurers.

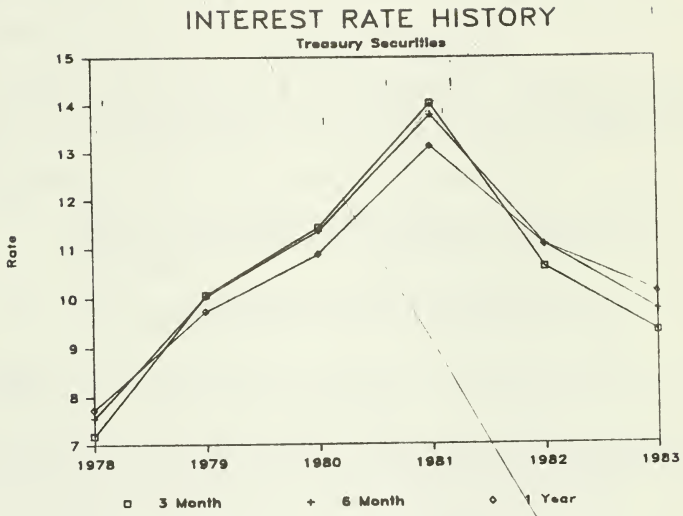
With respect to the FSLIC ratios, two recent comments by Edwin Gray, Chairman of the FHLBB, are worth noting. On January 31, 1984, Mr. Gray commented that "a substantial part..."of the FSLIC's reserves"...will be required to pay for liquidations and costly assisted mergers we can foresee or expect in 1984 alone."

In the Wall Street Journal of March 7, 1984, Mr. Gray indicated that the possibility existed for the FSLIC to increase premiums in 1984, due to the dangers faced by the FSLIC. This increase could be as much as 1/8 of 1 percent of deposits, and if implemented could cost FSLIC-insured savings and loans as much as $780 million annually--nearly one half of the industry's total 1983 profits.

On the NCUA side of the coin, their present ratio of .03% of funds to deposits has led them to propose a permanent deposit assessment of 1% of savings. In order to get this approved, they will probably have to provide for a rule that requires them to return to the members any fund balances above 1.3% of savings, effectively prohibiting them from ever increasing the ratio above that level. Exhibits 19 and 20 show the number of NCUA assisted liquidations and assisted mergers for the time period 1978 through 1982 and effectively demonstrate the problems the that deposit insurer is facing.

Summary

Since FIAC's inception in 1967, the combination of our financial oversight and supervision, along with enlightened state regulation have provided FIAC members the freedom to operate in a prudent, businesslike fashion. In turn, our members have used the advantage of the dual system of chartering to become effective and efficient competitors in today's deregulated marketplace while operating with the highest levels of safety and soundness.



INTEREST RATE HISTORY

	3 mo	6 mo	1 yr
1978	7.19	7.58	7.74
1979	10.07	10.06	9.75
1980	11.43	11.37	10.89
1981	14.03	13.80	13.14
1982	10.61	11.07	11.07
1983	9.30	9.74	10.10

EXHIBIT 1

Regional Reciprocal Interstate Transactions:

Authority over North Carolina Bank Holding Companies by other Southeast Region States

If a North Carolina bank holding company (NCbhc) makes an acquisition in Florida, Georgia or South Carolina, the NCbhc will find itself subject to the jurisdiction of the banking regulator of any such state as shown in the following summary.

1. Florida. Acquisition of a Florida bank (state or national) or of a Florida bank holding company by a North Carolina bank holding company.

Application must be made to the Florida Department of Banking and Finance which must make findings almost identical to those provided in the North Carolina interstate law concerning reciprocity, mirror image test, etc. The target Florida bank or bank holding company must have been in business for more than 2 years.

The Department must also make findings on the following:

(a) Whether or not the officers and directors of the North Carolina bank holding company are qualified by character, experience and financial responsibility to control and operate a Florida institution.

(b) Whether or not the acquisition would be prejudicial to the interests of the depositors, creditors and public of Florida.

2. Georgia. Acquisition of a Georgia bank (state or national) or bank holding company by a North Carolina bank holding company.

Application must be made to the Georgia Department of Banking and Finance which must make findings almost identical to those provided in the North Carolina interstate law concerning reciprocity, mirror image test, etc. The target Georgia bank or bank holding company must have been in business 5 years or more.

The Department must also make findings on the following:

(a) Whether the acquisition will result in a monopoly.

(b) Whether the acquisition will substantially lessen competition.

(c) Whether the North Carolina bank holding company has adequate financial and managerial resources.

(d) The future prospects of the North Carolina bank holding company and the Georgia institutions.

(e) Whether the transaction will promote the needs and convenience of the community to be served.

All Georgia bank holding companies and any North Carolina bank holding company which acquires a Georgia bank or bank holding company must also:

(a) Register with the Commissioner.

(b) Make reports as required by the Commissioner.

(c) Submit to examination by the Commissioner and pay costs for such examination.

(d) Be "regulated, controlled and examined by the Commissioner to the same extent that he regulates, controls, and examines state banks... under his jurisdiction."

3. South Carolina. Acquisition of a South Carolina bank (state or national) or bank holding company by a North Carolina bank holding company.

Application must be made to the State Board of Financial Institutions which must make findings almost identical to those provided in the North Carolina interstate law concerning reciprocity, mirror image test, etc. The target South Carolina bank or bank holding company must have been in business for 5 or more years.

The Board must also make findings on the following:

(a) Whether the acquisition will result in a monopoly.

(b) Whether the acquisition will substantially reduce competition.

(c) Whether the North Carolina bank holding company has adequate financial and managerial resources.

(d) The future prospects of the North Carolina bank holding company and the South Carolina institution.

(e) Whether the transaction will promote the convenience and needs of the community to be served.

All South Carolina bank holding companies and any North Carolina bank holding company which acquires a South Carolina bank or bank holding company must also:

(a) Register with the Board.

(b) File reports as required by the Board.

(c) Submit to examinations by the Board and pay costs for such examinations.

4. Virginia. Virginia has not yet adopted a regional interstate banking law. A draft of a bill to be introduced next year in Virginia has been made available to the North Carolina Commissioner of Banks. This bill is regional, reciprocal and includes North Carolina in its region.

In addition to the standard findings about reciprocity, mirror image test, etc., found in the laws discussed, a North Carolina bank holding company acquiring a Virginia bank (state or national) or bank holding company would be subject to further processing as follows:

(a) Findings that the acquisition would not be detrimental to the safety and soundness of the North Carolina bank holding company or the Virginia institution.

(b) Findings that the North Carolina bank holding company, its directors and officers as well as those of the Virginia institution are qualified by character, experience and financial responsibility to control and operate a Virginia institution.

(c) Findings that the acquisition would not be prejudicial to the interests of the depositors, creditors, beneficiaries of fiduciary accounts or shareholders of the North Carolina bank holding company or the Virginia institution.

(d) Findings that the acquisition is in the public interest.

The Virginia bill will also call for examination and reporting by North Carolina bank holding companies as well as Virginia bank holding companies.

All of the Southeastern states including North Carolina which have allowed interstate bank acquisitions have statutory provisions empowering the state banking regulators to enter into cooperative agreements concerning examination and reporting by bank holding companies.

In a situation where a North Carolina bank holding company was acquiring a Southeast regional bank in another state, the regulator in the target state could rely on the information supplied by the North Carolina Commissioner of Banks to make the findings described in this report if the North Carolina Commissioner of Banks had authority to examine North Carolina bank holding companies. The North Carolina Commissioner of Banks could also supply the continuing examination of the North Carolina bank holding company that is required of the state regulator where the acquired bank is located.

As matters stand now, out-of-state regulators have authority over North Carolina bank holding companies which North Carolina statutes do not grant the North Carolina Commissioner of Banks.

APPENDIX R

Exhibit I

Mark G. Lynch's Notes for Comments To
Legislative Research Commission's Committee on the
Regulation and Taxation of Banks, Savings and Loans, and Credit Unions
January 12, 1984

Thank you for the opportunity to appear before you to respond to certain questions your Co-Chairmen expressed to me through Terry Sullivan, your Director of Research.

Each of you have been provided with copies of four Exhibits prepared by the Department of Revenue. They are:

1. Exhibit 1 - "Brief History of the Taxation of Banks & Savings & Loan Associations"

2. Exhibit 2 - "Differences in North Carolina Tax Treatment of Banks and Savings and Loans Associations as of January 1, 1984"

3. Exhibit 3 - "Comparative Analysis of North Carolina Tax Collections From Banks and Savings and Loans for the Years Indicated" - specifically the past three fiscal years

   Exhibit 3A - "Intangibles Tax Collected From Depositors on Money on Deposit"

These exhibits are self-explanatory and it would take an excessive amount of your time at this meeting for me to go through them in detail. I hope you will study them later. Therefore, I will not discuss all the details shown on these exhibits relative to the differences in the tax treatment of these financial institutions.

You will note from the "History" schedule that there were major changes in the taxation of banks in 1957 and 1974; of mutual savings and loans in 1957 and 1982; and of stock-owned savings and loans in 1979 and 1982. Stock-owned savings and loans were first authorized in 1977.

My comments will be directed principally toward the current differences in taxation of these institutions.

Banks are subject to the same income and franchise taxes as regular corporations. They are subject to intangibles tax the same as regular corporations except that they are exempt from tax on money on deposit with other banks and are generally exempt from notes, bonds and evidences of debt. They also are subject to a privilege tax of $30 for each $1 million of total assets on a quarterly average basis.

"Mutual" and "Stock-owned" Savings and Loans are taxed the same. They also are subject to income and franchise tax and to intangibles tax on money on deposit and money on hand, but are not subject to tax on other intangibles.

Credit Unions are exempt from North Carolina income, franchise, and intangibles tax.

The responsibility for collecting income and franchise tax from mutual savings and loans and stock-owned savings and loans was transferred from the Department of Commerce to the Department of Revenue in 1983.

It also was suggested that I comment on whether in my view, as Secretary of Revenue, there are inequities in North Carolina taxation of different types of financial institutions, and to indicate specifically how these inequities should be remedied.

I have not attempted to respond to this question for several reasons. Historically, the Secretary of the North Carolina Department of Revenue has not taken a position on inequities of taxation between categories of taxpayers. As we all know, this taxation has been a very controversial and complex issue and has been studied previously in great depth by many legislative committees and individuals. Also, I personally believe that for me to express myself on this subject would not be an appropriate posture for me in that the Secretary of Revenue's primary responsibility is to administer the revenue laws that the General Assembly enacts, and in my opinion, it would greatly decrease the

Secretary's effectiveness in administering the laws if he involved himself in taking positions as to inequities in taxation of different segments of our taxpayers.

Department of Revenue personnel will, of course, be glad to try to furnish you any further information requested as to the Revenue Laws or our administrative practices as related to banks and savings and loans associations.

I hope the four schedules we have prepared, and my comments, will be of assistance.

Again, I thank you.

BRIEF HISTORY ON THE TAXATION OF BANKS AND SAVINGS & LOAN ASSOCIATIONS

BANKS

Prior to 1957

(A) State banks subject to corporate income tax and "share tax."
(B) National banks subject to "share tax."
(C) State and National banks exempt from all intangibles tax.

1957 to 1974

(A) All banks subject to excise tax based upon net income including income from federal obligations. The rate was initially 4½% and was raised to 6% in 1969.
(B) The tax on bank shares and income tax on State Banks was repealed.
(C) Intangibles tax exemption continued.

1974 to 1983

(A) All banks subject to income and franchise taxes as regular corporations. Excise tax was repealed.
(B) Subject to intangibles tax on money on hand, accounts receivable, and shares of stock. Exempt from tax on money on deposit and generally exempt from tax on notes, bonds, and evidences of debt.
(C) Subject to privilege tax of $30 for each $1 million of total assets as determined by averaging assets quarterly of the preceding calendar year.

"MUTUAL" SAVINGS & LOANS

Prior to 1957

(A) Subject to privilege license tax based upon shares (13¢ on each $100 liability represented by shares outstanding).
(B) Subject to intangibles tax on money on deposit in banks and money on hand.
(C) Exempt from all other intangibles taxes, as well as income and franchise taxes.

1957 to 1982

(A) Subject to capital stock tax at the rate of 6¢ per $100 on share accounts and subject to 6% excise tax on net income. Both rates were raised in 1969 to 7½¢ and 7½% respectively.
(B) Continued to be subject to intangibles tax on money on deposit in banks and money on hand.

1982 & 1983

(A) All savings & loans subject to income and franchise tax as Article 8D was amended. The capital stock and excise taxes were repealed.
(B) Continued to be subject to intangibles tax on money on deposit and money on hand.
(C) Responsibility for collecting income and franchise taxes transferred from Department of Commerce to the Department of Revenue in 1983.

"STOCK-OWNED" SAVINGS & LOANS

Prior to 1977

Not in existence.

1977 to 1979

(A) Stock-owned savings & loans established. Subject to income, franchise and all intangibles taxes as regular corporations.

1979 to 1982

(A) Stock-owned savings & loans allowed to file as mutual savings & loans under Article 8D, thus, they were subject to the capital stock tax and excise tax and no longer subject to income & franchise taxes.
(B) This amendment also exempted stock-owned savings & loans from all intangibles taxes except money on deposit and money on hand.

1982 & 1983

(A) All savings & loans subject to income & franchise tax as Article 8D was amended. The capital stock and excise taxes were repealed.
(B) Continued to be subject to intangibles tax on money on deposit and money on hand
(C) Responsibility for collecting income and franchise taxes transferred from Department of Commerce to the Department of Revenue in 1983.

CREDIT UNIONS - Created in 1915 - exempted from taxation unless specifically stated as being subject to tax.

North Carolina Department of Revenue
November 5, 1984

DIFFERENCES IN NORTH CAROLINA TAX TREATMENT OF BANKS,
SAVINGS & LOAN ASSOCIATIONS AND CREDIT UNIONS

Nature of Tax	Banks	Savings & Loans	Credit Unions
Franchise Tax	Taxable	Taxable	Exempt
Income Tax	Taxable	Taxable	Exempt
Privilege Tax	Taxable	Exempt	Exempt
Intangibles Tax:			
Money on Deposit	Exempt	Taxable	Exempt
Money on Hand	Taxable	Taxable	Exempt
Accounts Receivable	Taxable	Exempt	Exempt
Notes, Bonds, etc.	Generally Exempt	Exempt	Exempt
Shares of Stock	Taxable	Exempt	Exempt

NOTE: Other taxes not listed as no differences exist.

North Carolina Department of Revenue
November 5, 1984

COMPARATIVE ANALYSIS OF NORTH CAROLINA TAX COLLECTIONS
FROM BANKS AND SAVINGS & LOANS FOR THE YEARS INDICATED

	1980-81 Year		1981-82 Year		1982-83 Year		1983-84 Year	
Nature of Tax	Banks	Savings & Loan Associations	Banks	Savings & Loan Associations	Banks	Savings & Loan Associations	Banks	Savings & Loan Associations
Franchise Tax	$2,123,218	$ -	$2,264,664	$ -	$2,423,774	$ 536,695	$2,720,405	$ 930,926
Income Tax	296,490	-	370,391	-	52,369	8,044	1,486,362	228,930
Privilege Tax	801,042	-	713,009	-	925,241	-	738,943	-
Excise Tax	-	120,396	-	12,279	-	2,741*	-	-
Capital Stock Tax	-	8,176,122	-	8,481,304	-	4,735*	-	-
Intangibles Tax:								
Money on Deposit	-	139,171	-	195,717	-	277,596	-	392,893
Money on Hand	978,170	58,411	931,343	62,954	890,323	96,552	896,688	107,936
Accounts Receivable	-	-	-	-	-	-	-	-
Notes, Bonds, etc.	-	-	-	-	-	-	9,548	-
Shares of Stock	627	-	544	-	29,526	-	95,695	-
TOTALS	$4,199,547	$8,494,100	$4,279,951	$8,752,254	$4,321,233	$ 926,363	$5,947,641	$1,660,685

NOTE: Credit Unions not listed because of their exempt status.

- Indicates financial institution not liable for the tax during the period shown.

* Indicates financial institution not liable and the amount collected was due in a prior year.

The columns for Savings and Loan Associations include "Mutual" as well as "Stock-Owned." No separation available at this time.

North Carolina Department of Revenue
November 5, 1984

Exhibit 3A

INTANGIBLES TAX COLLECTED FROM DEPOSITORS ON MONEY ON DEPOSIT

		1980-81	1981-82	1982-83	1983-84
(1)	Banks	$10,789,438	$13,881,800	$14,675,935	$17,307,553
(2)	Savings & Loans	-0-	-0-	-0-	-0-
(3)	Credit Unions	-0-	-0-	-0-	-0-

(1) Deposits in Banks - All "money on deposit" (checking accounts, savings accounts, certificates of deposit, etc.) in banks, whether in or outside North Carolina, is subject to intangibles tax at 10¢ per $100 based on the four-quarter average balance (Feb. 15, May 15, Aug. 15 and Nov. 15). Average balances of less than $1,000 are excluded from taxation.

(2) Deposits in Savings and Loans - All deposits in North Carolina savings and loans are exempt from taxation. Deposits and share accounts in out-of-state savings and loans are taxable under G.S. 105-202 at 25¢ per $100.

(3) Deposits in Credit Unions - All deposits in both federal and state credit unions are exempt from taxation.

North Carolina Department of Revenue
November 5, 1984

Handout - Mr. Bard
Exhibit # III

COMPARISON OF STATE TAXES IMPOSED ON BANKS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS

This comparison presents in tabular form certain information on state taxation of banks, savings and loan associations, and credit unions with respect to the income and property of these institutions. It is appropriate in reviewing these taxes to point out that for many years Federal law determined to a great extent how the states taxed banks because of the restrictions placed on the states to limit their ability to tax national banks. Until 1969 there were very specific restrictions on the powers of states to tax national banks. The amendment of the Federal law in 1969 removed these restrictions and today states may tax national banks as if they were state banks. However, Federal law does require that national banks must be taxed equally with state banks. Even though states have been given greater freedom to tax national banks, state tax laws continue to show traces of the old restrictions.

Briefly, prior to the 1969 amendment, states were limited to the following options in taxing national banks:

(1) bank share tax

(2) corporate net income tax

(3) excise tax measured by net income

(4) personal income taxes on dividends received by bank shareholders

The states could impose option (1) or (2) or (3), with option (4) being available for use with (2) or (3). Thus states could not impose both a share tax and a tax on, or measured by, net income. In complying with these restrictions, states usually taxed state banks the same as national banks since legislators understandably were inclined to treat the two groups the same.

Our first table distinguishes between the application of the "regular" corporation income and franchise taxes as opposed to specific taxes imposed on financial institutions. The presentation draws attention to the difference between a corporation net income tax that excludes from taxable income the interest received from United States bonds and/or obligations and an excise tax that is measured by net income including the interest from United States obligations.

Our second table concerns property taxes and covers deposits in the institutions and the shares of banks taxed to the shareholders or banks. The tax on bank shares continues to be used as a significant form of bank taxation by some states.

The principal source of the information presented in all tables is the Commerce Clearing House State Tax Reporters. These reporters provide considerable information, but can have serious limitations. Sometimes editorial comments are out-of-date and contradictory and questions cannot be satisfactorily resolved because the reprinted portions of the tax statutes do not cover the matter in question.

Whenever tax information is condensed in tabular form, there is the risk of misinterpretations. However, to include all the necessary footnotes to assure complete reporting would make the tables cumbersome and less readable. The additional comments in the succeeding paragraphs help clarify the content of the tables and are provided in place of extensive footnotes.

Corporation Income Tax. This section of Table 1 indicates the presence of a corporation net income tax whether or not applicable to banks or other financial institutions. Under this tax, interest on United States obligations would be deducted from income unless otherwise noted in the table. Maximum rates have been listed where a state has a schedule of tax rates. The notes have been used to afford additional rate detail.

Corporation Franchise Tax. This section contains information on both the capital stock base (or related tax bases) and the net income tax base used to levy privilege or excise taxes on corporations. Financial institutions are shown as taxable in this section if there is no specific statute that separately imposes the tax on them. A franchise tax on net income would normally require the inclusion of interest income from United States obligations.

Franchise Tax Bases. The term "capital" has been used to denote bases that include additional items over and above the more limited bases of "issued and outstanding capital stock" or "authorized capital stock." The latter type base is entered as "capital stock." The entry "capital" covers a wide variety of approaches to taxing banks and was selected to avoid having a larger number of cryptic notes that might not identify the differences. Financial Institutions Tax. This section presents any type of tax specifically imposed on financial institutions under separate statutes, or imposed under the corporate franchise or excise tax law and described as "in lieu" of other named taxes.

Notes. This section contains information which seems helpful in attempting to describe the overall tax picture. The notes are not "all inclusive" and do not necessarily cover all items or exceptions.

Property Taxes. Information on property taxes has been summarized in Tables 2, 3, and 4. Table 2 contains information concerning those states that tax deposits, shares and/or other intangibles. Table 3 lists states that do not tax intangible personal property. Table 4 gives the tax treatment of tangible personal property of the financial institutions and points out the states that do not tax personal property.

The tables do not cover real property taxes since the old Federal restrictions did not limit state taxation of real property. In reviewing

the states' property tax laws, we found no special exemptions for financial institutions with regard to real property.

Table 2. This table shows the tax status of bank shares and deposits. From the information in the State Tax Reporters it was not always clear whether the institution or the shareholder pays the tax. In some cases, state laws may require the institutions to pay the tax on shares of nonresidents and the institutions may pay the tax for residents as well.

Table 4. In some states the exemption of tangible personal property for banks does not extend to property the banks lease to others. The table has not been noted as to when this condition applies.

Credit Unions. The institutions were not always identifiable in the tax laws. The tax status shown for some states is based on judgment concerning the implications of certain definitions or certain provisions. In addition, we used another source other than CCH State Tax Reporters which we felt was reliable. The alternate source was a tax summary published by Credit Union National Association, Inc.

Current Federal Restrictions. Federal law presently requires that the states and local governments tax Federal savings and loan associations at no higher rate than they tax state associations. Federal law prohibits the taxation of Federal credit unions except on their real and tangible personal property.

Rates. Tax rates have been expressed as concisely as possible and not necessarily as quoted in the law. For example, a rate of one dollar per one thousand dollars is shown as one mill.

North Carolina Department of Revenue
Tax Research Division
March 15, 1984

TABLE 1. COMPARISON OF STATE TAXES IMPOSED ON BANKS, SAVINGS AND LOAN ASSOCIATIONS, AND CREDIT UNIONS

Taxable: T
Exempt: Ex
Capital: Cap
Capital Stock: Cap St
Net Income: N Inc
Net Worth: N W
Schedule: Sch

State	Corporation income tax: tax status	Corporation income tax: maximum rate	Corporation franchise or excise: tax status	Corporation franchise or excise: tax base	Corporation franchise or excise: rate	Corporation franchise or excise: min.	Corporation franchise or excise: max.	Financial institutions: tax base	Financial institutions: rate	Notes
Alabama		5%						N Inc	6%	
Banks	Ex		T	Cap St	1%	$ 50	none	T		Also annual license tax of $10 to $100.
Savings & Loans	Ex		T	Cap St	1%	$ 50	none	T		
Credit Unions	Ex		Ex					T		
Alaska		9.4%	Only banks pay franchise tax.					N Inc	7%	Corporation income tax has 9 brackets. Maximum rate is shown.
B	Ex		T			$100 flat fee		T		
S & L	Ex		Ex					T		
CU	Ex		Ex					Ex		
Arizona		10.5%		none				none		
B	T									
S & L	T									
CU	Ex									
Arkansas		6%		Cap St	0.11%	$ 17	none	none		
B	T		T							
S & L	Ex		Ex							
CU	Ex		Ex							
California	none			N Inc						Franchise tax rate variable, set biennially subject to maximum of 12%.
B			T		11.6%	$200	none			
S & L			T		11.6%	$200	none			
CU			T		11.6%	$ 25	none			
Colorado		5%		none				none		
B	T									
S & L	T									
CU	Ex									
Connecticut	none			N Inc				"Interest Paid"	4%	Tax on "interest paid" is additional tax applicable only if more than net income tax.
B			T		11.5%			T		
S & L			T		11.5%			T		
CU			Ex					Ex		CU license tax of 30¢ per $1,000 of assets.
Delaware		8.7%		Cap St	Sch	$ 20	$110,000	Inc	Sch	
B	Ex		Ex					T	8.7%	Bank tax is an adjusted amount derived from 2 income bases.
S & L	Ex		Ex					T	8.7%	S & L tax is on net earnings at 8.7%; also subject to $100 license.
CU	Ex		Ex					Ex		
Florida		5%		Annual $10 fee				N Inc	5%	Tax credits allowed equal to the smaller of (1) intangibles tax or (2) 40% of the financial institutions tax plus credit for emergency excise tax on ACRS for 1984 only.
B	Ex							T		
S & L	Ex							T		
CU	Ex							Ex		
Georgia		6%		N W	Sch	$ 10	$ 5,000	Gross Receipts	0.25%	Local business license tax on gross receipts at 0.25% also permitted. Both gross receipts taxes allowed as credits against income tax.
B	T		T					T		
S & L	T		T					T		
CU	Ex		Ex					Ex		
Hawaii		6.435%		none				N Inc	11.7%	
B	Ex							T		
S & L	Ex							T		
CU	Ex							Ex		

APPENDIX X

State	Corporation income tax: tax status	Corporation income tax: maximum rate	Corporation franchise or excise: tax status	Corporation franchise or excise: tax base	Corporation franchise or excise: rate	Corporation franchise or excise: min.	Corporation franchise or excise: max.	Financial institutions: tax base	Financial institutions: rate	Notes
Idaho		7.7%	Same as income tax.					none		The franchise tax applies only to corporations not subject to the corporation income tax.
B	T		Ex							
S & L	T		Ex							
CU	Ex		Ex							
Illinois		7.3%		Cap	Sch	$ 25	$1,000,000	none		Rate will drop to 6.5% in 1985.
B	T		Ex							
S & L	T		Ex							
CU	T		Ex							
Indiana		3% + 4%		none						The 4% tax is a supplemental tax. Gross income tax of 0.32% also applies to gross earnings. Credits may be claimed for tax paid on gross earnings against "capital" tax. S & L's allowed credit for personal property tax against "capital" tax.
B	T	4%						Dep + Cap	0.25%	
S & L	T	4%						Cap	0.1%	
CU	T	4%						none		
Iowa		12%		Cap	Sch	$ 15	$ 3,010	N Inc	5%	Financial institutions subject to minimum tax related to federal minimum and federal tax preference items. Credit Unions pay a tax on reserves at 5 mills; $40,000 exemption allowed. Corporate income tax has 4 brackets as follows: $25,000 at 6%; $75,000 at 8%; $150,000 at 10%; 12% on over $250,000.
B	Ex		T					T		
S & L	Ex		T					T		
CU	Ex		Ex					Ex		
Kansas		6.75%		N W	1 mill	$ 20	$ 2,500	N Inc		
B	Ex		Ex					T	6 3/8%	
S & L	Ex		Ex					T	6 3/4%	
CU	Ex		Ex					Ex		
Kentucky		6%		Cap St	0.7 mill	$ 10	none			Bank share tax may also be levied by counties and cities up to 1.9 mills.
B	Ex		Ex					Shares	8.55 mills	
S & L	Ex		Ex					Cap St	1 mill	
CU	Ex		Ex					none		
Louisiana		8%		Cap	1.5 mills	$ 10	none		Local	Shares assessed at 15% of fair market value and then reduced by 50% of assessed value of real property. Real property assessed at 10% for land and 15% for improvements.
B	Ex		Ex					Shares		
S & L	Ex		Ex					Shares		
CU	Ex		Ex					none		
Maine		8.93%		none				N Inc	8.93%	Additional tax on tax preference items. Corporation net income tax is allowed as a credit against the franchise tax paid by financial institutions.
B	T-Cr							T		
S & L	T-Cr							T		
CU	T-Cr							T		
Maryland		7%		none				Net Earnings		Phase-in of change in tax base and rates for S & L's. Rate after 1985 is 7% and base includes federal interest.
B	Ex							T	7%	
S & L	Ex							T	7%	
CU	Ex							Ex		
Massachusetts	none		Net Inc, Tang Prop, N W							
B			Ex					N Inc	12.5%	S & L's pay on net operating income at 1.254% and on deposits semi-annually at 0.062%. The regular corp. franchise has two alternate property bases plus a net income tax at 9.5%. The rate on the property base is 2.6 mills.
S & L			Ex					2 bases	2 rates	
CU			Ex					none		
Michigan	Single business tax at 2.35% of adjusted federal taxable income.									
B	Applies to banks and S & L's also.									
S & L										
CU										
Minnesota	none			N Inc	12%	none	none	N Inc	12%	Apparently banks pay the same corporate franchise tax as S & L's and CU's but the tax on banks is set forth in a separate statute.
B			Ex					T		
S & L			T					Ex		
CU			T					Ex		

State	Corporation income tax: tax status	Corporation income tax: maximum rate	Corporation franchise or excise: tax status	Corporation franchise or excise: tax base	Corporation franchise or excise: rate	Corporation franchise or excise: min.	Corporation franchise or excise: max.	Financial institutions: tax base	Financial institutions: rate	Notes
Mississippi		5%		2 bases	2.5 mills	$ 25	none			The franchise tax applies to capital or assessed value of tangible
B	T		T					Shares	Local	property whichever is greater. Banks also pay share tax.
S & L	T		T					none		
CU	Ex		Ex					none		
Missouri		5%		Cap				N Inc	7%	Income and franchise taxes paid by banks are allowed as credits
B	T-Cr		T-Cr					T		against the 7% tax. Credit Unions also pay a license fee according
S & L	Ex		Ex					T		to rate schedule by value of total assets. Fees from $10.50 to
CU	Ex		Ex					T		$1,175 plus 5¢ per $1,000 over $5,000,000.
Montana		6.75%		none				N-Inc	6.75%	
B	Ex							T		$50 minimum tax for banks and S & L's.
S & L	Ex							T		
CU	Ex							Ex		
Nebraska	Interstate			N Inc	7%	none	none			Corporations also pay an occupation tax based on capital stock ranging
B	Corps.		T					none		from $13 up to $11,995.
S & L			T					none		
CU			T					Int Income	4 mills	
Nevada	none			none						
B								Shares	Local	Shares are assessed 35% of taxable value. Taxable value reflects a
S & L								none		deduction for assessed value of real property. Banks pay annual
CU								none		license $500, $750 or $1,000 depending upon capitalization.
New Hampshire	"Business Profits" Tax	9.08%		Annual flat fee		$ 60	$2,000	Int, Div		
B	T		Ex					T-Cr	1%	State banks pay a franchise tax on capital stock of 1%. National
S & L	T		Ex					T-Cr	1%	banks pay 1% share tax for shareholders. Both taxes are credited
CU	T		Ex					T-Cr	1%	against business profits tax.
New Jersey	Limited Scope			N Inc	9%	$ 25	none	N Inc		Combination net income and net worth tax being phased out. Franchise
B			T					Ex		tax will be based solely on net income after 1986.
S & L			Ex					T	3%	
CU			Ex					Ex		
New Mexico		4.8% to 7.2%		N W	0.6 mill	$ 15	none	none		Income tax rates are as follows:
B	T		Ex							4.8% on 1st $1,000,000
S & L	T		Ex							6.0% on 2nd $1,000,000
CU	Ex		Ex							7.2% on over $2,000,000
New York	none			3 bases	10%	$250	none	2 bases	2 rates	One base is federal taxable income, rate 12%; other base is capital
B			Ex					T		stock for banks and interest and dividends credited for S & L's, rate
S & L			Ex					T		1.6 mills for banks and 1.6% for S & L's. Interest and dividends
CU			Ex					Ex		determinable at annual rate of 3½%. Larger tax is payable. Corporations
										pay on largest of 3 bases: adjusted federal net income, 30% of net
										income and salaries, allocated capital (tax rate 1.78 mills).
North Carolina		6%		3 bases	1.5 mills	$ 10	none			Banks also pay annual license tax of $30/$1,000,000 of total assets.
B	T		T					License Tax		
S & L	T		T					none		
CU	Ex		Ex					none		
North Dakota		10½%		none				N Inc		The 7% tax consists of a 5% net income tax and an additional 2%
B	Ex							T	7%	privilege tax. Corporate net income rates range from 3% to 5%
S & L	Ex							T	7%	on the first $50,000 and 10½% over $50,000.
CU	Ex							Ex		

State	Corporation income tax: tax status	Corporation income tax: maximum rate	Corporation franchises or excise: tax status	Corporation franchises or excise: tax base	Corporation franchises or excise: rate	Corporation franchises or excise: min.	Corporation franchises or excise: max.	Financial institutions tax: base	Financial institutions tax: rate	Notes
Ohio	none			2 bases		$ 50	none	Stock		Franchise bases are net income and net worth, rates are 9.2% and 5.82 mills respectively. Surtax applies on net income tax, if larger than net worth tax, and is 5.6%.
B			Ex					T	15 mills	
S & L			Ex					T	15 mills	
CU			Ex					Ex		
[illegible]ahoma		4%		Cap	1.25 mills	$ 10	$20,000	none		Net income base is adjusted by excluding interest on U.S. and Oklahoma obligations and reducing deductions by 50% of the excluded interest.
[illegible]	T		T							
[illegible] & L	No Reference		Ex							
[illegible]U	T		T							
[illegible]gon	none			N Inc	7⅓%	$ 10				S & L's and CU's subject to license fee based on assets. Minimums of $1,000 for assets up to $5,000,000; $55 per $1,000,000 over $5,000,000. Financial institutions not subject to additional corporation franchise tax on capital stock with fees from $10 to $200. CU's pay excise if dividends and interest exceed 8%. Unrelated business income is taxable.
[illegible] & L			T					none		
[illegible]U			T(conditional)					License		
								License		
Pennsylvania		10.5%	2 Capital Bases		10 mills	none	none			Bank shares taxed on book value adjusted downward for investment in U.S. obligations. Litigation involving bank share tax resulted in standby legislation for alternative net worth franchise taxes.
B	Ex		Ex					Shares	1.057%	
S & L	Ex		Ex					Net Earnings	11.5%	
CU	Ex		Ex					None		
Rhode Island	N Inc/N W	8%/4 mills		Cap St	0.25 mills	$100	none	Deposits	See	Business corporations pay the corporate franchise tax only if it exceeds the net income/net worth tax. State banks pay 8% net income tax or 0.25 mills on capital stock. National banks pay 6% net income tax. S & L's receive credit for franchise tax against deposits tax. Federal interest taxable for banks.
B	See Notes		Ex					T	Property	
S & L	Ex		T					T-Cr	Tax	
CU	Ex		Ex					T		
South Carolina		6%		Cap St	1 mill	$ 10	none	N Inc		Stock S & L's appear to be taxed like other non-finasoial corporations. Banks are taxed on U.S. interest, S & L's are exempt. Federal income tax deduction permitted for banks.
B	Ex		Ex					T	1⅓%	
S & L	Ex		Ex					T	6%	
CU	Ex		Ex					Ex		
South Dakota	none			none				N Inc		Federal income tax is permitted as a deduction. $200 minimum tax per location.
B								T	6%	
S & L								T	6%	
CU								Ex		
Tennessee	none			N Inc	6%	none	none			The corporation franchise tax payable on capital stock at 1.5 mills (subject to minimum tax of 1.5 mills on book value on tangible property) applies to banks and S & L's. S & L's allowed 10% tax credit for ad valorem taxes in determining 3% privilege tax.
B			T					none		
S & L			T					N Inc	3%	
CU			Ex					none		
Texas	none			Cap	4.25 mills	$ 55	none			Shares assessed at market value less market value of real property.
B			Ex					Shares	Local	
S & L			Ex					None		
CU			Ex					None		
Utah	Limited Scope			N Inc	5%	$100	none	none		Interest on U.S. obligations excluded.
B			T							
S & L			T							
CU			Ex							
Vermont		7.5%		none				N Inc	7½%	Corporation income tax has 4 brackets as follows: $10,000 at 5%; $15,000 at 6%; $225,000 at 7%; 7½% over $250,000. Banks and S & L's receive a credit for the corporate income tax against the financial institutions tax.
B	T-Cr							T		
S & L	T-Cr							T		
CU	Ex							Ex		

State	Corporation income tax: tax status	Corporation income tax: maximum rate	Corporation franchise or excise: tax status	Corporation franchise or excise: tax base	Corporation franchise or excise: rate	Corporation franchise or excise: min.	Corporation franchise or excise: max.	Financial institutions tax: base	Financial institutions tax: rate	Notes
Virginia		6%		Cap St	Sch	$ 20	$20,000			Local bank share tax up to 80% of the State tax permitted; banks may credit the local tax against the State tax.
B	Ex		Ex					Cap	1½ mills	
S & L	T		Ex					none		
CU	Ex		Ex					none		
Washington	none			Cap St	Sch	$ 37.50	$ 3,125	See Notes		Banks and S & L's are subject to business and occupation tax on gross income at a rate of 1.5%. Gross income apparently excludes interest income on U.S. and Washington bonds
B			T							
S & L			Ex							
CU			Ex							
West Virginia		8.05%			Sch	$ 20	$ 2,500			
B	Ex		T	Cap St				Shares	Local	Bank shares are assessed at actual value reduced by proportionate part of assessed value of real property. Banks and S & L's pay a business and occupation tax based on gross income at a rate of 1.45% plus 15% surtax. (Annual 5% rate reduction begins in 1985 for 5 years.)
S & L	Ex		T	Loans				Cap	local	
CU	Ex		Ex					none		
Wisconsin	Limited Scope			B Inc	7.9%	none	none	none		7% surtax on franchise tax for 1981. For exemption CU must meet very specific conditions with regard to membership
B			T							
S & L			T							
CU			Ex							
Wyoming	none			Asset	Sch	$ 10	none	none		Fee ranges from $10 to $100 on value not over $1,000,000. Rate is $100 for each million in excess of $1,000,000.
B			Ex							
S & L			Ex							
CU			Ex							

Table 2: COMPARISON OF TAXES IMPOSED BY STATES AND LOCAL GOVERNMENTS ON INTANGIBLE PROPERTY

Taxable: T
Exempt: Ex

State	Other intangible personal property	Financial institutions: Shares tax status	Shares tax rate	Deposits tax status	Deposits tax rate	Notes
Alabama						
Banks	Ex	Ex		Ex		
Savings & Loans	Ex	Ex		Ex		
Credit Unions	Ex			Ex		
Florida						
B	T	T	1 mill	Ex		
S & L	T	Ex		Ex		
CU	T			Ex		
Georgia						
B	T	Ex		T	0.1 mill	
S & L	T	Ex		T	0.1 mill	
CU	Ex			Ex		
Indiana						
B	T	See Table 1		See Table 1		
S & L	T	See Table 1		Ex		
CU	T			Ex		
Kansas						
B	Ex	Ex		Ex		
S & L	Ex	Ex		Ex		
CU	Ex			Ex		
Kentucky						
B	T	See Table 1		T	0.001%	
S & L	Ex	See Table 1		Ex		
CU	T			T	0.001%	
Louisiana	See Notes					
B		See Table 1		Ex		Important classes of intangibles are exempt; however, some remain taxable.
S & L		- Ex		Ex		
CU				Ex		
Maryland	See Notes					
B		T	Local	Ex		Only shares of stock in domestic corporations are taxable (except the intangible property of those corporations granted exemption in their charter from tax on tangible property).
S & L		T	Local	Ex		
CU				Ex		
Michigan						
B	Ex	Ex		T	0.2 mill	
S & L	Ex	Ex		T	0.2 mill	
CU	Ex			Ex		
Mississippi	See Notes					
B		See Table 1		Ex		Money on hand and evidences of debt at interest in excess of 6% are taxable.
S & L		Ex		Ex		
CU				Ex		

State	Other intangible personal property	Financial institutions: Shares tax status	Shares tax rate	Deposits tax status	Deposits tax rate	Notes
Nevada	See Table 3					
B		See Table 1		Ex		
S & L		Ex		Ex		
CU				Ex		
New Hampshire	See Table 3					
B		See Table 1		Ex		
S & L		Ex		Ex		
C U				Ex		
New York	See Table 3					
B		See Table 1		Ex		
S & L		Ex		Ex		
CU				Ex		
North Carolina						
B	T	Ex		T	1 mill	
S & L	T	Ex		Ex		
CU	Ex			Ex		
Ohio						
B	Ex	See Table 1		Ex		
S & L	Ex	See Table 1		Ex		
CU	Ex			Ex		
Pennsylvania	See Notes					Law enumerates both taxable and exempt intangible personal property; cannot be summarized with general statements.
B		See Table 1		Ex		
S & L		Ex		Ex		
CU				Ex		
Rhode Island	See Table 3					
B		Ex		T	4 mills	Stated rate is of mills applied to an adjusted deposits base. Effective rates subject to following minimums and maximums: Min. Max. B 1.3 mills 1.7 mills S & L 1.0 mills 1.4 mills CU 0.5 mills 0.7 mills
S & L		Ex		T	4 mills	
CU				T	4 mills	
Tennessee						
B	T	T	Local	Ex		Fractional assessment ratios used for ad valorem taxes. Assessment ratios for intangibles set by legislature.
S & L	T	T	Local	Ex		
CU	T			Ex		
Texas	See Table 3					
B		See Table 1		Ex		
S & L		Ex		Ex		
CU				Ex		
Virginia	See Table 3					
B		See Table 1		Ex		
S & L		Ex		Ex		
CU				Ex		
West Virginia						
B	T	See Table 1		Ex		
S & L	T	See Table 1		Ex		
CU	Ex			Ex		

TABLE 3. STATES NOT TAXING INTANGIBLE PERSONAL PROPERTY

Alaska
Arizona
Arkansas
California
Colorado

Connecticut
Delaware
Hawaii
Idaho
Illinois

Iowa
Maine
Maseachusetts
Minnesota
Missouri

Montana
Nebraska
Nevada
New Hampshire
New Jersey

New Mexico
New York
North Dakota
Oklahoma
Oregon

Rhode Island
South Carolina
South Dakota
Texas
Utah

Vermont
Virginia
Washington
Wisconsin
Wyoming

Note: The above states exempt intangibles from the property tax or tax only selected intangibles under another type of tax such as franchise or bankshares.

TABLE 4. TAXATION OF TANGIBLE PERSONAL PROPERTY OF BANKS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS

Taxable: T
Exempt : Ex

State	Tangible personal property		
	Banks	Savings and Loans	Credit Unions
Alabama	T	T	Ex
Alaska	T	T	T
Arizona	T	T	T
Arkansas	T	T	Ex
California	Ex	Ex	Ex
Colorado	T	T	Ex
Connecticut	T	T	T
Delaware	No personal property tax		
Florida	T	T	T
Georgia	T	T	T
Hawaii	No personal property tax		
Idaho	T	T	Ex
Illinois	No personal property tax		
Indiana	Ex	T	T
Iowa	T	T	T
Kansas	T	T	T
Kentucky	T	Ex	Ex
Louisiana	Ex	T	Ex
Maine	T	T	T
Maryland	Ex	Ex	Ex
Massachusetts	Ex	No reference	Ex
Michigan	Ex	Ex	Ex
Minnesota	Ex	Ex	Ex
Mississippi	T	T	T
Missouri	Ex	T	T
Montana	T	T	T
Nebraska	T	T	T
Nevada	Ex	T	T
New Hampshire	Ex	Ex	Ex
New Jersey	T	Ex	T
New Mexico	T	T	T
New York	No personal property tax		
North Carolina	T	T	T
North Dakota	T	T	T
Ohio	Ex	Ex	T
Oklahoma	Ex	T	Ex
Oregon	T	T	T
Pennsylvania	No personal property tax		
Rhode Island	T	T	Ex
South Carolina	Ex	Ex	No reference
South Dakota	No personal property tax		
Tennessee	T	T	T
Texas	Ex	T	No reference
Utah	T	T	T
Vermont	T	T	T
Virginia	T	T	T
Washington	T	T	T
West Virginia	T	T	T
Wisconsin	T	T	T
Wyoming	T		
Total: taxable	30	34	28
exempt	20	15	20
no reference	—	1	2

Mr. Bail # 4

ANALYSES OF PROPOSALS TO REPEAL OR MODIFY THE INTANGIBLES TAX

The Committee's request asked for two analyses pertaining to the intangibles tax:

1) the effect on state tax revenues arising from complete repeal of the intangibles tax and
2) the effect of repealing only the tax applying to money on deposit

The second of the two proposals is quite limited in its scope and easiest to evaluate. The net decrease in revenue would be about 12.3 million dollars which is the amount of tax paid on such deposits by all taxpayers including corporations, less the tax credits allowed to corporations on their franchise taxes.

Individuals now pay the bulk of the 14.7 million dollars collected on such deposits and corporations having sufficient franchise tax liability receive a complete offset for the tax by way of reduction of their franchise tax. Due to the credit, the tax on money on deposit has practically no impact on corporations, and thus location decisions, i.e., industrial development, would be unaffected by such a change. Individuals throughout the State would benefit by not having their accounts at banks charged with the amount of their intangibles tax.

The revenue loss for local governments would be felt evenly on a per capita basis, since the tax collected on this particular type of property is distributed on a per capita basis rather than according to the county from which collected. The tax rate on this property is the lower of the two rates applying under the intangibles tax. It is doubtful that retired persons would regard removal of the 10¢ per $100 as sufficient relief to change their views about the tax they regard as so burdensome. Well-to-do retirees contemplating a move

to North Carolina would be more concerned with the 25¢ rate imposed on stocks and bonds. In brief, no significant new revenues would likely be generated from repeal of the tax on deposits. State income tax revenue would increase through the lesser itemized deduction taken by taxpayers who claim intangibles tax as a personal deduction.

Outright repeal of the intangibles tax is a much more serious proposal measured in terms of lost revenue. Intangibles tax revenues amounting to $60,616,000 were collected in fiscal year 1982-83. Local governments received 93.3 percent of this revenue and the state retained the balance to cover the following:

1) the tax credits allowed to corporations on their franchise tax liabilities for the intangibles tax paid on their bank deposits
2) cost of collecting the tax
3) operating cost of the Ad Valorem Tax Division and the Property Tax Commission
4) expenses of the Property Tax Study Committee

Our discussion of full repeal is divided into three parts with one part divided into two separate sections. Our analysis covers the burden of the tax and the corresponding relief upon removal of the tax, the impact on local governments, and comments on the State's industrial development and on in-migration of retirees. Following these three parts are a few brief concluding remarks.

The Burden of the Tax and the Relief Afforded by Repeal

The bulk of the intangibles tax burden falls on individuals. About 65 percent of the tax is paid by individuals who file singly, jointly, or as partners. Their tax liabilities arise mainly from their holdings of shares of stock and their deposits in banks.

Corporations pay their intangibles tax principally on accounts receivable and evidences of debt. Shares of stock and money on hand are the next most important types of property on which corporations pay the intangibles tax.

Both individuals and corporations can claim their intangibles tax as a deduction in computing state and federal income taxes. For individuals in the highest state and federal tax brackets, their income taxes could be reduced by more than 50 percent of the amount of intangibles tax paid if they itemize personal deductions. Corporations paying the highest federal rate of 46 percent and the state 6 percent rate would reduce their income taxes by about 49 percent of the deduction.

Excluding those who pay tax only on deposits, approximately 145,000 individuals pay intangibles tax and about 26,000 corporations, other than banks, pay the intangibles tax. The remaining taxpayers filing returns are primarily fiduciaries, either bank or non-bank.

The average amount of tax paid by individuals filing singly or jointly was about $200 per return for fiscal year 1982-83. The average amount paid on partnership returns was more than double this amount, but we have no count of the number of partners represented by those returns and thus cannot compute the tax per individual.

The average amount of tax paid by corporations was about $545 for fiscal year 1982-83, and thus corporations paid about 14 million dollars in intangibles taxes on returns. In comparison, corporation income taxes amounted to 306 million dollars and franchise taxes on business corporations (excludes public service companies) were 70 million dollars. The intangibles tax paid by corporations was less than 0.3% of their net taxable income.

Admittedly these averages do not disclose the distribution of the tax burden and shed no light on the numbers of individuals who may be paying substantial amounts of tax or the numbers of corporations paying large amounts of tax on their receivables. The available data indicate the total amounts of tax paid by type of property; the data do not show how many taxpayers paid tax on each type of property. For this reason the relief afforded by repeal can be described best in terms of types of property. Corporate businesses would be relieved of tax of about 7.5 million dollars on accounts receivable, and about 3.7 million dollars of tax on their money on hand and their evidences of debt. Further relief amounting to about 1.6 million dollars would be realized by not paying tax on their holdings of shares of stock. However, those corporations making a profit and incurring state and federal income tax liabilities would experience some increase in income taxes, both state and federal, due to loss of the deduction.

For individuals, the tax relief would be related to their investments in stocks and bonds and their deposits in banks. Individuals paid over 20 million dollars on their stocks and bonds alone in 1982-83. Repeal of the tax for these individuals would remove a particularly distasteful levy imposed on them by their state government. However, many of the taxpayers expressing their dissatisfaction in correspondence with the Department of Revenue are apparently unaware that the revenue goes largely to the local governments and is not a significant source of revenue for the state.

Impact on Local Governments

The local governments received 51.3 million dollars from the intangibles tax distribution made in fiscal year 1982-83. When

related to total property tax levies, local sales tax, and amounts received from shared taxes, the intangibles tax revenue distributed in fiscal year 1982-83 was 3 percent of their total revenues. If the intangibles tax revenue is related to the property tax levies only, it would be equal to about 4¼ percent for both the counties and the cities.

The importance of the intangibles tax varies significantly between particular counties and to a lesser degree between cities. In counties with large property tax bases, the intangibles tax is less important percentagewise as a source of revenue. For small counties with low personal income levels and fewer affluent residents, the tax is similarly less important.

Certain counties that have large numbers of retired persons realize significant revenue from the intagibles tax. Moore County derives revenue equal to 11 percent of its property tax levies; Henderson County receives an amount equal to about 12 percent of its property tax levies. Polk County's ratio is over 27 percent, making it the highest county in percentage of revenue derived from the intangibles tax.

The towns and cities located in counties with relatively large intangibles tax revenue also benefit since the counties share the revenue with their cities. For example, small towns in Moore, Henderson, and Polk Counties gain more revenue per capita from the intangibles tax than cities in larger counties, such as Mecklenburg, Wake, Durham, etc.

Local governments would probably need to replace the lost revenue after repeal of the intangibles tax. If repeal was accompanied by provisions for state aid, there would be no need for raising local taxes unless the distribution of the aid did not reasonably conform to the present distribution of the intangibles tax revenue.

If there is no satisfactory state aid and local property taxes are selected as the source of replacement revenue, based on 1982-83 fiscal year data, county rate increases would average about 4½ percent with practically all counties falling within a range of 2 to 6 percent. Variation in city rate changes would probably be somewhat greater.

Industrial Development and In-Migration of Retired Persons

It seems reasonable to conclude that certain industrial prospects and retired persons would respond favorably to repeal by North Carolina of a tax which they perceive to be burdensome and also avoidable by locating in another state. To measure the real response to repeal is difficult, if not impossible, because there are no data available to show how many new plants were lost in the past or how many individuals chose another state over North Carolina solely because of the presence of the intangibles tax. If such data were available, possibly some realistic estimates might be prepared so that a comparison of estimated new revenues against lost intangibles tax revenues could be made to help weigh the merits of the proposal to repeal the tax. Despite the lack of specific data, an analysis of certain aspects may be helpful in evaluating the proposal.

Industrial Development. Clearly a manufacturer looking at our state would soon become aware of the intangibles tax and react negatively if he saw the tax as a real burden for his business. Even though we cannot say what the prospect's perception of the burden will be, we can try to determine how burdensome the tax is on our existing manufacturing industry. A sample of large manufacturing companies in North Carolina shows their intangibles tax liabilities to be less than 0.1 of 1 percent of their net income before tax. If smaller manufacturing companies have similar proportional liabilities, it seems doubtful

that industrial location decisions would hinge on this level of relative tax liability. Our industrial development program, though not limited to seeking manufacturing plants, does emphasize manufacturing and repeal would have to influence this category of development to achieve substantial gains in State General Fund revenues.

Apart from manufacturing, there is another area of economic expansion the state seeks--headquarters locations of large manufacturing companies and also of financial institutions or companies, such as insurance and mortgage companies. Such large scale administrative or white collar operations may indeed be avoiding our state because of the intangibles tax, but the total tax revenue generated by these office operations is not comparable to that flowing from a manufacturing plant with the same number of employees.

To what extent would our industrial development program have to increase manufacturing employment to recover the lost intangibles tax revenue? Using our 1982-83 tax data from corporate income and franchise tax returns and insured employment data from the Employment Security Commission, it is estimated that about 13,000 new jobs would have to be added in one year to replace the annual intangibles tax revenue paid by corporations alone. To replace all the lost revenue through increased industrial development would require more than four times this number of new manufacturing jobs. The average number of new jobs created annually over the past ten years through new plants and expansion of existing plants has been about 26,500.

The 13,000 figure is based on rough estimates of the following taxes paid to the state by the company and its employees: income taxes, franchise taxes, and sales taxes. Other taxes were omitted and no adjustment was made to compensate for low or no income tax

payments by corporations during the start-up period or early years of operations.

Retired Persons. In addition to stimulating industrial development, it has been suggested that in-migration of retired persons would accelerate following repeal and thereby add new revenues which would help avoid tax increases. Census data from the 1980 Census indicate that approximately 26,680 persons over 65 residing in North Carolina in 1980 were living in another state in 1975. If this figure represents the rate at which retirees are now moving into our state, we are now experiencing an annual in-migration of about 5,300 retirees over 65. This in-migration consists mainly of couples rather than single individuals and reflects about 3,000 new households annually. Whatever influx of retirees one may expect from repeal, it would have to be evaluated by reference to the estimated current in-migration to make some judgment about revenue effects.

Without question, retired persons coming from other states where they have paid no intangibles tax, find our tax objectionable. And they tell their friends back home about the tax. This word-of-mouth network would have to serve as a positve factor to swell the tide if repeal became a fact and our new citizens would have to argue persuasively to get old friends to join them here in large numbers.

What would happen if the in-migration doubled? Three thousand new households would bring in additional state sales tax revenue, income tax, cigarette, alcoholic beverage and soft drink taxes. The estimated range of state revenue from these new households could be from 4 to 5 million dollars. If these estimates represent reasonable expectations, obviously repeal would have to bring about a much greater level of in-migration than the 5 to 6 thousand we now have coming in

each year. To sustain a much higher in-migration, the actual number of persons outside North Carolina who will be retiring each year over the next several years would have to grow significantly and/or the inclination of retired persons (in the populous northern states) to move south would have to change markedly. The decision of a retiree to relocate would seemingly be dependent upon several factors, not just tax climate.

Concluding Remarks

From the foregoing analyses it is clear that replacement revenues would be required. Local revenues from new industry and retirees would not be distributed evenly around the state to offset local losses of intangibles tax revenues. State revenues sufficient to replace the intangibles tax would not likely be developed in a short time, and it is questionable whether or not repeal would have the necessary dramatic effect on industrial development or on in-migration of retirees to develop large additional state revenues.

Intangibles taxes do not appear to be a serious burden on industry. With regard to individuals, the tax is perceived by retirees as a significant burden which is inequitable. Repeal could have a favorable effect on retirees' decisions to locate in North Carolina. However, North Carolina's personal income tax may be an equally discouraging factor for tax-sensitive senior citizens. Other southern states with which we compete have somewhat less burdensome personal income taxes.

North Carolina's present industrial development program is attracting new plants from northeastern and midwestern states that do not have intangibles taxes. At the same time we are competing successfully with some southern states that do have intangibles taxes.

The question of equity arises whenever a particular tax is to be removed and the possibility is considered of either imposing new taxes or raising rates on existing taxes. Will repeal make our state's tax structure more or less equitable, or in fact be neutral? The individual's answer to this question may be a decisive factor in determining his personal position on repeal.

North Carolina Department of Revenue
Tax Research Division
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