

# Democracy North Carolina

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## DESPITE BUDGET CRISIS, TOP POLITICAL DONORS CONTINUE TO GAIN NEW TAX BREAKS

Six corporations that received a multi-million dollar tax break from the N.C. General Assembly in October 2002 donated a record amount of money to the campaigns of state legislators later that month, according to Democracy North Carolina, a Carrboro-based campaign finance watchdog group.

Altogether, the political action committees (PACs) of the state's four biggest banks and two largest electric utilities gave more than \$425,000 to state legislators in the month after gaining a tax break worth at least \$20 million a year. The bill establishing the tax change sailed through the General Assembly in the last 10 days of the 2002 session and was signed into law by the governor on Oct. 3.

When the legislature adjourned that week, PACs banned from making contributions during the session began issuing checks at a record pace, with the big banks and utilities in the lead and the election only a month away, said Bob Hall, Democracy North Carolina's research director.

From Oct. 4 to Oct. 16, Duke Energy's PAC shelled out \$116,500 to lawmakers, an all-time record for donations from a corporate PAC to legislators during any 2-week period in N.C. history. Bank of America's PAC paid out \$94,800 to incumbent legislators on October 18, a one-day record.

The October donations anchored another generous cycle of giving for the PACs of the four top banks and two utilities, Hall said. Fewer legislators were seeking re-election in 2002, but they got about as much money from the six PACs as all 170 received for their 2000 elections – about \$700,000 per cycle for a total of \$1.4 million. Bank of America's PAC led the list, donating \$346,600 over the past four years to legislators in office in October. The Duke Energy PAC followed with \$321,550.

No industry's PACs supplied as much money to the legislators' campaigns in 2000 and 2002, on a per-company basis, as did the state's banking and utilities industries, according to Democracy North Carolina's research. And no other industry won so large a tax reduction in 2002.

“No wonder we have a budget crisis,” said Hall. “There's a pattern of big donors getting tax breaks. Should we even expect legislators to make the powerful interests that bankroll their campaigns pay a fair share of taxes? Or do they need an alternative source of campaign funds to be independent?”

In addition to the \$1.4 million to legislators, the six PACs contributed at least \$627,000 to state political parties, leadership caucuses, and other state candidates in the 2000 and 2002 election cycles.

Officials at the companies say their donations are not connected to any special favor, but critics of the campaign finance system disagree.

“The public has every right to be suspicious when they see major political contributors getting tax breaks and subsidies that shift more of the tax burden onto others,” said Hall. “We now have a political system in North Carolina that makes politicians desperate for campaign money and, as a consequence, gives large donors an unhealthy advantage in shaping legislation that affects all of us.”

The outcomes of policy debates don't always please donors, Hall noted. In some cases, major donors are on both sides of an issue, such as those that pit one industry against another. In other cases, the final bill that passes gives the donors much of what they want, but not everything.

The “victory with compromise” scenario is how Hall characterized the tax windfall that banks and utilities gained from the bill passed in the final days of the 2002 General Assembly.

The bill modified a law enacted in 2001 that changed the rules for calculating the state income taxes owed by corporations with subsidiaries. The 2001 rules were projected to generate about \$32 million in new revenue per year, not counting an unknown amount from banks.

The big banks and utilities had agreed to the 2001 law, but when it turned out to significantly increase their tax bills, they complained to key legislators, held back their tax payments, and threatened to challenge the law in court. After weeks of backroom negotiations, legislative leaders agreed to change the law in order to get smaller but dependable increases in taxes from the banks and utilities.

“There may be legitimate reasons for these companies to receive a smaller tax bill than what the 2001 law required,” said Hall. “But the way the 2002 legislation developed in the midst of a severe budget crisis – behind closed doors, at the end of the session, with heavy pressure from political donors – raises serious questions about how debates on tax policy and tax fairness are conducted.

“To plug the state budget hole in 2002, most taxpayers got a sales-tax increase and lost the tax cuts promised in 2001, but the big banks and utilities got away with not paying what they owed,” he added. “They combined the threat of not paying any new tax with the goodwill gained through their campaign cash to win over key legislators and squeeze the rest into submission.”

According to Democracy North Carolina, the House Democratic leadership pushed hardest to force corporations with subsidiaries to pay at least \$82 million in new taxes for 2002. That was less than the \$120 million budget analysts determined all firms could owe under the 2001 law, but \$50 million more than the original, partial projection of \$32 million.

However, Senate leaders decided not to insist on collecting the added \$50 million beyond 2002, cutting it nearly in half for later years. The Senate also inserted a provision to study and revise the tax as early as 2003, and it put a cap of \$11 million on the annual tax bill of any bank and its subsidiaries.

Together, the changes reduced the tax burden on banks and utilities by between \$20 million and \$52 million a year, said Hall. The changes also leave intact another benefit – the infamous “bank tax loophole” – which allows banks to deduct the expenses incurred in earning tax-exempt income from their taxable income and thereby save about \$100 million in annual taxes, according to legislative staff.

State Senator John Kerr, who spearheaded the backroom negotiations and pushed the new bill as co-chair of the Senate Finance Committee, got a total of \$26,900 from the four big banks and two electric utilities in his 2000 and 2002 campaigns, according to Democracy North Carolina’s analysis. On his “statement of economic interest,” Kerr lists himself as a member of Branch Banking and Trust Company’s local advisory board. BB&T is the state’s third largest bank; its PAC gave \$61,220 to legislators elected in 2000 and \$81,674 more during their 2002 campaigns, including \$8,000 to Kerr.

Sen. David Hoyle, the other Senate Finance Committee co-chair, also worked on the bill, but excused himself from voting to avoid the appearance of impropriety. He is chairman of Citizens South Bank, and he received \$47,300 from the PACs of the six banks and utilities.

Democracy North Carolina found that legislators who voted for the bill received an average of \$8,728 from the six banking and utility PACs in 2000 and 2002. By contrast, the handful of legislators who opposed the bill – 15 in the House, none in the Senate – got an average of \$1,080 from the PACs.

“The whole thing looks like a classic case of major political donors getting special favors that cost the rest of us millions of dollars,” said Hall. “It helps explain why tax fairness is not addressed as a remedy for the state’s budget crisis. The current system puts the burden of new taxes and new cuts on those who lack the political cash to buy insider influence, make deals and protect themselves.”

**ANNUAL SAVINGS FOR BANKS AND UTILITIES FROM THE CHANGE IN THEIR  
TAX OBLIGATIONS UNDER HB-1670'S REVISION OF THE 2001 LAW\***

Line#	Fiscal Year 2001-2002	Fiscal Year 2002-2003	Fiscal Year 2003-2004	Fiscal Year 2004-2005
1	2001 LAW: ORIGINAL PROJECTION OF			
2	NEW REVENUE (NOT INCLUDING BANKS)			
3	\$30,800,000	\$32,300,000	\$33,600,000	\$34,500,000
4				
5	REVISED PROJECTION INCL. BANKS			
6	(a) Lower Estimate			
7	\$81,000,000	\$82,300,000	\$83,600,000	\$84,500,000
8	(b) Higher Estimate			
9	\$118,100,000	\$120,000,000	\$121,900,000	\$123,200,000
10				
11	2002 LAW: FINAL			
12	AGREEMENT			
13	\$30,800,000	\$82,300,000	\$59,900,000	\$62,900,000
14				
15	TAX SAVINGS =			
16	Revised Projection Minus			
17	2002 Final Agreement:			
18	(a) <u>Lower Savings</u> (Line 6 - Line 12):			
19	\$50,200,000	\$0	\$23,700,000	\$21,600,000
20	<u>85% goes to Banks &amp; Utilities:</u>			
21	\$42,670,000	\$0	\$20,145,000	\$18,360,000
22	(b) <u>Higher Savings</u> (Line 8 -Line 12):			
23	\$87,300,000	\$37,700,000	\$62,000,000	\$60,300,000
24	<u>85% goes to Banks &amp; Utilities:</u>			
25	\$74,205,000	\$32,045,000	\$52,700,000	\$51,255,000
26	ANNUAL AVERAGE SAVINGS FOR			
	BANKS AND UTILITIES:			
	Lower Estimate (Average of Line 19) = \$20,300,000 per year			
	Higher Estimate (Average of Line 22) = \$52,500,000 per year			

\* Prepared by Democracy North Carolina, based on Fiscal Note for HB 1670 (Sept. 25, 2002) and conversations with Fiscal Research and Department of Revenue staff. North Carolina has a general law that disallows the deduction of expenses incurred in earning income that is not taxable – except where federal and state laws differ on the taxability of an income item. Prior to the 2001 law change, corporations were allowed under state law to deduct expenses associated with income earned from their subsidiaries. The 2001 law conformed North Carolina rules to changes in federal rules, and changed the treatment of those deductible expenses from subsidiaries. The original projections of new revenue from the 2001 law didn't include figures for bank holding companies. New estimates that included banks and utilities showed a much higher tax obligation – from \$50 million to nearly \$90 million more, with nearly all of that owed by bank and utility holding companies. Rather than push for payment of that full amount, HB-1670 allowed the banks/utilities to pay much lower obligations per year (about \$25 million), with payments for 2001 and 2002 happening in 2002, because of withheld taxes in 2001, for a surge of \$50 million in new money.

**CONTRIBUTIONS FROM TOP FOUR BANKS AND TWO ELECTRIC UTILITIES\***

PAC Sponsor	CONTRIBUTIONS GIVEN TO N.C. LEGISLATORS IN OFFICE IN OCTOBER 2002				CONTRIBUTIONS TO OTHER NC CANDIDATES & PARTIES, CAUCUSES	NOTES
	Given In Oct. 2002	Total for 2001-2002	Total for 1999-2000	4-Year Total	4-Year Total	
Duke Energy/ Duke Power	\$116,500	\$166,000	\$155,550	\$321,550	\$79,250	Gave \$116,750 in 2 weeks to legislators--a record
Progress Energy/ CP&L	\$70,500	\$137,500	\$133,250	\$271,250	\$91,000	
Bank of America	\$94,800	\$144,600	\$202,000	\$346,600	\$119,900	Gave legislators \$94,800 on 10/17--one-day record
Wachovia Corp/ First Union	\$79,850	\$99,000	\$116,100	\$215,200	\$249,400	
Branch Banking and Trust (BB&T)	\$31,774	\$81,674	\$61,220	\$142,894	\$43,150	
First Citizens	\$34,450	\$46,600	\$39,900	\$86,200	\$45,000	Gave nearly as much in Oct '02 as all 1999-2000
<b>TOTAL FOR SIX PACs</b>	<b>\$427,824</b>	<b>\$675,374</b>	<b>\$708,020</b>	<b>\$1,383,694</b>	<b>\$627,700</b>	
NC Bankers Association PAC	\$30,700	\$74,750	\$21,350	\$96,100	\$37,250	Sharp rise in giving from 2000 to 2002

\* The legislators in office in Oct. 2002 were elected in the 2000 cycle (or filled a vacancy) and received contributions in the 2002 cycle. The overall total for 2002 is smaller, but fewer legislators received money because many were not running for re-election in 2002. All contributions listed here are from the company PACs. "Caucuses" are the political committees operated by legislative leaders. The figures do not include contributions from the companies' executives and their families. The four banks are the largest four in the state, ranked by deposits. Some operated federal and state PACs that gave to legislative candidates during this period. Wachovia's figures include First Union's activity for 1999-2001.

Prepared by Democracy North Carolina, Jan. 2003, based on reports filed with the State Board of Elections and Federal Board of Elections.

**LEADING RECIPIENTS OF CONTRIBUTIONS FROM PACs OF TOP 4 BANKS AND 2 UTILITIES\***

	D E T A I L S F O R 2 0 0 1 - 2 0 0 2 C Y C L E						T O T A L S F O R 2 0 0 2 & 2 0 0 0 C Y C L E S		
	Duke Energy	Progress Energy	Bank of America	Wachovia Corp	BB&T Corp	First Citizens	TOTALS FOR 2002	TOTALS FOR 2000	GRAND TOTAL
Phil Baddour	\$1,000	\$1,000	\$3,000	\$4,000	\$3,000	\$1,000	\$13,000	\$8,750	\$21,750
<i>PATRICK BALLANTINE</i>	4,000	3,000	3,500	3,000	1,000	2,500	17,000	11,300	\$28,300
MARC BASNIGHT	6,500	6,000	8,000	4,000	6,000	2,500	33,000	32,000	\$65,000
Jim Black	8,000	8,000	8,000	8,000	6,000	2,500	40,500	39,000	\$79,500
William Culpepper	3,000	3,000	1,500	3,000	500	500	11,500	9,450	\$20,950
<i>Leo Daughtry</i>	3,000	3,000	3,000	3,150	2,000	2,750	16,900	4,000	\$20,900
DAVID HOYLE	10,000	10,000	4,500	4,000	6,000	1,500	36,000	11,300	\$47,300
JOHN KERR	2,500	2,000	4,000	2,000	4,000	750	15,250	11,650	\$26,900
<i>Ed McMahan</i>	4,000	3,000	3,000	4,000	0	750	14,750	12,500	\$27,250
<i>Richard Morgan</i>	3,000	3,000	2,500	2,000	3,500	500	14,500	14,500	\$29,000
FOUNTAIN ODOM	6,000	5,000	4,500	1,500	0	500	17,500	13,350	\$30,850
TONY RAND	6,000	6,000	4,500	4,000	500	1,250	22,250	19,500	\$41,750
<i>ROBERT RUCHO</i>	3,500	2,000	3,500	3,000	300	500	12,800	8,900	\$21,700
<i>Connie Wilson</i>	2,000	2,000	2,500	1,500	500	500	9,000	7,500	\$16,500
<b>TOTALS</b>	\$62,500	\$57,000	\$56,000	\$47,150	\$33,300	\$18,000	\$273,950	\$203,700	\$477,650

\* Senate members in ALL CAPS. *Republicans in italics*. Much of the PACs' money is funneled to leaders in both parties in both chambers of the General Assembly. The rise in per-legislator donations is clear from this list of leading recipients – every one received more in the 2002 cycle than in 2000, even though the PACs had a more limited number of days to give because of the long legislative sessions in 2001-2002.

Prepared by Democracy South, Jan. 2003, based on reports filed with the Board of Elections and Federal Board of Elections.