

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 681
Finance Committee Substitute Adopted 6/28/19
House Committee Substitute Favorable 7/24/19

Short Title: Rur Hlth Care/Loc. Sales Tax Flex/Util. Acct.

(Public)

Sponsors:

Referred to:

June 24, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE RURAL HEALTH CARE STABILIZATION PROGRAM; TO
3 GIVE COUNTIES ADDITIONAL FLEXIBILITY WITH REGARD TO THE LOCAL
4 OPTION SALES AND USE TAX WITHOUT INCREASING THE EXISTING
5 MAXIMUM TAX RATE; AND TO EXPAND ELIGIBILITY FOR UTILITY ACCOUNT
6 FUNDS.

7 The General Assembly of North Carolina enacts:

8
9 **PART I. RURAL HEALTH CARE STABILIZATION PROGRAM**

10 **SECTION 1.1.(a)** G.S. 131A-1 through G.S. 131A-25 are designated as Article 1 of
11 Chapter 131A of the General Statutes, which is entitled "Health Care Facilities Finance Act."

12 **SECTION 1.1.(b)** The Revisor of Statutes shall change any references in Article 1
13 of Chapter 131A of the General Statutes from "this Chapter" to "this Article."

14 **SECTION 1.1.(c)** G.S. 113A-12(3)e. reads as rewritten:

15 "e. A health care facility financed pursuant to Article 1 of Chapter 131A
16 of the General Statutes or receiving a certificate of need under Article
17 9 of Chapter 131E of the General Statutes."

18 **SECTION 1.1.(d)** G.S. 142-15.16(3) reads as rewritten:

19 "(3) State-supported financing arrangement. – Any financing arrangement that
20 requires payments that are payable, whether directly or indirectly, and whether
21 or not subject to the appropriation of funds for payment, by payments from
22 the General Fund, the Highway Fund, the Highway Trust Fund, or other funds
23 and accounts of the State that are funded from the general revenues and other
24 taxes and fees of the State or State entities. A State-supported financing
25 arrangement does not include a financing arrangement where bonds or other
26 obligations are issued or incurred to carry out a financing program authorized
27 by the General Assembly under which the bonds or other obligations are
28 payable from moneys derived from specified, limited, nontax sources, such as
29 (i) loan payments made by a non-State entity receiving the benefit of financing
30 by a State entity (including an "obligor" or "participating institution" within
31 the meaning of Chapter 159D of the General Statutes, a "public agency" or a
32 "nonprofit agency" within the meaning of Article 1 of Chapter 131A of the
33 General Statutes, and similar entities); (ii) revenues of a revenue-producing
34 enterprise or activity (such as "revenues" within the meaning of Part 4 of
35 Article 1 of Chapter 116 of the General Statutes and "obligated resources"



1 within the meaning of Article 3 of Chapter 116D of the General Statutes); and
2 (iii) loan payments received, loans owned, and other assets of a State entity
3 that are pledged to secure bonds under programs to finance that type of assets
4 and the associated activities (such as mortgage loans under Chapter 122A of
5 the General Statutes and student loans under Article 23 of Chapter 116 of the
6 General Statutes)."

7 **SECTION 1.2.** Chapter 131A of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 2.

10 "Rural Health Care Stabilization Program.

11 **"§ 131A-30. Definitions.**

12 The following definitions apply in this Article:

- 13 (1) Commission. – The Local Government Commission established pursuant to
14 G.S. 159-3.
- 15 (2) Eligible hospital. – A health care facility located in a development tier one or
16 development tier two area, as defined in G.S. 143B-437.08, that is unable to
17 sustain operations for more than three years from the date of application for a
18 loan under the Program.
- 19 (3) Fund. – The Rural Health Care Stabilization Fund established in accordance
20 with this Article.
- 21 (4) Health care facility. – Any one or more buildings, structures, additions,
22 extensions, improvements or other facilities, whether or not located on the
23 same site or sites, machinery, equipment, furnishings, or other real or personal
24 property suitable for health care or medical care.
- 25 (5) Loan. – A sum of money loaned to an applicant with an obligation on the part
26 of the applicant to repay the sum, plus interest, in accordance with a loan
27 agreement.
- 28 (6) Plan. – A hospital stabilization plan developed in accordance with
29 G.S. 131A-33.
- 30 (7) Program. – The Rural Health Care Stabilization Program established pursuant
31 to this Article.
- 32 (8) Public agency. – Any county, city, town, hospital district, or other political
33 subdivision of the State existing or hereafter created pursuant to the laws of
34 the State authorized to acquire, by lease or otherwise, operate, or maintain
35 health care facilities.
- 36 (9) UNC Health Care. – The University of North Carolina Health Care System
37 established pursuant to G.S. 116-37.

38 **"§ 131A-31. The Rural Health Care Stabilization Program.**

39 (a) Program Established; Purpose. – There is established the Rural Health Care
40 Stabilization Program to provide loans for the support of eligible hospitals located in rural areas
41 of the State that are in financial crisis due to operation of oversized and outdated facilities and
42 recent changes to the viability of health care delivery in their communities, including the demand
43 for certain patient services and the composition of payer mixes and patient populations. Within
44 the funds available in the Rural Health Care Stabilization Fund, the Program shall provide for
45 loans at below-market interest rates with structured repayment terms in order for these financially
46 distressed eligible hospitals to transition to sustainable, efficient, and more proportionately sized
47 health care service models in their communities. In meeting this goal, loan funds may be used to
48 finance construction of new health care facilities or to provide for operational costs during this
49 transition period, or both, including while the construction of new health care facilities is
50 undertaken.

1 **(b) Administration.** – UNC Health Care shall administer the Program and has the
2 following duties and responsibilities:

3 **(1)** Establishing an application period and a process for submitting an application
4 for a loan under this Program.

5 **(2)** Assessing Plans submitted by an applicant for a loan under the Program.

6 **(3)** Evaluating an applicant's ability to repay the loan under the proposed Plan.

7 **(4)** Submitting recommendations to the Commission on whether an applicant
8 should receive a loan under the Program.

9 **(5)** Negotiating the terms of a proposed loan agreement.

10 **(6)** Determining the security interests necessary to enforce repayment of the loan.

11 **(7)** Implementing approved loan agreements, including monitoring repayment
12 and collection.

13 **(8)** Any other duties and responsibilities necessary to the implementation of the
14 Program and enforcement of the loan agreements under the Program.

15 **(c) Exclusion.** – UNC Health Care cannot apply for a loan under this Program and cannot
16 be a partner in a partnership that applies for a loan under this Program. The Commission cannot
17 approve an application for a loan if the issuance of the loan would result in a material, direct
18 financial benefit to UNC Health Care at the time the application and Plan are submitted to the
19 Commission for its approval.

20 **(d) Rules.** – UNC Health Care is authorized to adopt any rules necessary for
21 implementation of the Program.

22 **"§ 131A-32. The Rural Health Care Stabilization Fund.**

23 The Rural Health Care Stabilization Fund is created as a nonreverting special fund in the
24 Office of State Budget and Management. The Fund shall operate as a revolving fund consisting
25 of funds appropriated to, or otherwise received by, the Rural Health Care Stabilization Program
26 and all funds received as repayment of the principal of or interest on a loan made from the
27 Fund. The State Treasurer is the custodian of the Fund and shall invest its assets in accordance
28 with G.S. 147-69.2 and G.S. 147-69.3. Moneys in the Fund shall only be used for loans made
29 pursuant to this Article.

30 **"§ 131A-33. Application for loan evaluation.**

31 **(a) Application and Plan.** – A public agency, an owner of a health care facility, or a
32 partnership including one or more of those entities may apply for a loan under the Program to
33 benefit an eligible hospital. To apply for a loan, an applicant must develop a hospital stabilization
34 plan and submit the Plan with its application to UNC Health Care during the application period.
35 The Plan shall include, at a minimum, any proposed changes in governance or ownership for the
36 eligible hospital and the eligible hospital's financial projections, including a plan for repayment
37 by the applicant of the requested loan and other sources of funds projected for support of the
38 eligible hospital, such as local or federal funds. An applicant shall submit to UNC Health Care
39 any additional information requested by UNC Health Care to enable it to determine whether to
40 recommend the application to the Local Government Commission for approval.

41 **(b) Evaluation.** – UNC Health Care shall evaluate each Plan submitted to determine
42 whether the applicant's Plan demonstrates a financially sustainable health care service model for
43 the community in which the eligible hospital is located. UNC Health Care may also assist an
44 applicant with revisions to its Plan, including negotiating loan terms. Upon conclusion of its
45 review of an application, UNC Health Care shall notify the applicant and the Commission of its
46 recommendation on whether to approve or disapprove a loan application. If more than one
47 applicant applies during an application period, UNC Health Care may assign a priority order for
48 approval of applications when submitting its recommendations to the Commission and reasons
49 for the assigned order of priority.

50 **(c) Disapproval of Application.** – If UNC Health Care disapproves a loan application, the
51 applicant may engage a disinterested and qualified third party approved by the Commission to

1 evaluate the applicant's Plan to determine if the applicant demonstrates a financially sustainable
2 health care service model for the community in which the eligible hospital is located. The
3 applicant may seek Commission approval of the loan based on the written evaluation of its Plan
4 by the third party.

5 **"§ 131A-34. Commission approval for loan.**

6 (a) Approval Required. – UNC Health Care shall not award a loan under the Program
7 unless the Commission approves it. If the Commission enters an order denying the loan, the
8 proceedings under this Article shall be at an end.

9 (b) Conflict of Interest. – UNC Health Care must disclose to the Commission any
10 potential conflict of interest in its review of an application and Plan. The Commission cannot
11 approve a loan if the issuance of the loan would result in a material, direct financial benefit to
12 UNC Health Care at the time the application and Plan are submitted to the Commission for its
13 approval.

14 (c) Considerations. – The Commission shall review UNC Health Care's
15 recommendations, an applicant's Plan, and any other information it may believe to have a bearing
16 on whether the loan should be approved. If UNC Health Care recommended disapproval of a
17 loan, and the applicant has an evaluation prepared by a disinterested and qualified third party
18 approved by the Commission, the Commission may consider the third party's evaluation of the
19 applicant and the applicant's Plan. The Commission may require the applicant and eligible
20 hospital, if different, to provide any of the following information for its consideration:

21 (1) Current and historical financial information.

22 (2) Whether the undertaking is necessary or expedient.

23 (3) Its debt management procedures and policies.

24 (4) Whether it is in default in any of its debt service obligations.

25 (5) Any other information the Commission may believe to have a bearing on
26 whether the loan should be approved.

27 (d) Loan Approval. – The Commission may approve the application if, upon the
28 information and evidence it receives, it finds and determines:

29 (1) That the loan is necessary or expedient.

30 (2) That the amount proposed is adequate and not excessive for the proposed
31 purpose of the loan.

32 (3) That the Plan demonstrates a financially sustainable health care service model
33 for the community in which the eligible hospital is located.

34 (4) That the applicant's debt management procedures and policies are good, or
35 that reasonable assurances have been given that its debt will be repaid.

36 **"§ 131A-35. Award of loans; terms.**

37 (a) Award. – Upon approval of the loan by the Commission, UNC Health Care shall
38 execute the terms of the loan agreement. In adopting terms of the loan agreement, UNC Health
39 Care may require changes to the governance structure of the eligible hospital.

40 (b) Interest Rate and Maturity. – The interest rate payable on and the maximum maturity
41 of a loan are subject to the following limitations:

42 (1) Interest rate. – The interest rate for a loan may not exceed the interest rate
43 obtained by the State on its most recent general obligation bond offering.

44 (2) Maturity. – The maturity for a loan may not exceed ten years, with an option
45 to extend the loan for ten years. In no event may the term of a loan, including
46 options to extend, exceed twenty years.

47 (c) Debt Instrument. – UNC Health Care shall execute a debt instrument with the
48 recipient of the loan to evidence the obligation to repay the principal of and interest on the loan
49 awarded under this Article to the State.

50 **"§ 131A-36. Annual reports on the Rural Health Care Stabilization Fund.**

1 (a) Requirement. – UNC Health Care shall publish a report each year on the Rural Health
2 Care Stabilization Fund. The report shall be published by November 1 of each year and cover the
3 preceding fiscal year. UNC Health Care shall make the report available to the public and shall
4 give a copy of the report to the Joint Legislative Commission on Governmental Operations and
5 the Fiscal Research Division.

6 (b) Content. – The report required by this section shall contain the following information
7 concerning the Fund:

8 (1) The beginning and ending balance of the Fund for the fiscal year.

9 (2) The amount of revenue credited to the Fund during the fiscal year, by source.

10 (3) The total amount of loans awarded from the Fund.

11 (4) For each loan awarded, the recipient of the award, the amount of the award,
12 the amount of the award that was disbursed, and the amount of the award
13 remaining to be disbursed in a subsequent fiscal year, if applicable."

14 **SECTION 1.3.** G.S. 116-37 reads as rewritten:

15 **"§ 116-37. University of North Carolina Health Care System.**

16 ...

17 (e) Finances. – The University of North Carolina Health Care System shall be subject to
18 the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and
19 G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible
20 for all aspects of budget preparation, budget execution, and expenditure reporting. All operating
21 funds of The University of North Carolina Health Care System may be budgeted and disbursed
22 through special fund codes, maintaining separate auditable accounts for the University of North
23 Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine
24 of the University of North Carolina at Chapel Hill. All receipts of The University of North
25 Carolina Health Care System may be deposited directly to the special fund codes, and except for
26 General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel
27 Hill may be invested pursuant to G.S. 116-37.2(h). General Fund appropriations for support of
28 the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund
29 code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel
30 Hill Operations" and be transferable to a special fund operating code as receipts. General Fund
31 appropriations for the Rural Health Care Stabilization Program shall be deposited in the Rural
32 Health Care Stabilization Fund pursuant to G.S. 131A-32 and shall only be used for the purposes
33 set forth in Article 2 of Chapter 131A of the General Statutes.

34 ...

35 (l) Rural Health Care Stabilization Program. – The University of North Carolina Health
36 Care System shall administer the Rural Health Care Stabilization Program in accordance with
37 Article 2 of Chapter 131A of the General Statutes in order to further its mission to promote the
38 health and well-being of the citizens of North Carolina."

40 **PART II. LOCAL OPTION SALES TAX FLEXIBILITY**

41 **SECTION 2.1.** Article 46 of Chapter 105 of the General Statutes reads as rewritten:

42 "Article 46.

43 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

44 **"§ 105-535. Short title.**

45 This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use
46 Tax Act.

47 **"§ 105-536. Limitations.**

48 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under
49 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half
50 cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent
51 (1/2¢) local sales and use tax under Article 42 of this Chapter.

1 **"§ 105-537. Levy.**

2 (a) Authority. – A tax levied under this Article must be approved in a referendum. If the
 3 majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax,
 4 the board of county commissioners may, by resolution and after 10 days' public notice, levy a
 5 local sales and use tax at a rate of one-quarter percent (0.25%).the applicable rate. The applicable
 6 rate must meet all of the following conditions:

7 (1) It must be in an increment of one-fourth percent (1/4%).

8 (2) It must be at a rate that, if levied, would not result in a total local sales and use
 9 tax rate in the county in excess of the following:

10 a. Two and one-half percent (2 1/2%) if the county is authorized to levy
 11 a local sales and use tax under Part 6 of Article 43 of this Chapter.

12 b. Two and three-fourths percent (2 3/4%) if the county is authorized to
 13 levy, or is located in a special district authorized to levy, a local sales
 14 and use tax under Part 2, Part 4, or Part 5 of Article 43 of this Chapter.

15 (b) Vote. – The board of county commissioners may direct the county board of elections
 16 to conduct an advisory referendum on the question of whether to levy a local sales and use tax in
 17 the county as provided in this Article. The election shall be held in accordance with the
 18 procedures of ~~G.S. 163A-1592~~.G.S. 163A-1592, except that the election shall not be held within
 19 one year from the date of the last preceding election under this section.

20 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
 21 election concerning the levy of the tax authorized by this Article shall be:

22 "[] FOR [] AGAINST

23 Local sales and use tax at the rate of ~~one-quarter percent (0.25%)~~ [The applicable rate stated
 24 in both words and as a percentage] in addition to all other State and local sales and use
 25 taxes."taxes to be used for [the applicable use or uses chosen from the options listed in
 26 G.S. 105-538(b)]."

27 ...

28 **"§ 105-538. Administration and use of taxes.**

29 (a) Administration. – The Secretary shall, on a monthly basis, allocate to each taxing
 30 county the net proceeds of the tax levied under this Article. If the Secretary collects taxes under
 31 this Article in a month and the taxes cannot be identified as being attributable to a particular
 32 taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing
 33 counties in proportion to the amount of taxes collected in each county under this Article in that
 34 month. For purposes of this Article, the term "net proceeds" has the same meaning as defined in
 35 G.S. 105-472.

36 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
 37 of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1
 38 is an administrative provision that applies to this Article. A tax levied under this Article does not
 39 apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the
 40 sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall
 41 not divide the amount allocated to a county between the county and the municipalities within the
 42 county.

43 (b) Use. – A county must use the net proceeds of a tax levied under this Article only for
 44 one or more of the following, as indicated on the ballot question presented pursuant to
 45 G.S. 105-537(c):

46	<u>Use</u>	<u>Ballot Language</u>
47	<u>Any public purpose</u>	<u>Any public purpose</u>
48	<u>Public education purposes</u>	<u>Only public education purposes</u>

49 (c) Definitions. – For purposes of this section, the following definitions apply:

50 (1) Net proceeds. – Defined in G.S. 105-472.

51 (2) Public education purposes. – Any of the following purposes:

- 1 a. Public school capital outlay purposes, as defined in G.S. 115C-426(f),
 2 or to retire any indebtedness incurred by the county for these purposes.
 3 b. Supplements of classroom teacher salaries. For the purposes of this
 4 section, a classroom teacher is an employee of a local board of
 5 education employed as a teacher who spends at least seventy percent
 6 (70%) of his or her work time in classroom instruction.
 7 c. Financial support of community colleges, including funds to
 8 supplement State financial support of community colleges."

9 **SECTION 2.2.** Part 1 of Article 43 of Chapter 105 of the General Statutes is amended
 10 by adding a new section to read:

11 **"§ 105-506.3. Rate limitation.**

12 A local sales and use tax may only be levied under this Article if the total local sales and use
 13 tax rate in the county, including a levy under this Article, is not in excess of the following:

- 14 (1) Two and one-half percent (2 1/2%) if the county is authorized to levy a local
 15 sales and use tax under Part 6 of this Article.
 16 (2) Two and three-fourths percent (2 3/4%) if the county is authorized to levy, or
 17 is located in a special district authorized to levy, a local sales and use tax under
 18 Part 2, Part 4, or Part 5 of this Article."

19 **SECTION 2.3.** G.S. 105-164.3(4a) reads as rewritten:

20 "(4a) Combined general rate. – The sum of all of the following:

- 21 a. The State's general rate of tax set in ~~G.S. 105-164.4(a)~~
 22 G.S. 105-164.4(a).
 23 b. ~~plus the~~ The sum of the rates of the local sales and use taxes authorized
 24 for every county in this State by ~~Subchapter VIII~~ Article 39 of this
 25 Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this
 26 Chapter, and Article 42 of this ~~Chapter~~ for every county in this
 27 State.Chapter.
 28 c. One-half of the maximum rate of tax authorized by Article 46 of this
 29 Chapter."

30
 31 **PART III. EXPAND ELIGIBILITY FOR UTILITY ACCOUNT**

32 **SECTION 3.** G.S. 143B-437.01 reads as rewritten:

33 **"§ 143B-437.01. Industrial Development Fund Utility Account.**

34 (a) Creation and Purpose of Fund. – There is created in the Department of Commerce a
 35 special account to be known as the Industrial Development Fund Utility Account ("Utility
 36 Account") to provide funds to assist the local government units of the most economically
 37 distressed counties in the State in creating jobs. The Department of Commerce shall adopt rules
 38 providing for the administration of the program. Those rules shall include the following
 39 provisions, which shall apply to each grant from the account:

- 40 (1) The funds shall be used for construction of or improvements to new or existing
 41 water, sewer, gas, telecommunications, high-speed broadband, electrical
 42 utility distribution lines or equipment, or transportation infrastructure for
 43 existing or new or proposed buildings. To be eligible for funding, the water,
 44 gas, telecommunications, high-speed broadband, electrical utility lines or
 45 facilities, or transportation infrastructure shall be located on the site of the
 46 building or, if not located on the site, shall be directly related to the operation
 47 of the job creation activity. To be eligible for funding, the sewer infrastructure
 48 shall be located on the site of the building or, if not located on the site, shall
 49 be directly related to the operation of the job creation activity, even if the
 50 sewer infrastructure is located in a county other than the county in which the
 51 building is located.

- 1 (1a) The funds shall be used for projects located in economically distressed
2 counties except that the Secretary of Commerce may use up to one hundred
3 thousand dollars (\$100,000) to provide emergency economic development
4 assistance in any county that is documented to be experiencing a major
5 economic dislocation.
- 6 (2) The funds shall be used by the city and county governments for projects that
7 are reasonably anticipated to result in the creation of new jobs. There shall be
8 no maximum funding amount per new job to be created or per project.
- 9 (3) There shall be no local match requirement if the project is located in a county
10 that has one of the 25 highest rankings under G.S. 143B-437.08.
- 11 ...
- 12 (6) The funds shall not be used for any retail, entertainment, or sports projects.
13 The funds shall not be used for any nonmanufacturing project that does not
14 meet the wage standard for the development tier area or zone in which the
15 project is located. There is no wage standard for a development tier one area.
16 If an urban progress zone or an agrarian growth zone is not in a development
17 tier one area, then the wage standard for that zone is an average weekly wage
18 that is at least equal to ninety percent (90%) of the lesser of the average wage
19 for all insured private employers in the State and the average wage for all
20 insured private employers in the county in which the project is located. The
21 wage standard for a development tier two area or a development tier three area
22 is an average weekly wage that is at least equal to one hundred ten percent
23 (110%) of the lesser of the average wage for all insured private employers in
24 the State and ninety percent (90%) of the average wage for all insured private
25 employers in the county in which the project is located.
- 26 (7) Priority for the use of funds shall be given to eligible industries.
- 27 (a1) Definitions. – The following definitions apply in this section:
- 28 ...
- 29 (4) Economically distressed county. – A county that ~~is defined as a development~~
30 ~~tier one or two area~~ has one of the 87 highest rankings under
31 G.S. 143B-437.08.
- 32 ...
- 33 (7) Major economic dislocation. – The actual or imminent loss of 500 or more
34 manufacturing jobs in the county or of a number of manufacturing jobs equal
35 to at least ten percent (10%) of the existing manufacturing workforce in the
36 county.
- 37"
- 38

39 PART IV. EFFECTIVE DATE

40 SECTION 4. This act is effective when it becomes law.