NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 868 (Third Edition)

SHORT TITLE: Consumer's Right to Know and Act/QBI Credit

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($million)				
	FY 2004-05	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**	**FY 2008-09**
REVENUES					
General Fund					
Qualified Business Credit		(1.0)	(1.0)	(1.0)	(7.0)
Admin. Office of the Courts		No Estimate Available			
Dept. of Correction		No Estimate Available			
EXPENDITURES					
Dept. of Administration		No Fiscal Impact			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Administration; Department of Revenue

EFFECTIVE DATE: Sections 4 and 5 (tax credit) become effective for investments made on or after January 1, 2004. Sections 2 and 3 (vendors and call centers) of this act become effective October 1, 2004. Section 2 of this act applies to contracts entered into on or after that date. The remainder of the act is effective when it becomes law.

BILL SUMMARY: The bill requires state agencies to contract with telemarketing services or telephone center services that employ workers from the United States. The bill also increases the credit amount of the Qualified Business Investment Credit from $6 million to $7 million and extends the sunset of this credit from 2007 to 2008.

ASSUMPTIONS AND METHODOLOGY:
Department of Administration/ ITS
Section 2 of the bill prohibits the Secretary of Administration and other state entities to which Article 3 of Chapter 143 applies from contracting for telemarketing services or telephone center services with any vendor that employs persons not authorized to work in the United States under federal law. The Department of Administration reports that this section of the bill is not applicable

to the Department. While the Department's Division of Purchase and Contract is responsible for the State's procurement needs, G.S. § 147-33.95 provides that, notwithstanding any other provision of law, the Office of Information Technology Services (ITS) shall procure all information technology for State agencies. Information technology as defined in G.S. § 147-33.81(2) includes telecommunication goods and services. After conferring with legal staff, the General Assembly's Fiscal Research Division concludes that the procurement of telemarketing services and telephone center services is the procurement of telecommunication services that falls within the responsibility of ITS. Thus, we concur in the Department's analysis that this section of the bill does not apply to the Department and would have no impact on the Department. (See Technical Considerations.)

The Office of Information Technology Services agrees that the bill as written does not apply to IT (information technology) procurement. If the bill were amended to include IT procurement, then ITS believes it would impose some additional cost on the agency to check vendor compliance. ITS has no estimate of what costs it might incur if it had to comply with this bill.

<u>Class I Felony</u>

Section 2 of the bill creates a new Class I felony to knowingly submit a false certification that a contractor's employees are authorized to work in the United States. Class I felonies are generally tried in Superior Court, and are typically placed on supervised probation if convicted. Since there is no historical information on how often this crime might be charged, it is impossible to project the impact on the state's courts or prison system. Because of the nature of the bill itself, it is likely that most charges brought under this bill would be tried in Wake County Superior Court. Thus, if offenses of this nature occur with any frequency, i.e. more than five filings per year, the Wake County District Attorney's office may need additional resources.

<u>Qualified Business Investments Tax Credit.</u>

Section 4 of the bill raises the cap from $6 million to $7 million for the General Fund revenue loss from the Qualified Business Investment tax credit. This fiscal analysis assumes the credit maximum will be reached based on program history. The amount of credits applied for exceeded the current $6 million cap five out of seven years between 1997 and 2003 (see the following chart). The amount of tax credit applications has equaled or exceeded the proposed $7 million cap four of the last seven years.

Year Credit Claimed	Individuals	Corporations/ Pass-Throughs	Total
1997	$2,322,317	$3,677,683	$6,000,000*
1998	4,235,771	1,108,870	5,344,641
1999	4,714,892	1,285,108	6,000,000*
2000	4,221,732	1,778,268	6,000,000*
2001	3,612,777	2,387,223	6,000,000*
2002	4,179,918	1,820,082	6,000,000*
2003	4,064,764	1,530,349	5,595,113
	$45,696,368	**$17,779,425**	**$63,475,793**

*In these years, total credits requested exceeded $6 million. Actual requests were as follows:

1997	$9,250,000
1999	6,450,000
2000	7,000,000
2001	19,000,000
2002	7,825,000

The $1 million increase in this credit in tax year 2004 will have a revenue impact in FY 2005-06. The revenue loss from tax year 2004 is delayed because investments are made in 2004, applications for the tax credit on the 2004 investments are made in 2005, the Department of Revenue notifies taxpayers in November/December of 2005 of the amount of credit they will receive, then the taxpayers file their tax returns in spring 2006.

Section 5 of the bill extends the sunset of the Qualified Business tax credit from 2007 to 2008. Since the General Fund revenue forecast for future fiscal years assumes an end to the Qualified Business tax credit program, extension of the sunset to 2008 means there will be a General Fund revenue loss in FY 2008-09. It is assumed that the full $7 million cap will be reached in FY 2008-09.

SOURCES OF DATA: Department of Administration; Department of Revenue; Office of Information Technology Services; Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: This bill adds a new section to the Purchases and Contracts article (Article 3 of Chapter 143). The new section places restrictions on the procurement of telemarketing services or telephone center services. Fiscal Research concludes that these services are information technology services as defined in G.S. 147-33.81(2). Because G.S. § 147-33.95 gives the responsibility for information technology procurement to the Office of Information Technology Services (ITS) and because ITS has reported that it is not one of the agencies to which Article 3 of Chapter 143 applies, then to accomplish the purposes of section 2 the substance of section 2 would need to be made applicable to ITS.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Kathie Austin, Richard Bostic, Marilyn Chism, and Doug Holbrook

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

Official Fiscal Research Division Publication

DATE: July 14, 2004

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