



CHANGES TITLE

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1973

AMENDMENT NO. 46
(to be filled in by
Principal Clerk)

H1973-ARB-82 [v.4]

Page 1 of 2

Comm. Sub. [YES]
Amends Title [YES]
Fifth Edition

Date 11-7, 2010

Senator Jenkins

1 moves to amend the bill on page 1, line 6, as amended by Amendment Number 4, by rewriting
2 the line to read:
3 "TO PROVIDE FUNDING FOR THE DNA DATABASE AND DATABANK; TO CLARIFY
4 THE APPLICATION OF THE ENVIRONMENTAL POLICY ACT TO CERTAIN
5 ECONOMIC DEVELOPMENT INCENTIVE PAYMENTS; AND TO INCREASE THE
6 PERIOD OF TIME FOR WHICH THE SECRETARY OF REVENUE MAY ALLOW A
7 CORPORATION TO USE AN ALTERNATIVE APPORTIONMENT FORMULA.";

8
9 And on page 17, line 40, by adding a new Part to read:

10 **"PART XI. ALTERNATIVE APPORTIONMENT FORMULA CHANGE**

11
12 **SECTION 11.1** G.S. 105-130.4(t1) reads as rewritten:

13 '(t1) Alternative Apportionment Method. – A corporation that believes the statutory
14 apportionment method that otherwise applies to it under this section subjects a greater portion
15 of its income to tax than is attributable to its business in this State may make a written request
16 to the Secretary for permission to use an alternative method. The request must set out the
17 reasons for the corporation's belief and propose an alternative method.

18 The statutory apportionment method that otherwise applies to a corporation under this
19 section is presumed to be the best method of determining the portion of the corporation's
20 income that is attributable to its business in this State. A corporation has the burden of
21 establishing by clear, cogent, and convincing proof that the proposed alternative method is a
22 better method of determining the amount of the corporation's income attributable to the
23 corporation's business in this State.

24 The Secretary must issue a written decision on a corporation's request for an
25 alternative apportionment method. If the decision grants the request, it must describe the
26 alternative method the corporation is authorized to use and state the tax years to which the
27 alternative method applies. A decision may apply to no more than three tax years, unless
28 the provisions of subsection (t2) of this section apply. A corporation may renew a request to
29 use an alternative apportionment method by following the procedure in this subsection. A
30 decision of the Secretary on a request for an alternative apportionment method is final and is
31 not subject to administrative or judicial review. A corporation authorized to use an alternative
32 method may apportion its income in accordance with the alternative method or the statutory
33 method. A corporation may not use an alternative apportionment method except upon written



* H 1 9 7 3 - A R B - 8 2 - V - 4 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1973

CHANGES TITLE

AMENDMENT NO. 6
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Principal Clerk)

H1973-ARB-82 [v.4]

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1 order of the Secretary, and any return in which any alternative apportionment method, other
2 than the method prescribed by statute, is used without permission of the Secretary is not a
3 lawful return.'

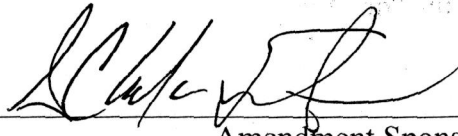
4 **SECTION 11.2.** G.S. 105-130.4 is amended by adding a new subsection to read:

5 '(t2) Alternative Apportionment for Certain Corporations. – A corporation that invests or
6 is expected to invest at least five hundred million dollars (\$500,000,000) in private funds to
7 construct a facility in a development tier one area within five years after the time construction
8 begins may make a written request to the Secretary for permission to use an alternative method
9 of apportionment if it believes the statutory apportionment method that otherwise applies to it
10 under this section subjects a greater portion of its income to tax than is attributable to its
11 business in this State. The Secretary of Commerce must certify in writing that the corporation
12 meets the conditions of this subdivision and the certification must be included with the
13 corporation's request to the Secretary. All of the provisions of subsection (t1) of this section
14 apply to a request for an alternative apportionment method under this subsection except that a
15 decision may apply to no more than eight tax years.'

16 **SECTION 11.3.** This Part is effective when it becomes law, and applies to requests
17 for alternative apportionment formulas filed on or after that date.";

18
19 And by renumbering the remaining Part and section accordingly.

SIGNED



Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

46-0

FAILED

TABLED

7-7-10



ADOPTED