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SENATE BILL 277
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Short Title: Exempt Higher Ed. Property.

(Public)

Sponsors:

Referred to:

March 4, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX EDUCATIONAL PROPERTY HELD BY A NONPROFIT ENTITY FOR A PUBLIC OR PRIVATE UNIVERSITY OR COMMUNITY COLLEGE LOCATED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-278.4 reads as rewritten:

"§ 105-278.4. Real and personal property used for educational purposes.

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation ~~if:~~ if all of the following requirements are met:

(1) ~~Owned by an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution);~~ either of the following:

a. An educational institution; or

b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;

(3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(4) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution ~~(as~~

1 ~~defined herein~~) and wholly and exclusively used by the occupant for
2 nonprofit educational purposes.

3 (b) Land. – Land (exclusive of improvements); and improvements other than
4 buildings, the land actually occupied by such improvements, and additional land
5 reasonably necessary for the convenient use of any such improvement shall be
6 exempted from taxation if:

7 (1) Owned by an educational institution that owns real property entitled to
8 exemption under the provisions of subsection (a), above;

9 (2) Of a kind commonly employed in the performance of those activities
10 naturally and properly incident to the operation of an educational
11 institution such as the owner; and

12 (3) Wholly and exclusively used for educational purposes by the owner or
13 occupied gratuitously by another nonprofit educational institution (as
14 defined herein) and wholly and exclusively used by the occupant for
15 nonprofit educational purposes.

16 (c) Partial Exemption. – Notwithstanding the exclusive-use requirements of
17 subsections (a) and (b), above, if part of a property that otherwise meets the
18 requirements of one of those subsections is used for a purpose that would require
19 exemption if the entire property were so used, the valuation of the part so used shall be
20 exempted from taxation.

21 (d) Public Use. – The fact that a building or facility is incidentally available to
22 and patronized by the general public, so long as there is no material amount of business
23 or patronage with the general public, ~~shall~~does not defeat the exemption granted by this
24 section.

25 (e) Personal Property. – Personal property owned by a church, a religious body,
26 or an educational institution (~~including a university, college, school, seminary,
27 academy, industrial school, public library, museum, and similar institution~~) shall be
28 exempted from taxation if:

29 (1) The owner is not organized or operated for profit, and no officer,
30 shareholder, member, or employee of the owner, or any other person is
31 entitled to receive pecuniary profit from the owner's operations except
32 reasonable compensation for services; and

33 (2) Used wholly and exclusively for educational purposes by the owner or
34 held gratuitously by a church, religious body, or nonprofit educational
35 institution (~~as defined herein~~) other than the owner, and wholly and
36 exclusively used for nonprofit educational purposes by the possessor.

37 (f) Definitions. – The following definitions apply in this section:

38 (1) Educational institution. – The term includes a university, a college, a
39 school, a seminary, an academy, an industrial school, a public library,
40 a museum, and similar institutions.

41 (2) Educational purpose. – A purpose ~~An educational purpose within the~~
42 ~~meaning of this section is one~~ that has as its objective the education or
43 instruction of human beings; it comprehends the transmission of
44 information and the training or development of the knowledge or skills

1 of individual persons. The operation of a student housing facility, a
2 student dining facility, a golf course, a tennis court, a sports arena, a
3 similar sport property, or a similar recreational sport property for the
4 use of students or faculty is also an educational purpose, regardless of
5 the extent to which the property is also available to and patronized by
6 the general public."

7 **SECTION 2.** G.S. 105-381(a)(1) reads as rewritten:

8 "(1) For the purpose of this subsection, a valid defense shall include the
9 following:

- 10 a. A tax imposed through clerical error;
11 b. An illegal tax;
12 c. A tax levied for an illegal purpose.
13 d. A tax that has been repealed retroactively."

14 **SECTION 3.** This act is effective for taxes imposed for taxable years
15 beginning on or after July 1, 2001.