

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 740
Finance Committee Substitute Adopted 6/21/89
Third Edition Engrossed 7/10/89

Short Title: Cherokee Tax Refund Agreements.

(Public)

Sponsors:

Referred to:

April 3, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE NORTH CAROLINA DEPARTMENT OF
2 REVENUE TO ENTER INTO AGREEMENTS WITH THE EASTERN BAND OF
3 CHEROKEE INDIANS REGARDING REFUNDS OF MOTOR FUELS AND
4 SPECIAL FUELS TAXES, AND TO ALLOW NONMETROPOLITAN
5 COUNTIES WITH A LOW PERSONAL INCOME GROWTH RATE TO BE
6 CONSIDERED SEVERELY DISTRESSED COUNTIES FOR THE TAX CREDIT
7 FOR CREATING JOBS.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. By virtue of the Act of June 4, 1924, Pub. L. No. 68-191, Ch. 253,
11 43 Stat. 370, Congress and the United States courts have recognized the Eastern Band of
12 Cherokee Indians as possessing sovereign legal rights over their members and their trust
13 lands.

14 Sec. 2. The following definitions apply in this act:

15 (1) Chief. The Principal Chief of the Eastern Band of the Cherokee
16 Indians.

17 (2) Council. The Tribal Council of the Eastern Band of the Cherokee
18 Indians.

19 (3) Tribe. The Eastern Band of the Cherokee Indians.

20 Sec. 3. Notwithstanding any other provision of law concerning refunds of
21 motor fuels and special fuels taxes, the Department of Revenue may enter into a
22 memorandum of understanding or an agreement with the Eastern Band of Cherokee

1 Indians to make refunds of motor fuels and special fuels taxes to the Tribe in its
2 collective capacity on behalf of its members who reside on or engage in otherwise
3 taxable transactions within Cherokee trust lands. The memorandum or agreement shall
4 be approved by the Council and signed by the Chief on behalf of the Tribe and shall be
5 signed by the Secretary of Revenue on behalf of the Department of Revenue. The
6 memorandum or agreement may not affect the right of an individual member of the
7 Tribe to a refund and shall provide for deduction of amounts refunded to individual
8 members of the Tribe from the amounts to be refunded to the Tribe on behalf of all
9 members. The memorandum or agreement may be effective for a definite or indefinite
10 period, as specified in the agreement.

11 Sec. 4. These refunds shall be drawn from the Highway Fund.

12 Sec. 4.1. (a) G.S. 105-130.4(c), as amended by Chapter 111 of the 1989 Session
13 Laws, reads as rewritten:

14 "(c) County Designation. A severely distressed county is a county designated as
15 such by the Secretary of the Department of Commerce. Each year, on or before
16 December 31, the Secretary of the Department of Commerce shall designate which
17 counties are considered severely distressed, and shall provide that information to the
18 Secretary of Revenue. A county is considered severely distressed if its distress factor is
19 one of the twenty highest in the State. The Secretary shall assign to each county in the
20 State a distress factor which is the sum of (1) the county's rank in a ranking of counties
21 by rate of unemployment from lowest to highest and (2) the county's rank in a ranking
22 of counties by per capita income from highest to lowest. In addition, any
23 nonmetropolitan county in which total personal income has increased by seventy-five
24 percent (75%) or less of the statewide average growth rate in the latest year for which
25 data are available shall be designated a severely distressed county. In measuring rates
26 of unemployment and per capita income, the Secretary shall use data from the North
27 Carolina Employment Security Commission and the United States Department of
28 Commerce for the most recent thirty-six month period for which data is available. A
29 designation as a severely distressed county is effective only for the calendar year
30 following the designation."

31 (b) G.S. 105-151.17(c), as amended by Chapter 111 of the 1989 Session Laws,
32 reads as rewritten:

33 "(c) County Designation. – A severely distressed county is a county designated as
34 such by the Secretary of the Department of Commerce. Each year, on or before
35 December 31, the Secretary of the Department of Commerce shall designate which
36 counties are considered severely distressed, and shall provide that information to the
37 Secretary of Revenue. A county is considered severely distressed if its distress factor is
38 one of the twenty highest in the State. The Secretary shall assign to each county in the
39 State a distress factor which is the sum of (1) the county's rank in a ranking of counties
40 by rate of unemployment from lowest to highest and (2) the county's rank in a ranking
41 of counties by per capita income from highest to lowest. In addition, any
42 nonmetropolitan county in which total personal income has increased by seventy-five
43 percent (75%) or less of the statewide average growth rate in the latest year for which
44 data are available shall be designated a severely distressed county. In measuring rates

1 of unemployment and per capita income, the Secretary shall use data from the North
2 Carolina Employment Security Commission and the United States Department of
3 Commerce for the most recent thirty-six month period for which data is available. A
4 designation as a severely distressed county is effective only for the calendar year
5 following the designation."

6 Sec. 4.2. Section 4.1 of this act is effective for taxable years beginning on or
7 after January 1, 1989, and notwithstanding the provisions of G.S. 105-130.40(c) and
8 G.S. 105-151.17(c) requiring designations to be made on or before December 31 of a
9 year to be effective the following year, the Secretary of the Department of Commerce
10 shall make any designations authorized by Section 1.1 of this act before September 1,
11 1989, and those designations shall be effective for 1989.

12 Sec. 5. Sections 1 through 4 of this act is effective retroactively to January 1,
13 1985.