

Lake Lure ABC Board

Performance Audit Report



Alcoholic Beverage Control Commission
400 East Tryon Road, Raleigh, NC 27610
p: 919-779-0700 | f: 919-661-5927 | <http://abc.nc.gov>



ABC
COMMISSION
NORTH CAROLINA

TABLE OF CONTENTS

ABC Commission Statement	3
Objective, Purpose & Background Information	4
Financial Analysis, Observations & Findings	6
Recommended Actions & Additional Considerations	14-16
Lake Lure ABC Board Response Letter	17

OBJECTIVE, PURPOSE & BACKGROUND INFORMATION

In addition to regular and special financial audits, G.S. 18B-705(a) authorizes the NC ABC Commission to conduct performance audits of all local ABC boards in the state. Performance audits are examinations of existing operating policies, practices, controls, and activities to determine those areas in which there may be a need for improvement.

The audits are designed to ensure that all local ABC Boards comply with established performance standards pursuant to G.S. 18B-203(a)(20). The audit's scope addresses compliance with ABC laws and rules, store appearance, operating efficiency, solvency, and customer service.

To achieve the objectives of the audit, auditors:

- Review applicable General Statutes, ABC Commission Rules, and Administrative Policies
- Review applicable reports and studies of ABC Boards with similar size and geography
- Verify compliance with Commission and Board policies
- Verify results of previous performance audit recommendations
- Review ABC Board annual independent financial audits
- Review ABC Board reporting and documentation reports
- Visit the store(s)
- Interview key ABC Board personnel

Located in Rutherford County, the Town of Lake Lure was originally incorporated in 1927. A repurposed bridge now known as Lake Lure Flowering Bridge is found here, and it has attracted visitors from many U.S. states as well as several countries. Chimney Rock State Park nearby draws many visitors each year. Lake Lure has been a location for some films including the popular 1987 movie Dirty Dancing. The town hosts an annual festival honoring this movie. In 2020, the town's population per the Census was approximately 1,365 residents which increased a little more than 10% since 2010.

Chapter 353 of the 1979 Session authorized the Town of Lake Lure to hold an election for an ABC store. The referendum was held on August 1, 1979, and it passed 169 to 99. The first retail sale occurred on November 10, 1980. A mixed beverage election was held on June 4, 1985, and it passed 220 to 75. Since December 2019, the Town of Lake Lure appoints a chairperson and four (4) additional board members to serve for three-year terms on the ABC board.

The Lake Lure ABC Board currently operates one (1) retail store. The board staffs approximately five (5) total employees including two (2) full time employees and three (3) part-time personnel. The general manager / is responsible for the daily store operations including supervising personnel, inventory management, and various retail functions. The finance officer provides the general manager/budget officer and the board with fiscal management, administrative support, and assist with routine operations of the ABC stores. Sales associates handle retail functions including selling product, inventory, and providing customer service.

The last performance audit for the Lake Lure ABC Board occurred in 2019. The Commission audit serves as a continuous way to provide local boards with information and best practices that target areas for improvement.



OPERATIONAL OBSERVATIONS, FINDINGS, REQUIRED ACTIONS, & RECOMMENDATIONS

On Thursday, February 2, 2023, ABC Board Program Analyst Quinn Woolard, visited the Lake Lure ABC Board and interviewed Trent McGuire (Manager Trainee), Earl Russell (Assistant Manager), Richard Sayles (Chairman) and Rhonda Cook (Finance Officer). Below is a financial analysis followed by operation observations, findings, and recommendations related to the performance audit.

FINANCIAL ANALYSIS

PROFIT PERCENTAGE TO SALES & OPERATING COST RATIO

In fiscal year (FY) 2021-2022, the Lake Lure ABC Board had a profit percentage to sales of 5.82%. The NC ABC Commission profit to sales standards for ABC Boards with gross sales less than \$2M is 5.0%. The Lake Lure ABC Board's gross sales totaled \$1,413,495, which was a 16.8% over the previous fiscal year.

The operating cost ratio for the Lake Lure ABC Board was .76 in FY 2021-2022. The NC ABC Commission standard for ABC Boards with one or two stores and mixed beverage sales is .73 or less.

Thus, the Lake Lure ABC Board well exceeded the profitability standards but was slightly below the operating cost standards set by the NC ABC Commission. Below is a chart showing gross profit on sales and income from operations for the previous two years.

	FY 2021-2022	FY 2020-2021
Gross Profit on Sales	\$358,713	\$297,574
Income from Operations	\$82,261	\$26,726

Factors affecting profitability and cost include:

- Surrounding areas with other ABC Boards operating stores within an approximate twenty (20) mile range of Lake Lure ABC: Rutherfordton ABC operating one store within range in same county; Black Mountain ABC operating one store and Columbus ABC operating one store within range.

- An ABC Board’s average cost of goods sold (COGS) is between 52% & 54% per year. The Lake Lure ABC Board’s cost of goods sold was approximately **51.0%** in FY 2021-2022.
 - *Mixed beverage sales were roughly **25%** of total sales in FY-2022, and there are currently around thirteen (13) mixed beverage customers.*

BUDGET ANALYSIS

	FY 2021-2022 Budget Projections	FY2021-2022 Actual	Variance	Variance %
Sales	\$1,126,000	\$1,413,495	287,495	25.5%
Total Expenditures (to include Distributions)	\$1,070,984	\$1,345,452	274,468	25.6%

In reviewing the budget to actual analysis of the FY 2021-2022 financial audit, actual sales revenues were over budgeted projections by 25.5%. In addition, total expenditures were below budget by 25.6%. Overall, revenues over expenditures were reflected as \$68,670 for the fiscal year period. The chart above shows the final budget to actual amounts and the appropriate positive or negative variances. *The board’s ending net position on June 30, 2022, was around \$376k; the net position has steadily risen over the last five (5) fiscal years, increasing nearly 50% during this period.*

DISTRIBUTIONS

G.S. 18B-805 (b) requires the board to pay from gross receipts, all expenses, excise, and rehabilitation taxes. G.S. 18B-805(c)(2) requires the board to distribute at least five percent (5%) of applicable gross receipts to law enforcement and at least seven percent (7%) for alcohol education. *Before assigning these percentage distributions, G.S. 18B-805(c)(1) requires the board to first make a minimum quarterly distribution of the 3.5% markup & relevant bottle charges to certain county/municipal recipients. **Some of these specific recipients are designated by an official local enabling act (and thus will vary).***

In FY 2021-2022, Lake Lure ABC made other statutory distributions totaling \$18,537 (Net profit distribution recipients received \$13,193 of this). The amount of \$335,208 in primary distributions and other taxes were paid to the NC Department of Revenue (NCDOR), NC Department of Health & Human Services (NCDHHS), and the county commissioners of Rutherford County.

The net profits are to be distributed as follows per the current local enabling act:

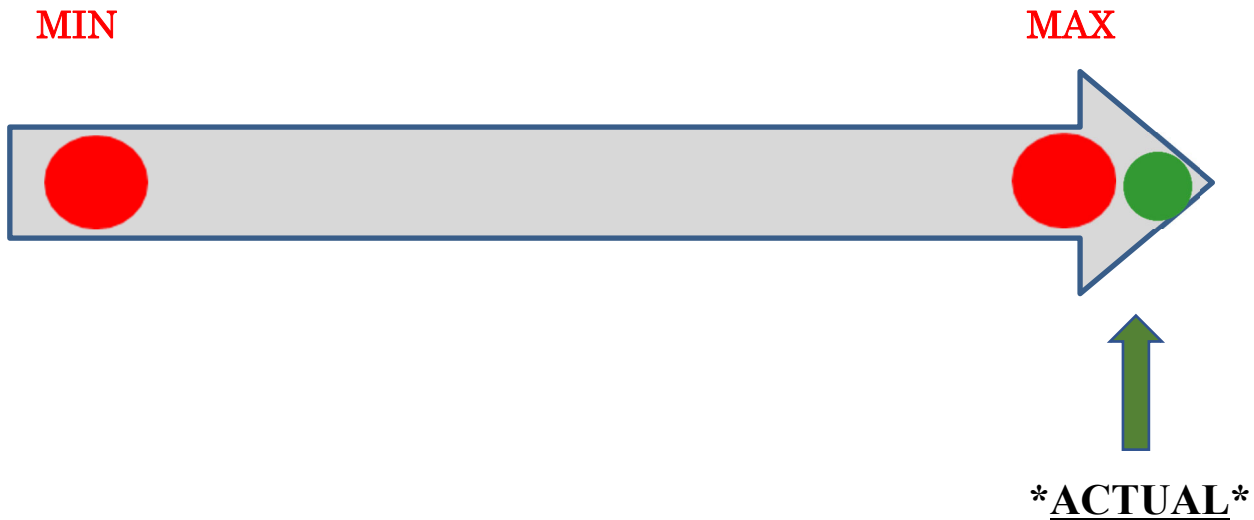
- One hundred percent (100%) to Lake Lure General Fund of which not less than 7% for alcohol education

WORKING CAPITAL

G.S. 18B-805(d) allows the board to set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. The NC ABC Commission has set a working capital standard for boards with annual gross sales less than \$1.5M an amount equal to four (4) months of sales revenue.

Based upon the existing rules, as of June 30, 2022, the Lake Lure ABC Board is required to maintain a minimum working capital of \$41,592 with a maximum working capital amount of \$360,465. The Lake Lure ABC Board had a working capital balance of \$373,658, which *exceeds the limit* of the Commission requirements for this section (*).

*** FY 2021-2022: Working Capital (WC) graphic**



The board distributed the excess working capital to the town by way of net profit distributions. However, this amount distributed of \$13,193 was still below the required statute amount calculated by CPA as being \$38,358.

Under 18B-805(d), with approval of the appointing authority for the board, the local board may set aside a portion of the remaining gross receipts as a fund for specific capital improvements whenever working capital is exceeded.

PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE

The findings for personnel, operational & administrative compliance are as follows:

- The board holds board meetings the first Monday of each month at 3:30 PM, records regular meeting minutes, and provides public notification and awareness of these meetings. The meeting minutes are organized in a folder for review. The town clerk has been assisting the board with running the meetings including agendas and minutes. Normally, appointing authorities do not conduct these activities but the Chairman communicated that the town assistance has been value-added and beneficial.
 - Training records review: Two board members were recently overdue for ethics training which is required within one (1) year of appointment (*and each applicable reappointment*). One of the two completed the training the day of the Commission visit. The finance officer would need to complete the training (*as general managers & finance officers must complete training as one-time requirement*).
 - Board member compensation & General Manager (GM) Salary: Board member compensation fully adheres to statute requirements. The board does not officially have a general manager at the present.
 - Board website review: The board's login website was very outdated particularly for board member term tenure information (*begin dates & end dates*). **Special note**: As part of a revalidation effort, the Commission has worked to revalidate term tenure information for all ABC boards across the state, working directly with the appointing authorities. As a value-added measure for all ABC boards and Commission records tracking in 2022, the term begin dates as well as term end dates were entered on all individual ABC board websites.
 - *The expectation going forward is that ABC boards will better manage this information online, and work to communicate with the Commission particularly when new members are added, or whenever any current serving members resign before a term has ended.*
 - Board Personnel & Board Members: The manager trainee provides board members with monthly sales information and operational issues and is working to learn and improve the ABC system at the store. The finance officer provides various financial reports for the board's review; among these are spreadsheets and profit & loss statements. The recently appointed Chairman of the board is working to learn and improve ABC board operations. The board has not had much stability in the general manager position with turnover occurring over the last several years. Board members should be using checks and balances to ensure that cash management practices are upheld; also, boards should routinely review any notes and recommendations provided by the CPA firm on annual audits and work to improve operations.
- POLICIES: The Commission has an electronic copy of the code of ethics. No other electronic policies are on file such as the personnel manual.
 - Following the visit, the town clerk provided a copy of the board's personnel manual.
 - The Commission needs to obtain a copy of the mixed beverage (MXB) policy.
- BUDGETS: The board exceeded original budgeted sales in FY-2022 during the month of April 2022; a budget amendment could not be verified in Commission files.
- FINANCIAL INSIGHT: The finance officer is signing checks as required per statute with the Chairman or one of the other board members as secondary signature. Invoice records for recent liquor purchases reflect them as being paid routinely inside of 30 days. Recent taxes are paid in a routine and timely manner. *A local bookkeeper has been serving as the board's finance officer since March 2022 and is currently working to improve the board's day to day financial activities.*

PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE (cont.)

- Bank deposits are being made approximately twice per week and the board is aiming to make deposits going forward on Mondays, Wednesdays, and Fridays per discussion with the Chairman and finance officer. Note: The board’s banking institution is roughly 20-30 minutes away from the store location. For safeguard measures and adherence to *Commission rule 15A .0905 Daily Deposits*, the board utilizes a locked fireproof safe for integrity of funds that remain at the board at any given time.
- All board members and applicable personnel are each bonded for \$50,000 per G.S. 18B-700(i)

➤ **STATUTORY DISTRIBUTIONS:**

- Net Profit Distributions - The Lake Lure ABC board has been routinely making well below the minimum required distributions to the town in recent years. *Reference table below – the left side is CPA annual calculated amount & right side is amount distributed to town by Lake Lure ABC Board for applicable period.*
- Law Enforcement Distributions: Have been properly disbursed at the statute amount.
- Alcohol Education Distributions: The local enabling act mandates that the Town of Lake Lure uses seven percent (7%) of total net profit distributions received from Lake Lure ABC Board for the purpose of alcohol education or research. Thus, the ABC Board makes no direct distributions to organizations for alcohol education.

NC GENERAL STATUTE: 18B-805 (c)(1)			
Calculation of Minimum Mandatory Distribution for Net Profit to Designated Recipients		Lake Lure ABC Board Net profit distribution made annually by fiscal year	
<i>Note: Referencing CPA Audit Reports</i>			
Recipients by law: Town		Town of Lake Lure	
FY-2022	\$38,358	FY-2022	\$13,193
FY-2021	\$32,742	FY-2021	\$0
FY-2020	\$29,271	FY-2020	\$6,343
FY-2019	\$26,711	FY-2019	\$37,206
FY-2018	\$25,153	FY-2018	\$34,239

PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE (cont.)

- LAW ENFORCEMENT (LE) REPORTS: They have not been submitted routinely over the 2022 year. A recent report has been uploaded for December 2022.
- LAW ENFORCEMENT (LE) CONTRACT: The board has a law enforcement contract on file with the Commission from 2011 with the Lake Lure Police Department. A new police chief has been sworn in since the contract was signed, and a new contract will be needed.
- INVENTORY: Goldsmith, Molis & Gray CPA firm completed annual required CPA audit. They had expressed concerns to the ABC Commission on the FY-2022 audit and FY-2021 audit with respect to inventory and internal controls. The store has experienced issues with receiving in truck inventory. The board has been without an official general manager for several months.
 - A full store inventory has been done two (2) times in the last two months. When the store relocates to its new leased location later in 2023, a full store inventory will be conducted again. Partial store inventories will be conducted monthly whenever possible with intermittent spot checks to ensure a more robust posture for inventory. **Trucks are currently being received two times per month.**
- INTERNAL CONTROLS:
 - While the board has experienced turnover in the general manager position, a new store manager in training, Trent McGuire, was hired in late 2022. He brings a good background in restaurant management and has been working diligently at the ABC board to learn and bolster ABC board operations. Once completing the new employee probationary period, he will then be considered for permanent hire as the general manager.
 - Chairman communicated that the former finance officer was not taking care of business for the board to include late or non-existent tax payments which resulted in delinquent notices from NC Dept of Revenue (NCDOR).
 - Commission board auditor and Chairman met with current finance officer Rhonda Cook to discuss current ABC board financial issues and review some financial records. She began serving the board in March 2022, and her office is located nearby in town. Following discussion, Commission representative provided some helpful follow-up information on mixed beverage surcharge payments including address and feedback on the sales tax to be charged for mixers / wine in Rutherford County.
 - **Special Scenario** – Current finance officer believes that the board is overpaid to NCDOR significantly on tax payments and is owed an extensive refund. She has been working with NCDOR to recoup the money for the ABC board since August 2022.
 - Some refund checks were received last summer yet the finance officer claims the board is still currently owed more than \$125,000 because of duplicate tax payments. The duplicate tax payments occurred in response to addressing some delinquent tax payments from several specific months before current finance officer tenure, with a lot of unknowns in determining their payment status. An agency contact with NCDOR was corresponding with the finance officer via email but has not done so in several months.
 - An email history was provided to the Commission auditor who has attempted to intercede on liaison activities with NCDOR to determine status and guide this scenario to resolution.

PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE (cont.)

➤ EXPENSES:

- Total expenses increased only slightly from the previous fiscal year.
- For the previous two fiscal years, cost of goods sold averaged a very good percentage at just over 51%.
- When the store moves to the new leased location later in 2023, rent payments will be increasing more than 50% for the board.
- Salary expense was approximately ten percent (10%) of the total store sales during the FY-2022 period.

➤ MISCELLANEOUS:

- Board needs to continue communications with NC Dept of Revenue (NCDOR) on recouping massive overpayment of funds.
- Board will have to consider permanent hire of general manager.
- Board must stay engaged with overall financial affairs of the board going forward.
- Board will need to be ready for upcoming FY-2024 budget season with proposed budgets submitted by the end of May and adopted by the end of June.
- Please continue to submit sales online to the Commission's board website by 7th of each month.
- Law Enforcement reports submitted online to Commission's board website by 7th of each month.
- Training opportunities
 - March 12-14, 2023: General Managers Conference, Wilmington, NC
 - August 6-8, 2023: Annual Conference & Business Meeting – Cherokee, NC

STORE INSIGHT & OVERVIEW

The findings for store insight & overview are as follows:

- In spring or early summer of 2023, the ABC store location will be moving approximately one-quarter (1/4) mile to a new location that will be leased. The Town of Lake Lure has repurposed the current store location. *The new leased location is similar in retail size while offering notably increased warehouse space. One unit will be for retail sales with a second unit dedicated solely to warehouse storage. The location will likely have enough entry clearance to accommodate palletized delivery.* The additional warehouse space will allow the board to continue taking advantage of buy-ins / special purchase allowances (SPAs) keeping liquor COGS very low.
- **Over the last fiscal year, MXB customer sales comprised 25% of the total sales.** The board has around thirteen (13) MXB customers as of January 2023, and the board has requested exemption with the Commission referencing Rule 15A. 1903 Delivery of MXB Permittee Orders. *The interest in delivery service by customers is very low and not practical.*
- The board closes on the five (5) required annual holidays and every Sunday.
- The store displays the required Fetal Alcohol Syndrome poster required by G.S. 18B-808.
- North Carolina products are cross merchandised according to product category.
- Products are placed within the designated categories; premium products are found at eye-level or top shelf. *Some occurrences were found with various bottle sizes of the same products increasing appropriately from left to right. Some occurrences were found with bottles of same product increasing in size from right to left.* Bottles were fronted and dusted, and the store manager and Chairman discussed one of the employees is very diligent with presentation of liquor product.
- Outside area surrounding the store is well-maintained and free of debris or trash.
- Security systems are in place and functional in all designated areas.
- Sales associate interactions with customers are attentive, courteous, and all are eager to meet the needs of the customers. One sales associate has been focused on increasing frequency for auditing price tags as well as routinely offering high attention to detail on fronting and dusting liquor bottle inventory in the retail space.
- A random sample of approximately 100 items were selected to determine if uniform pricing is displayed. Of those selected, only two shelf items were not displaying the correct quarterly or monthly SPA price. The price tags were immediately corrected. *During the visit, the Chairman participated in checking numerous shelf tags as part of the price audit process.*

RECOMMENDED ACTIONS (PER STATUTES, RULES, OPS MANUAL)

- ABC Boards are required to operate within a balanced budget each fiscal year. Budget amendments must be approved by the board before any funds are transferred between accounts and utilized, occurring at the actual point of time an adjustment of funds is necessary. This would include the point in time during the fiscal year when the board will exceed its annual forecasted sales budget. *Ensure budget amendment copies are submitted to the ABC Commission as required per NCGS 18B-702(h), to include a final reconciliation budget amendment for the fiscal year end.*
- Due to new town officials (police chief), the board needs to set up a new law enforcement contract with Lake Lure Police Department and provide a copy to the Commission *per G.S. 18B-501(f).*
- Law enforcement reports must be submitted on the Commission's board website by the 7th of each month referencing G.S. 18B-501(f1). Reports are to include as applicable the number of arrests made for ABC law, number of agencies assisted with ABC law, and other metrics for ABC law contribution such as compliance checks and alcohol education classes presented. *It is important to make sure reports are placed in a "Final Submitted" status when entered online. **If no data / statistics is provided by the police department for any given month, reports should still be submitted to reflect a narrative of "No data was provided or available."***
- Board meeting minutes should be signed by the Chairperson as part of guidance provided in the Commission's Operations Manual.
- In connection with the periodic audit, a Certificate of Accountability attestation form should be reviewed and signed by applicable board members/personnel, and email to Commission personnel for records.
- Local ABC boards shall establish a shelf management plan per Commission Rule 15A .1708 Shelf Management. The board needs to work to rearrange liquor inventory on the shelves to follow shelf management requirements, in particular ensuring bottles increase in size going from left to right.
- Checks or drafts must bear a certificate, and the certificate shall state the following: *"This disbursement has been approved in the manner required by G.S. 18B-702."* This is most applicable for checks written to pay liquor invoices. *The best recommendation is to simply use checks that have this pre-printed statement listed.*
- Ensure all purchase orders to include obligations evidenced by a contract or agreement requiring the payment of money, shall include or bear a certificate stating that the instrument (or order) has been pre-audited to ensure compliance with *G.S. 18B-702(m)* with a signature by the finance officer. The specific statement should read, *"This instrument has been pre audited in the manner required by G.S. 18B-702."* Special note: This would be most reasonably accomplished by signing & stamping the summary total of the Order Edit List from inventory system before any liquor orders are placed with the state warehouse.

RECOMMENDED ACTIONS (PER STATUTES, RULES, OPS MANUAL)

- Referencing G.S. 18B-805(c)(1) for Other Statutory Distributions, ABC boards shall set aside the clear proceeds of the 3.5% markup and additional bottle charge to be distributed as part of the remaining gross receipts to recipients in the local enabling act for net profit distributions. Thus, the board should be routinely making this minimum annual CPA calculated amount. Exceptions would be a scenario where there is an approval agreement with the appointing authority to withhold funds for capital improvements or increasing financial solvency.
- Referencing the local enabling act for the board, alcohol education distributions are to be made in accordance with G.S. 18B-805(c)(3). Normally, this distribution percentage is set as an amount of seven percent (7%) of the gross receipts remaining after the distribution required in subdivision [1] which equates to the minimum mandatory distribution under G.S. 18B-805(c)(1). *Since the local enabling act is constructed for Town of Lake Lure to use 7% of net profit distributions for alcohol education, the ABC board is recommended to issue two (2) checks each time net profit distributions are made to the town. This would include one check for 93% of total net profit distribution amount, and a check for 7% of the total amount designated for alcohol education on the memo line. This will ensure the ABC board reasonably does what is possible to ensure the town is made fully aware of the designated use of those funds.*
- ABC board members must complete ethics training within one (1) year of each appointment and again following all reappointments per G.S. 18B-706(b).
 - Special note: Currently, one board member is overdue by more than a year and must complete the training by March 15, 2023. Also, the finance officer needs to complete the training as a one-time requirement by March 31, 2023.
 - *General managers, finance officers (and any applicable deputies) have a one-time training requirement for ethics training but are encouraged to complete training periodically as a good refresher along with any other full-time or part-time personnel interested.*

ADDITIONAL CONSIDERATIONS & GUIDANCE

- The Commission's primary focus for ABC boards & board members:
 - ABC board members are highly encouraged to meet monthly for the best formal oversight and review of board operations, routinely recording meeting minutes (*adhering to closed meeting requirements where applicable*) and ensuring either no conflicts of interest are present or that they are addressed appropriately when presented. Monthly sales should be reported to the Commission at beginning of next month, providing annual budgets, budget amendments, miscellaneous financial reporting to Commission following timelines, and ensuring Commission has annual CPA audits by Oct 1st.
 - ABC boards are highly encouraged to keep term begin dates & term end dates updated on the Commission's board login website for all ABC board members and other information such as store hour changes, pictures, email updates, etc. *Moreover, liaising with the Commission when new members are appointed or when member resign early before term has ended is very important for recordkeeping efforts of the Commission.*
- ABC boards are highly encouraged to find straightforward ways to lower any recurring expenses. *A very tangible way to lower operating costs is to fully maximize monthly special purchase allowance (SPA) liquor products that routinely sell well in the store to lower cost of goods sold (COGS).* ABC Boards can limit the number of personnel travelling to conference and convention events across the state. Other ways to try to improve expenses include requesting bids annually from various vendors to get the best rates possible on financial audits, various utilities, maintenance contracts, and *credit card processing companies.*
- ABC boards are encouraged to closely review financial statements monthly, comparing with the annual budget forecast, approving budget amendments when necessary and submitting copies to the Commission for anticipated sales increases as well as other adjustments for budgeted accounts.
- Cross training opportunities for personnel should be maximized to ensure solid continuity of operations occurs for ABC boards. Also, training opportunities can work well to develop store employees for increased responsibility roles and serving to make both the routine operations and employee morale stronger.
- NCAC Rule 15A .1701 requires quarterly reports be submitted for any unsaleable merchandise (breakage) and retain original copies for three (3) years. *All breakage reports should only be transmitted via email submission to Commission staff; copies should not be mailed.*
- As a reminder, remove all faded posters and replace with new ones when applicable. Reach out to the Commission to provide fetal alcohol syndrome posters, NC Dept of Labor can provide wage & hour posters, and OSHA can provide some applicable federal posters if any are needed.
- ABC boards can explore additional training opportunities periodically available through the ABC Commission as well as partnering with other ABC boards on specific areas such as best retail and marketing practices.

Please network with the ABC Commission whenever needed for guidance and assistance to support local ABC board mission and success.