

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

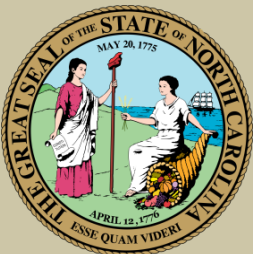
BETH A. WOOD, CPA



NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

RALEIGH, NORTH CAROLINA

INVESTIGATIVE REPORT
SEPTEMBER 2019



NCOSA
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

PURPOSE

The Office of the State Auditor received an allegation through its Hotline concerning potentially excessive hotel stays by Department of Agriculture and Consumer Services (Department) officials during the annual North Carolina State Fair.

BACKGROUND

The Department's mission is "to provide services that promote and improve agriculture, agribusiness, and forests; protect consumers and businesses; and conserve farmland and natural resources."¹

The North Carolina State Fair takes place over 11 days each October in Raleigh. The State Fair is the Department's premiere event which showcases the State's agriculture history and products while providing entertainment to approximately a million visitors annually.

KEY FINDING

- The Department violated *State Budget Manual* regulations by paying more than \$22,000 in travel expenses for the Commissioner, Chief of Staff, and State Fair Manager during the annual North Carolina State Fair.

KEY RECOMMENDATIONS

- The Department should comply with existing *State Budget Manual* regulations. Alternatively, given the distance these officials live from Raleigh and the demands of the State Fair, the Department should consider requesting a waiver from the Office of State Budget and Management. Further, if the Department obtains a waiver, the Department should seek hotel rooms in accordance with the approved state rates.
- The Commissioner, Chief of Staff, and State Fair Manager should consider reimbursing the Department for all costs not in compliance with *State Budget Manual* regulations regarding their overnight travel during the State Fair.

¹ <https://www.ncagr.gov/htm/MissionGoals.htm>

STATE OF NORTH CAROLINA
Office of the State Auditor



Beth A. Wood, CPA
State Auditor

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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Steve Troxler, Commissioner, North Carolina Department of Agriculture and Consumer Services

Ladies and Gentlemen:

Pursuant to *North Carolina General Statute §147-64.6(c)(16)*, we have completed an investigation of allegations concerning the North Carolina Department of Agriculture and Consumer Services. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General, and other appropriate officials in accordance with *G.S. §147-64.6(c)(12)*. We appreciate the cooperation received from the management and employees of the North Carolina Department of Agriculture and Consumer Services during our investigation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

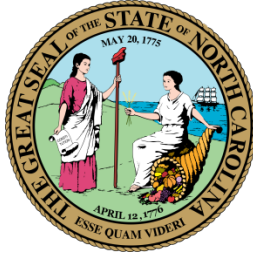
Beth A. Wood, CPA
State Auditor



Beth A. Wood, CPA
State Auditor

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BACKGROUND

The Office of the State Auditor initiated an investigation in response to a Hotline allegation regarding potentially excessive hotel stays by Department of Agriculture and Consumer Services (Department) officials during the annual North Carolina State Fair.

Our investigation of this allegation included the following procedures:

- Review of *North Carolina General Statutes*, the *State Budget Manual*, and applicable Department policies and procedures
- Examination and analysis of travel reimbursement forms, procurement card statements, and designated duty stations of certain Department officials
- Interviews with Department management and staff

This report presents the results of the investigation. The investigation was conducted pursuant to *North Carolina General Statute § 147-64.6 (c) (16)*.

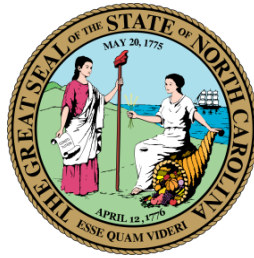
The Department's mission is "to provide services that promote and improve agriculture, agribusiness, and forests; protect consumers and businesses; and conserve farmland and natural resources."²

The North Carolina State Fair is held over 11 days each October in Raleigh. The State Fair is the Department's premiere event which showcases the State's agriculture history and products while providing entertainment to approximately a million visitors annually.

The State Fair's mission is "to showcase and promote the State's agriculture, agribusiness, arts, crafts, and culture."³ The State Fair offers the agricultural community a venue to showcase its crops, livestock, and technology while giving other residents an opportunity to learn through educational and competitive exhibits.

² <https://www.ncagr.gov/htm/MissionGoals.htm>

³ <http://www.ncstatefair.org/2018/Newsroom/History.htm#mission>



FINDING AND RECOMMENDATIONS

THE DEPARTMENT VIOLATED *STATE BUDGET MANUAL* REGULATIONS BY PAYING MORE THAN \$22,000 IN TRAVEL EXPENSES FOR THE COMMISSIONER, CHIEF OF STAFF, AND STATE FAIR MANAGER DURING THE ANNUAL NORTH CAROLINA STATE FAIR

Over a five-year period, the North Carolina Department of Agriculture and Consumer Services (Department) violated *State Budget Manual* regulations regarding overnight travel status during the annual North Carolina State Fair. As a result, the Department spent more than \$22,000 on hotel stays and associated expenses for the Commissioner, Chief of Staff, and State Fair Manager.

Department management failed to comply with overnight travel requirements because they believed business demands justified overnight stays. Department management expressed the need to rapidly respond to safety or security issues for the general public attending the State Fair and the safety of Department officials working long days.

However, Department management ignored existing policy and did not seek a waiver from the overnight travel requirements. If the Department does not obtain a waiver, management should follow existing policy.

Raleigh Hotel Stays in Violation of State Policy

Although state policy restricts overnight travel to destinations at least 35 miles away from an employee's home or duty station (whichever is less), the Commissioner, Chief of Staff, and State Fair Manager⁴ stayed at hotels in Raleigh during the State Fair from 2014 through 2018.

The Department paid for their hotels, meals, and other expenses even though the Department's main office in downtown Raleigh⁵ is their designated duty station. The distance between the Commissioner's and Chief of Staff's duty stations and the State Fairgrounds is approximately five miles.

Resulted in \$22,000 in Travel Expenses over Five Years

The Department inappropriately spent more than \$22,000 on hotels and associated expenses (see Table 1) by not complying with *State Budget Manual* regulations. On average, if the Commissioner, Chief of Staff, and State Fair Manager continue to stay at hotels during the State Fair, the Department would spend approximately \$4,400 annually.

⁴ The State Fair Manager only stayed at a Raleigh hotel during the 2018 State Fair after his promotion to his current position in February 2018. The prior State Fair Manager did not stay in hotels because he lived in Apex.

⁵ The State Fair Manager's designated duty station is the State Fairgrounds.

Table 1
Raleigh Hotels and Associated Costs During North Carolina State Fairs in Raleigh from 2014 through 2018
for Department Officials with Raleigh Duty Stations

Official	Lodging Costs	Hotel Dining	Meals Reimbursed	Mileage Reimbursed	Bellhop Reimbursed	Valet Parking Reimbursed	Total
Commissioner	\$ 9,435.48 ⁶	\$ 296.97	\$ 834.20	\$ -	\$ 8.00	\$ 116.00	\$ 10,690.65
Chief of Staff	9,288.66 ⁷	-	642.70	360.33	8.00	-	10,299.69
State Fair Manager	1,030.64 ⁸	-	-	-	-	-	1,030.64
Totals	\$ 19,754.78	\$ 296.97	\$ 1,476.90	\$ 360.33	\$ 16.00	\$ 116.00	\$ 22,020.98

Note: See Appendix A for detailed expenses by official for each year reviewed

Caused by Management Override of Controls

Although Department officials knew about the 35-mile overnight travel status requirement, the Department failed to comply with *State Budget Manual* regulations because management believed business demands justified the expenses. Department management provided examples of business demands such as an accident or act of violence at the State Fair that might necessitate attention on a 24-hour-a-day basis. In addition, Department management expressed the potential safety concerns for these officials who would be expected to travel over an hour each way daily while also working extended hours during the 11-day State Fair.

For example, the Chief Deputy approved the State Fair Manager's hotel stay in an October 25, 2018, e-mail in which he wrote:

I don't find in the Budget Manual a means to grant an exception from the 35 miles requirement. However, I am approving the payment since this was your first fair and you did not know what to expect. I can appreciate having to be onsite first thing in the morning and staying until after midnight.

Because the Commissioner lives in Browns Summit (83 miles from Raleigh), the Chief of Staff lives in High Point (104 miles from Raleigh), and the State Fair Manager lives in Fremont (59 miles from Raleigh), Department management considered overnight hotel stays necessary.

State Budget Manual Defines Allowable Overnight Travel

The *State Budget Manual*, Section 5.1.5 states, "Overnight lodging may only be authorized and paid to support business needs and final travel destinations that equal or exceed 35 miles, calculated from the employee's home or duty station, whichever is less, to the final travel destination. 'Duty station' is defined as the location where the employee is assigned."

The *State Budget Manual*, Section 5.1.2 defines subsistence as "an allowance related to lodging and meal costs (including gratuities). For the purposes of determining eligibility for allowances, travel status means being away from the employee's normal duty station or home

⁶ The Commissioner stayed at the Renaissance in 2018, 2017, and 2014 (\$199/night all three years); the Marriott in 2016 (\$159/night), and the Embassy Suites in 2015 (\$143.10/night).

⁷ The Chief of Staff stayed at the Renaissance in 2018 and 2014 (\$199/night both years), Hyatt Place in 2017 (average \$171.50/night) and 2016 (average \$139.17/night), and Embassy Suites in 2015 (\$134.10/night).

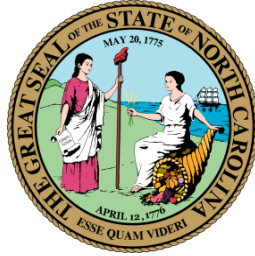
⁸ The State Fair Manager stayed at Hawthorn Suites in 2018 (\$70/night).

and, while traveling, the employee must be acting in his/her official capacity as required by his/her work activities. For the 2017-19 biennium, the maximum allowable statutory rate for meals and lodging (subsistence) is \$109.50 for in-state travel.”

RECOMMENDATIONS

The Department should comply with existing *State Budget Manual* regulations. Alternatively, given the distance these officials live from Raleigh and the demands of the State Fair, the Department should consider requesting a waiver from the Office of State Budget and Management. Further, if the Department obtains a waiver, the Department should seek hotel rooms in accordance with the approved state rates.

The Commissioner, Chief of Staff, and State Fair Manager should consider reimbursing the Department for all costs not in compliance with *State Budget Manual* regulations regarding their overnight travel during the State Fair.

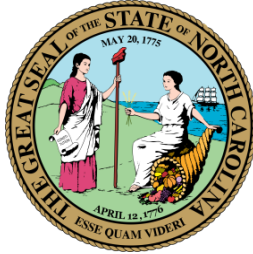


APPENDIX

Raleigh Hotels and Associated Costs During North Carolina State Fairs in Raleigh from 2014 through 2018 For Department Officials with Raleigh Duty Stations									
Department Official	Hotel Name	Nightly Rate	Hotel Total	Hotel Dining	Meals Reimbursed	Mileage Reimbursed	Bellhop Reimbursed	Valet Parking Reimbursed	Total
2018									
Commissioner	Renaissance	\$199.00	\$1,802.96	-	\$317.40	-	-	\$100.00	2,220.36
Chief of Staff	Renaissance	199.00	1,802.96	-	240.80	\$52.32	-	-	2,096.08
State Fair Manager	Hawthorn	70.00	1,030.64	-	-	-	-	-	1,030.64
Total		-	4,636.56	-	558.20	52.32	-	100.00	5,347.08
2017									
Commissioner	Renaissance	199.00	2,028.30	-	355.20	-	-	-	2,383.50
Chief of Staff	Hyatt Place	171.50 ⁹	1,936.58	-	401.90	131.61	-	-	2,470.09
Total		-	3,964.88	-	757.10	131.61	-	-	4,853.59
2016									
Commissioner	Marriott	159.00	2,006.70	\$88.57	-	-	-	-	2,095.27
Chief of Staff	Hyatt Place	139.17 ¹⁰	1,569.02	-	-	-	-	-	1,569.02
Total		-	3,575.72	88.57	-	-	-	-	3,664.29
2015									
Commissioner	Embassy	143.10	1,129.45	-	-	-	-	-	1,129.45
Chief of Staff	Embassy	134.10	1,512.00	-	-	-	-	-	1,512.00
Total		-	2,641.45	-	-	-	-	-	2,641.45
2014									
Commissioner	Renaissance	199.00	2,468.07	208.40	161.60	-	\$8.00	16.00	2,862.07
Chief of Staff	Renaissance	199.00	2,468.10	-	-	176.40	8.00	-	2,652.50
Total		-	4,936.17	208.40	161.60	176.40	16.00	16.00	5,514.57
Totals									
Commissioner			9,435.48	296.97	834.20	-	8.00	116.00	10,690.65
Chief of Staff			9,288.66	-	642.70	360.33	8.00	-	10,299.69
State Fair Manager			1,030.64	-	-	-	-	-	1,030.64
Grand Total			\$19,754.78	\$296.97	\$1,476.90	\$360.33	\$16.00	\$116.00	\$22,020.98

⁹ Average rate calculated based on \$169 (four days) and \$174 (four days) charged during the stay.

¹⁰ Average rate calculated based on \$138.57 (eight days) and \$141.55 (two days) charged during the stay.



STATE AUDITOR'S RESPONSE

The Office of the State Auditor (OSA) strives to provide reports with complete and accurate information to the Governor, the General Assembly, and the citizens of North Carolina. When the response of an auditee potentially obscures an issue, misleads the reader, or inappropriately minimizes the importance of auditor findings and recommendations, OSA provides clarifications regarding the auditee's response.

In its response to this investigative report, the Department of Agriculture and Consumer Services (Department) made several statements that attempted to minimize the importance of OSA's finding and recommendations. To ensure complete and accurate information, OSA offers the following clarifications.

Potential Impact of State Agencies Ignoring Regulations

The Department's response focused on attempting to justify the Department's failure to comply with *State Budget Manual* regulations rather than accepting responsibility for non-compliance and taking corrective action.

The OSA investigation and report addressed the Department's noncompliance with state regulations and the costs to taxpayers (while also acknowledging the safety and security reasons stated by Department management). The Department should have focused its response on those areas instead.

No state agency, nor its leadership, has the authority to override existing state policies and regulations. In fact, Department management's decision to override these regulations sets a precedent for other state agencies to also ignore whichever policy or regulation they choose, which could cause a great cost to the taxpayers.

Delays in Obtaining Waiver

Early in this investigation, OSA staff suggested to Department management the possibility of obtaining a waiver from the 35-mile overnight travel status requirement.

However, Department management did not seek a waiver until after receiving the draft investigative report. Even then, the Department waited until just before the response due date to seek that waiver.

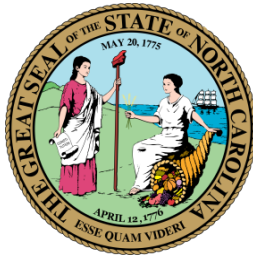
The Office of State Budget and Management provided that exemption a mere two days later. As such, it seems obvious that Department management could have easily obtained the waiver months or years earlier.

Approved State Hotel Rates

In its response, Department management noted that it granted "excess lodging costs due to the high costs of hotels in the Raleigh area; difficulty securing lodging within the current allowance; and the safety and security concerns for the Commissioner, a statewide elected official."

While Raleigh can be a higher-cost area, the Department obtained safe and secure lodging for the State Fair Manager during the 2018 State Fair for \$70 per night.¹¹ In comparison, the Department paid \$199 per night for both the Commissioner and the Chief of Staff.

¹¹ Current approved state hotel rates equal \$71.20 per night.



RESPONSE FROM THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES



Steve Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services

N. David Smith
Chief Deputy Commissioner

August 22, 2019

Beth A. Wood, CPA
State Auditor
2 S. Salisbury St. # 200
Raleigh, NC 27601

Dear Auditor Wood:

The North Carolina Department of Agriculture and Consumer Services (NCDA&CS) is in receipt of your draft Investigative Report dated August 2019. We appreciate being given the opportunity to respond to the draft report.

As your office is aware, the North Carolina State Fair is a division of the North Carolina Department of Agriculture and Consumer Services (NCDA&CS). In addition to its year-round duties of managing, promoting and renting the fairground facilities, this division is responsible for hosting and managing the annual State Fair. The State Fair is the State's largest public event held every year in mid-October. The State Fair attracts more than a million visitors to the fairgrounds in Raleigh over the course of the eleven days and has consistently been ranked as one of the Top 10 Best Fairs in the country¹.

In addition to the more than a million visitors that come to the State Fair each year, there are more than 1,500 employees, both seasonal and permanent, that work on the fairgrounds during the State Fair. These employees include permanent employees from every division within NCDA&CS. It also includes seasonal, temporary employees that range from ticketing agents and gate attendants to competition directors and law enforcement. The State Fair is a 24-hour operation. As the gates close each night, the fairgrounds remain a hive of activity with both year-round staff and contractors busy preparing for the next day. On any given night, as many as 100 people are still on the fairgrounds cleaning buildings, securing gates, scrubbing roadways, replacing full dumpsters and a host of other essential activities in preparation for the next morning's opening. Also, on the fairgrounds are more than 3,500 exhibitors, vendors, carnival workers and entertainment staff. All of these individuals work together to make the State Fair a success each year.

To put on an event of this magnitude safely and successfully requires a great deal of oversight and coordination. This responsibility falls on the State Fair manager, NCDA&CS Chief Deputy Commissioner (Chief Deputy), NCDA&CS Chief of Staff (Chief of Staff) and ultimately, the Commissioner of Agriculture.

The Commissioner of Agriculture is a Constitutionally designated state-wide elected official who is a member of the Council of State and who must be a farmer.ⁱⁱ One of his many responsibilities is running the annual State Fair. In order to do this efficiently and effectively, the Commissioner and Chief of Staff physically move their offices from their downtown Raleigh location, 2 West Edenton Street, to the fairgrounds. This way the Commissioner is on site to address any and all matters that arise during the State Fair, such as security concerns, logistical issues, special events on the groundsⁱⁱⁱ, and the myriad of other issues that arise during an event such as this.

Given the nature of the State Fair, the job responsibilities for the Commissioner, Chief of Staff, Chief Deputy and the State Fair Manager necessitate long days on-site for eleven days straight.^{iv} As noted in the Auditor's report, the Commissioner lives in Brown Summit, 83 miles from Raleigh. The Chief of Staff resides in High Point, 104 miles from Raleigh, and the State Fair Manager lives in Fremont, 59 miles from Raleigh.^v On a normal business day, each commutes from his home into Raleigh (or wherever across the State the Commissioner has meetings) for the normal work week. The fact that our Department has officials from across the State, not solely out of Raleigh, is an asset to the Department and a testament to their dedication to helping the citizens of North Carolina.

However, due to the demands required by the State Fair and the necessity for the Commissioner, Chief of Staff, and State Fair Manager to be on call 24 hours a day, 7 days a week, Department management did and does consider hotel stays for these individuals to be necessary. Not only is this a decision based on a unique business need of the Department, but it is most importantly based on safety.

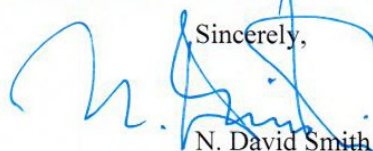
1. **Unique business need.** With a public event the size of the State Fair (in number of visitors, employees, volunteers and vendors, not to mention the number of animals on site), it is imperative that the Commissioner, Chief of Staff, Chief Deputy and State Fair Manager be on call 24 hours a day, 7 days a week. Likewise, in the case of an emergency, all four of these individuals need to be able to be on-site quickly to make critical, timely decisions; address the press; and address employee and public concerns. The Department always prepares and hopes that there will not be such an emergency necessitating this need; however, past experiences provide examples of just such a need: Vortex ride accident at the 2013 State Fair occurring at approximately 9:00 in the evening; unprecedented decision to delay the opening of the 2018 State Fair by a day due to Hurricane Michael.
2. **Safety.** As stated earlier, running the State Fair necessitates the Commissioner, Chief of Staff, Chief Deputy and State Fair Manager to be on site for 12 to 18 hours plus per day for an extended eleven days straight. This schedule and the attendant demands of this event take a toll physically and mentally. Given the distance three of these officials live from Raleigh and the hours they would be required to drive each way to and from the State Fair, there would be minimal opportunity and time for these officials to sleep. Driving with such a lack of sleep would pose a danger not only to the Commissioner, Chief of Staff and State Fair Manager but also to the traveling public. Additionally, if there were an emergency necessitating a return to the fairgrounds, the safety risks are increased exponentially.

Section 5.1.5 Authorization of Lodging of the State Budget Manual provides:

Prior written approval by the Department head or his designee must be obtained in order to qualify for reimbursement for overnight stays. Supervisory personnel certifying the reimbursement request as necessary and proper must require documentation from the traveler to substantiate that the overnight lodging was necessary and accomplished. The travel reimbursement calculations must involve the starting address of the employee's regularly assignment or home, whichever is less, to the final travel destination, in order to receive approved reimbursement. Overnight lodging may only be authorized and paid to support business needs and final travel destinations that equal or exceed 35 miles, calculated from the employee's home or duty station, whichever is less, to the final travel destination. "Duty station" is defined as the location where the employee is assigned. The designation of an employee's home as the duty station requires the approval of the department head.

I am the Commissioner's designee for granting approval for travel. The Commissioner, his Chief of Staff and the State Fair Manager obtained written approval prior to getting reimbursed for expenses associated with overnight accommodations during the State Fair.^{vi} Each BDA/request for reimbursement contained a written explanation as to why such lodging was necessary and a business need.^{vii} These records are public record.

While Section 5.1.5 of the State Budget Manual does not explicitly provide an exception to the requirement that a final destination must equal or exceed 35 miles from the employee's home or duty station, whichever is less, or from any of its other requirements, the Department has been in communication with OSBM regarding a process going forward to request such an exception when there is a unique business and safety need, such as in the case of the State Fair. In fact, we sent a request to OSBM on August 19, 2019 and received their response on August 21, 2019, wherein OSBM granted our requested lodging exemption in the interest of public safety. A copy of the OSBM letter is attached to our response. We look forward to continuing to work with OSBM to ensure that the Department is being a good steward of State Fair resources, and to assist us in safeguarding our greatest resource – our people.

 Sincerely,
N. David Smith

Chief Deputy Commissioner

ⁱ <https://www.10best.com/awards/travel/best-state-fair/>
<https://smartasset.com/mortgage/best-state-fairs-in-america-2017>
<https://www.newsobserver.com/news/local/article214591150.html>
<https://www.vacationsmadeeasy.com/TheBLT/The20BestStateFairsinAmerica.html>

ⁱⁱ N.C. Constitution, Article III, Sec. 7 & 8; N.C. Gen. Stat. 106-2(b)

ⁱⁱⁱ Opening Ceremony, Youth Livestock Auction, Day of Hope & Happiness, Senior Citizens Day, Military Day & parade, Food Lion Can Day, and Tobacco Auction to name just a few

^{iv} The State Fair remains open until 11:00 pm or midnight depending on the day.

^v The Chief Deputy Commissioner resides in Raleigh.

^{vi} Funds used to reimburse these officials for overnight expenses due to the State Fair came from State Fair receipts.

^{vii} Approval was given for the excess lodging costs due to the high cost of hotels in the Raleigh area; difficulty securing lodging within the current allowance; and the safety and security concerns for the Commissioner, a statewide elected official.



STATE OF NORTH CAROLINA
OFFICE OF STATE BUDGET AND MANAGEMENT

ROY COOPER
GOVERNOR

CHARLES PERUSSE
STATE BUDGET DIRECTOR

August 21, 2019

Mr. N. David Smith
Chief Deputy Commissioner
Department of Agriculture and Consumer Services
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Dear Mr. Smith:

The Office of State Budget and Management received and reviewed your August 19, 2019 request for an exemption to a portion of Section 5.1.5 of the State Budget Manual which addresses authorization for lodging. This section only allows authorization for overnight lodging for employees to support business needs when the destination is 35 miles or greater from the employee's home or duty station, whichever is less.

Your request states that the Department of Agriculture and Consumer Services is seeking an exemption from the 35-mile restriction for lodging because of unique business needs associated with operations of the North Carolina State Fair and Mountain State Fair. The Department is also concerned for the safety of these employees who would be required to work late at night until the Fairs close, drive beyond the 35-mile radius to their home and return early the next morning before the Fairs open.

I am granting the requested lodging exemption in the interest of public safety to allow a few, critical employees who live more than 35 miles from the fairgrounds, to remain onsite during the operations of the State Fair and Mountain State Fair. This will allow critical staff to quickly respond to emergency situations and unforeseen events should they arise. The Department of Agriculture and Consumer Services should continue to adhere to all other conditions and limitations outlined in the State Budget Manual.

Please feel free to contact Assistant State Budget Officer Adam Brueggemann by email to adam.brueggemann@osbm.nc.gov or telephone to (919) 807-4715 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Charles Perusse".

Charles Perusse

cc: Kristin Walker, Deputy State Budget Officer
Adam Brueggemann, Assistant State Budget Officer

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<https://itunes.apple.com/us/app/nc-state-auditor-hotline/id567315745>

For additional information contact:
Brad Young
Director of External Affairs
919-807-7513



This investigation required 148.5 hours at an approximate cost of \$15,295.50.