

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

4

HOUSE BILL 232*
Committee Substitute Favorable 6/19/01
Senate Finance Committee Substitute Adopted 8/23/01
Senate Finance Committee Substitute #2 Adopted 9/5/01

Short Title: Budget Revenue Provisions.

(Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO SET THE INSURANCE REGULATORY CHARGE, THE PUBLIC
3 UTILITY REGULATORY FEE, AND THE ELECTRIC MEMBERSHIP
4 CORPORATION REGULATORY FEE; INCREASE THE NONRESIDENT FEE
5 FOR SEARCHING PUBLIC ARCHIVES; UPDATE THE REFERENCE TO THE
6 INTERNAL REVENUE CODE; ACCELERATE PAYMENT OF WITHHOLDING
7 TAXES; ACCELERATE PAYMENT OF SALES AND UTILITY TAXES;
8 AUTHORIZE CERTAIN COUNTIES TO ACQUIRE PROPERTY FOR PUBLIC
9 SCHOOLS; PROVIDE GENERAL ASSEMBLY OVERSIGHT OF AGENCY
10 FEES; EXEMPT FROM FUEL TAX FUEL USED BY COMMUNITY
11 COLLEGES; MAKE CLARIFYING CHANGES IN THE SUBSIDIARY
12 DIVIDEND PROVISIONS; AUTHORIZE THE COMMISSIONER OF LABOR
13 TO ESTABLISH CERTAIN FEES; MAKE TECHNICAL AND CLARIFYING
14 CHANGES TO THE FRANCHISE TAX; AND TO ACCELERATE PAYMENT
15 OF LOCAL SALES AND USE TAX REVENUE TO LOCAL GOVERNMENTS.

16 The General Assembly of North Carolina enacts:

17 **INSURANCE REGULATORY CHARGE**

18 **SECTION 1.(a)** The percentage rate to be used in calculating the insurance
19 regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2001
20 calendar year.

21 **SECTION 1.(b)** This section is effective when it becomes law.

22
23 **REGULATORY FEE FOR UTILITIES COMMISSION**

24 **SECTION 2.(a)** The percentage rate to be used in calculating the public
25 utility regulatory fee under G.S. 62-302(b)(2) is one-tenth percent (0.1%) for each
26 public utility's North Carolina jurisdictional revenues earned during each quarter that
27 begins on or after July 1, 2001.

1 **SECTION 2.(b)** The electric membership corporation regulatory fee imposed
2 under G.S. 62-302(b1) for the 2001-2002 fiscal year is two hundred thousand dollars
3 (\$200,000).

4 **SECTION 2.(c)** This section becomes effective July 1, 2001.
5

6 **INCREASE NONRESIDENT SEARCH FEE**

7 **SECTION 3.(a)** G.S. 121-5(d) reads as rewritten:

8 "(d) Preservation of Permanently Valuable Records. – Public records certified by
9 the Department of Cultural Resources as being of permanent value shall be preserved in
10 the custody of the agency in which the records are normally kept or of the North
11 Carolina State Archives. Any State, county, municipal, or other public official is hereby
12 authorized and empowered to turn over to the Department of Cultural Resources any
13 State, county, municipal, or other public records no longer in current official use, and
14 the Department of Cultural Resources is authorized in its discretion to accept such
15 records, and having done so shall provide for their administration and preservation in
16 the North Carolina State Archives. When such records have been thus surrendered,
17 photocopies, microfilms, typescripts, or other copies of them shall be made and certified
18 under seal of the Department, upon application of any person, which certification shall
19 have the same force and effect as if made by the official or agency by which the records
20 were transferred to the Department of Cultural Resources; and the Department may
21 charge reasonable fees for ~~such these~~ copies. The Department may answer written
22 inquiries for nonresidents of ~~North Carolina the State~~ and for ~~such this~~ service may
23 charge a search and handling fee not to exceed ~~ten dollars (\$10.00), twenty-five dollars~~
24 (\$25.00). ~~the~~The receipts from ~~which this~~ fee shall be used to defray the cost of
25 providing ~~such this~~ service."

26 **SECTION 3.(b)** This section becomes effective January 1, 2002.
27

28 **UPDATE INTERNAL REVENUE CODE REFERENCE**

29 **SECTION 4.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

30 "(b) Definitions. – The following definitions apply in this Article:

31 ...

32 (1b) Code. – The Internal Revenue Code as enacted as of January 1,
33 ~~2000,2001~~, including any provisions enacted as of that date which
34 become effective either before or after that date."

35 **SECTION 4.(b)** G.S. 105-130.5(a)(13) is repealed.

36 **SECTION 4.(c)** Notwithstanding subsection (a) of this section, any
37 amendments to the Internal Revenue Code enacted in 2000 that increase North Carolina
38 taxable income for the 2000 taxable year become effective for taxable years beginning
39 on or after January 1, 2001.

40 **SECTION 4.(d)** Subsection (b) of this section is effective for taxable years
41 beginning on or after January 1, 2002. The remainder of this section is effective for
42 taxable years beginning on or after January 1, 2001.
43

ACCELERATE PAYMENT OF WITHHOLDING TAXES

SECTION 5.(a) G.S. 105-163.6(b) reads as rewritten:

"(b) Quarterly. – An employer who withholds an average of less than ~~five hundred~~ two hundred fifty dollars (~~\$500.00~~)(\$250.00) of State income taxes from wages each month ~~shall~~must file a return and pay the withheld taxes on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last day of the month following the end of the quarter."

SECTION 5.(b) G.S. 105-163.6(c) reads as rewritten:

"(c) Monthly. – An employer who withholds an average of at least ~~five hundred~~ two hundred fifty dollars (~~\$500.00~~)(\$250.00) but less than two thousand dollars (\$2,000) from wages each month ~~shall~~must file a return and pay the withheld taxes on a monthly basis. A return for the months of January through November is due by the 15th day of the month following the end of the month covered by the return. A return for the month of December is due the following January 31."

SECTION 5.(c) In order to pay for its costs of postage, printing, and computer programming to implement this section, the Department of Revenue may withhold not more than seventy-five thousand dollars (\$75,000) from collections under Article 4 of Chapter 105 of the General Statutes during the 2001-2002 fiscal year.

SECTION 5.(d) Subsection (c) of this section is effective when it becomes law. The remainder of this section becomes effective January 1, 2002, and applies to payments of withheld income taxes made on or after that date.

ACCELERATE PAYMENT OF SALES AND UTILITY TAXES

SECTION 6.(a) G.S. 105-164.16, as amended by S.L. 2001-347, reads as rewritten:

"§ 105-164.16. Returns and payment of taxes.

(a) General. – Sales and use taxes are payable quarterly, monthly, or semimonthly as specified in this section. A return is due quarterly or monthly as specified in this section. A return must be filed with the Secretary on a form prescribed by the Secretary and in the manner required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

A sales tax return must state the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other information required by the Secretary. A use tax return must state the cost price of tangible personal property that was purchased or received during the reporting period and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other information required by the Secretary. Returns that do not contain the required information will not be accepted. When an unacceptable return is submitted, the Secretary must require a corrected return to be filed.

(b) Quarterly. – A taxpayer who is consistently liable for less than one hundred dollars (\$100.00) a month in State and local sales and use taxes must file a return and

1 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and
2 is due by the 15th day of the month following the end of the quarter.

3 (b1) Monthly. – A taxpayer who is consistently liable for more than one hundred
4 dollars (\$100.00) but less than ~~twenty thousand dollars (\$20,000)~~ ten thousand dollars
5 (\$10,000) a month in State and local sales and use taxes must file a return and pay the
6 taxes due on a monthly basis. A monthly return is due by the 15th day of the month
7 following the calendar month covered by the return.

8 (b2) Semimonthly. – A taxpayer who is consistently liable for at least ~~twenty~~
9 ~~thousand dollars (\$20,000)~~ ten thousand dollars (\$10,000) a month in State and local
10 sales and use taxes must pay the tax twice a month and must file a return on a monthly
11 basis. One semimonthly payment covers the period from the first day of the month
12 through the 15th day of the month. The other semimonthly payment covers the period
13 from the 16th day of the month through the last day of the month. The semimonthly
14 payment for the period that ends on the 15th day of the month is due by the 25th day of
15 that month. The semimonthly payment for the period that ends on the last day of the
16 month is due by the 10th day of the following month. A

17 A return covers both semimonthly payment periods. The return is due by the 20th
18 day of the month following the month of the payment periods covered by the return. A
19 taxpayer is not subject to interest on or penalties for an underpayment for a
20 semimonthly payment period if the taxpayer timely pays at least ~~95%~~ ninety-five
21 percent (95%) of the amount due for each semimonthly payment period and includes the
22 underpayment with the monthly return for those semimonthly payment periods.

23 (b3) Category. – The Secretary must monitor the amount of State and local sales
24 and use taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new
25 taxpayer and must direct each taxpayer to pay tax and file returns in accordance with the
26 appropriate schedule. In determining the amount of taxes due from a taxpayer, the
27 Secretary must consider the total amount due from all places of business owned or
28 operated by the same person as the amount due from that person. A taxpayer must file a
29 return and pay tax in accordance with the Secretary's direction until notified in writing
30 to file and pay under a different schedule.

31 ~~(e) Sales Tax on Utility Services. Taxes levied under G.S. 105-164.4(a)(4a)~~
32 ~~and G.S. 105-164.4(a)(4c) are payable when a return is required to be filed. A return for~~
33 ~~these taxes is due quarterly or monthly as specified in this subsection. A utility that is~~
34 ~~allowed to pay tax under G.S. 105-120 on a quarterly basis shall file a quarterly return.~~
35 ~~All other utilities shall file a monthly return. A quarterly return is due by the last day of~~
36 ~~the month following the quarter covered by the return. A monthly return is due by the~~
37 ~~last day of the month following the month in which the taxes accrue, except the return~~
38 ~~for taxes that accrue in May. A return for taxes that accrue in May is due by June 25.~~

39 ~~A utility that is required to file a monthly return may file an estimated return for the~~
40 ~~first month, the second month, or both the first and second months in a quarter. A utility~~
41 ~~is not subject to interest on or penalties for an underpayment submitted with an~~
42 ~~estimated monthly return if the utility timely pays at least ninety five percent (95%) of~~

1 ~~the amount due with a monthly return and includes the underpayment with the~~
2 ~~company's return for the third month in the same quarter.~~

3 (d) **(Effective until taxable years beginning on or after January 1, 2003)** Use
4 Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases
5 tangible personal property outside the State for a nonbusiness purpose is due on an
6 annual basis. For an individual who is not required to file an individual income tax
7 return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the
8 last day of the calendar year and a use tax return is due by the following April 15. For
9 an individual who is required to file an individual income tax return, the annual
10 reporting period ends on the last day of the individual's income tax year, and the use tax
11 must be paid on the income tax return as provided in G.S. 105-269.14.

12 (d) **(Effective for taxable years beginning on or after January 1, 2003)** Use
13 Tax on Out-of-State Purchases. – Notwithstanding subsection (b), an individual who
14 purchases tangible personal property outside the State for a nonbusiness purpose shall
15 file a use tax return on an annual basis. The annual reporting period ends on the last day
16 of the calendar year. The return is due by the due date, including any approved
17 extensions, for filing the individual's income tax return."

18 **SECTION 6.(b)** G.S. 105-241(b) reads as rewritten:

19 "(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required
20 as provided in this subsection.

21 (1) Corporate estimated taxes. – A corporation that is required under the
22 Code to pay its federal-estimated corporate income tax by electronic
23 funds transfer must pay its State-estimated corporate income tax by
24 electronic funds transfer as provided in G.S. 105-163.40.

25 (2) Semimonthly taxes. – A taxpayer that is required to pay tax on a
26 semimonthly schedule must pay the tax by electronic funds transfer.

27 (3) Large tax payments. – ~~Except as provided in G.S. 105-163.40,~~
28 otherwise provided in this subsection, the Secretary shall not require a
29 taxpayer to pay a tax by electronic funds transfer unless, during the
30 applicable period for that tax, the average amount of the taxpayer's
31 required payments of the tax was at least twenty thousand dollars
32 (\$20,000) a month. The twenty thousand dollar (\$20,000) threshold
33 applies separately to each tax. The applicable period for a tax is a
34 12-month period, designated by the Secretary, preceding the
35 imposition or review of the payment requirement. The requirement
36 that a taxpayer pay a tax by electronic funds transfer remains in effect
37 until suspended by the Secretary. Every 12 months after requiring a
38 taxpayer to pay a tax by electronic funds transfer, the Secretary ~~shall~~
39 must determine whether, during the applicable period for that tax, the
40 average amount of the taxpayer's required payments of the tax was at
41 least twenty thousand dollars (\$20,000) a month. If it was not, the
42 Secretary ~~shall~~must suspend the requirement that the taxpayer pay the

1 tax by electronic funds transfer and ~~shall~~ must notify the taxpayer in
2 writing that the requirement has been suspended."

3 **SECTION 6.(c)** G.S. 105-116(b) reads as rewritten:

4 "(b) Report and Payment. – The tax imposed by this section is payable quarterly,
5 semimonthly, or monthly ~~or quarterly~~ as specified in this subsection. A ~~report~~ return is
6 due quarterly.

7 A water company or public sewerage company must pay tax quarterly when filing a
8 return. An electric power company shall pay tax monthly. A monthly tax payment is due
9 by the last day of the month that follows the month in which the tax accrues, except the
10 payment for tax that accrues in May. The payment for tax that accrues in May is due by
11 June 25. A taxpayer is not subject to interest on or penalties for an underpayment of a
12 monthly amount due if the taxpayer timely pays at least ninety-five percent (95%) of the
13 amount due and includes the underpayment with the next report the company files. must
14 pay tax in accordance with the schedule that applies to its payments of sales and use tax
15 under G.S. 105-164.16 and must file a return quarterly. An electric power company is
16 not subject to interest on or penalties for an underpayment for a semimonthly or
17 monthly payment period if the electric power company timely pays at least ninety-five
18 percent (95%) of the amount due for each semimonthly or monthly payment period and
19 includes the underpayment with the quarterly return for those semimonthly or monthly
20 payment periods. A water company or a public sewerage company shall pay tax
21 quarterly when filing a report. A

22 A quarterly ~~report~~ return covers a calendar quarter and is due by the last day of the
23 month that follows the quarter covered by the ~~report~~ return. A taxpayer ~~shall~~ must
24 submit a ~~report~~ return on a form provided by the Secretary. The ~~report~~ shall return must
25 include the taxpayer's gross receipts from all property it owned or operated during the
26 reporting period in connection with its business taxed under this ~~section~~ and shall
27 section. A taxpayer must report its gross receipts on an accrual basis. A return must
28 contain the following information:

- 29 (1) The taxpayer's gross receipts for the reporting period from business
30 inside and outside this State, stated separately.
- 31 (2) The taxpayer's gross receipts from commodities or services described
32 in subsection (a) that are sold to a vendee subject to the tax levied by
33 this section or to a joint agency established under Chapter 159B of the
34 General Statutes or a city having an ownership share in a project
35 established under that Chapter.
- 36 (3) The amount of and price paid by the taxpayer for commodities or
37 services described in subsection (a) that are purchased from others
38 engaged in business in this State and the name of each vendor.
- 39 (4) For an electric power company the entity's gross receipts from the sale
40 within each city of the commodities and services described in
41 subsection (a).

42 ~~A taxpayer must report its gross receipts on an accrual basis. If a taxpayer's report~~
43 ~~does not state the taxpayer's taxable gross receipts derived within a city, the Secretary~~

1 ~~must determine a practical method of allocating part of the taxpayer's taxable gross~~
2 ~~receipts to the city."~~

3 **SECTION 6.(d)** G.S. 105-116(d) reads as rewritten:

4 "(d) Distribution. – Part of the taxes imposed by this section on electric power
5 companies is distributed to cities under G.S. 105-116.1. If a taxpayer's return does not
6 state the taxpayer's taxable gross receipts derived within a city, the Secretary must
7 determine a practical method of allocating part of the taxpayer's taxable gross receipts to
8 the city."

9 **SECTION 6.(e)** G.S. 105-120(b) reads as rewritten:

10 "(b) Report and Payment. – The tax imposed by this section is payable quarterly,
11 semimonthly, or monthly in accordance with the schedule that applies to the company's
12 payments of sales and use tax under G.S. 105-164.16, and a return is due quarterly. A
13 company is not subject to interest on or penalties for an underpayment for a
14 semimonthly or monthly payment period if the company timely pays at least ninety-five
15 percent (95%) of the amount due for each semimonthly or monthly payment period and
16 includes the underpayment with the quarterly return for those semimonthly or monthly
17 payment periods. monthly or quarterly as specified in this subsection. A report is due
18 quarterly. A company that is liable for an average of less than three thousand dollars
19 (\$3,000) a month in tax imposed by this section may, with the approval of the Secretary
20 of Revenue, pay tax quarterly when filing a report. All other companies shall pay tax
21 monthly. A monthly tax payment is due by the last day of the month that follows the
22 month in which the tax accrues, except the payment for tax that accrues in May. The
23 payment for tax that accrues in May is due by June 25. A company is not subject to
24 interest on or penalties for an underpayment of a monthly amount due if the company
25 timely pays at least ninety five percent (95%) of the amount due and includes the
26 underpayment with the next report the company files.

27 A quarterly ~~report~~ return covers a calendar quarter and is due by the last day of the
28 month that follows the quarter covered by the ~~report~~ return. A company shall submit a
29 ~~report~~ return on a form provided by the Secretary. ~~The report shall~~ The return must state
30 the company's gross receipts for the reporting period from providing local
31 telecommunications service and from providing local telecommunications service
32 within each city served. If a company's ~~report~~ return does not state the company's
33 taxable gross receipts derived within a city, the Secretary must determine a practical
34 method of allocating part of the company's taxable gross receipts to the city. A company
35 ~~shall~~ must report its gross receipts on an accrual basis."

36 **SECTION 6.(f)** G.S. 105-187.43 reads as rewritten:

37 "**§ 105-187.43. Payment of the tax.**

38 (a) Payment. – The tax imposed by this Article is payable ~~monthly~~ semimonthly
39 ~~to the Secretary. A monthly tax payment is due by the last day of the month that follows~~
40 ~~the month in which the tax accrues.~~ in accordance with the schedule set in G.S. 105-
41 164.16 for semimonthly payments of sales and use taxes. The tax imposed by this
42 Article on piped natural gas delivered to a sales or transportation customer accrues
43 when the gas is delivered. The tax payable on piped natural gas received by a person

1 who has direct access to an interstate pipeline for consumption by that person accrues
2 when the gas is received.

3 (b) Small Underpayments. – A person is not subject to interest on or penalties for
4 an underpayment of a ~~monthly~~ semimonthly amount due if the person timely pays at
5 least ninety-five percent (95%) of the amount due and includes the underpayment with
6 the next return the person files.

7 (c) Return. – A return is due quarterly. A quarterly return covers a calendar
8 quarter and is due by the last day of the month that follows the quarter covered by the
9 return."

10 **SECTION 6.(g)** The Secretary of Revenue must review the thresholds in
11 G.S. 105-163.6 for accelerated payment of withheld taxes to evaluate the efficiency,
12 burden, and level of compliance under the current law. The Secretary must take steps to
13 assure taxpayer compliance and must report the results of the study and any
14 recommendations to the Revenue Laws Study Committee by April 1, 2002.

15 **SECTION 6.(h)** The Revenue Laws Study Committee may study the
16 reporting requirements for electric power companies and the method by which the
17 franchise tax on these companies is distributed to cities to determine simpler ways to
18 achieve the goals of the current requirements and distribution method. The Committee
19 may ask the League of Municipalities for its recommendations on this issue. The
20 Committee may report its findings to the 2002 Regular Session of the 2001 General
21 Assembly.

22 **SECTION 6.(i)** In order to pay for its costs of postage, printing, and
23 computer programming to implement this section, the Department of Revenue may
24 withhold not more than seventy-five thousand dollars (\$75,000) from collections under
25 Article 4 of Chapter 105 of the General Statutes during the 2001-2002 fiscal year.

26 **SECTION 6.(j)** Subsection (i) of this section is effective when it becomes
27 law. The remainder of this section becomes effective January 1, 2002, and applies to
28 taxes levied on or after that date.

29

30 **CERTAIN COUNTIES MAY ACQUIRE PROPERTY FOR PUBLIC SCHOOLS**

31 **SECTION 7.(a)** G.S. 153A-158.1(e), as amended by S.L. 2001-76, reads as
32 rewritten:

33 "(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson,
34 Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret,
35 Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland,
36 Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin,
37 Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson,
38 Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison,
39 Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover,
40 Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph,
41 Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly,
42 Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, and
43 ~~Wilson~~ Wilson, and Yadkin Counties."

1 SECTION 7.(b) This section is effective when it becomes law.

2
3 GENERAL ASSEMBLY OVERSIGHT OF AGENCY FEES

4 SECTION 8.(a) G.S. 12-3.1 reads as rewritten:

5 "§ 12-3.1. Fees and charges by agencies.

6 (a) Authority. – Only the General Assembly has the power to authorize an
7 agency to establish or increase a fee or charge for the rendering of any service or
8 fulfilling of any duty to the public. In the construction of a statute, unless that
9 construction would be inconsistent with the manifest intent of the General Assembly or
10 repugnant to the context of the statute, the legislative grant of authority to an agency to
11 make and promulgate rules shall not be construed as a grant of authority to the agency
12 to establish by rule a fee or a charge for the rendering of any service or fulfilling of any
13 duty to the public, unless the statute expressly provides for the grant of authority to
14 establish a fee or charge for that specific service. Notwithstanding any other law, an
15 agency's establishment or increase of a fee or charge shall not go into effect until one of
16 the following conditions has been met:

17 (1) The General Assembly has enacted express authorization of the
18 amount of the fee or charge to be established or increased and the
19 purpose of that fee or charge.

20 (2) The General Assembly has enacted general authorization for the
21 agency to establish or increase the fee or charge, and the agency has
22 consulted with the Joint Legislative Commission on Governmental
23 Operations on the amount and purpose of the fee or charge to be
24 established or increased.

25 (b) ~~For purposes of this section:~~ Definitions. – The following definitions apply in
26 this section:

27 (1) Agency. – Every "Agency" means every agency, institution, board,
28 commission, bureau, department, division, council, member of the
29 Council of State, or officer of the legislative, executive or judicial
30 branches of State government. ~~"Agency"~~ The term does not include
31 counties, cities, towns, villages, other municipal corporations or
32 political subdivisions of the State or any agencies of ~~such these~~
33 subdivisions, the University of North Carolina, community colleges,
34 hospitals, county or city boards of education, other local public
35 districts, units, or bodies of any kind, or private corporations created
36 by act of the General Assembly.

37 (2) Rule. – Every "Rule" means every rule, regulation, ordinance,
38 standard, and amendment thereto adopted by any ~~agency and includes~~
39 agency, including rules and regulations regarding substantive matters,
40 standards for products, procedural rules for complying with statutory
41 or regulatory authority or requirements and executive orders of the
42 Governor.

43 (c) Exceptions. – This section does not apply to any of the following:

- 1 (1) Rules establishing fees or charges to State, federal or local
- 2 governmental units.
- 3 (2) A reasonable fee or charge for copying, transcripts of public hearings,
- 4 State publications, or mailing a document or other item.
- 5 (3) Reasonable registration fees covering the cost of a conference or
- 6 workshop.
- 7 (4) Reasonable user fees covering the cost of providing data processing
- 8 services."

9 **SECTION 8.(b)** This section is effective when it becomes law.

10 11 **COMMUNITY COLLEGE FUEL TAX EXEMPTION**

12 **SECTION 9.(a)** G.S. 105-449.88 reads as rewritten:

13 **"§ 105-449.88. Exemptions from the excise tax.**

14 The excise tax on motor fuel does not apply to the following:

- 15 (1) Motor fuel removed, by transport truck or another means of transfer
- 16 outside the terminal transfer system, from a terminal for export, if the
- 17 motor fuel is removed by a licensed distributor or a licensed exporter
- 18 and the supplier of the motor fuel collects tax on it at the rate of the
- 19 motor fuel's destination state.
- 20 (1a) Motor fuel removed by transport truck from a terminal for export if the
- 21 motor fuel is removed by a licensed distributor or licensed exporter,
- 22 the supplier that is the position holder for the motor fuel sells the
- 23 motor fuel to another supplier as the motor fuel crosses the terminal
- 24 rack, the purchasing supplier or its customer receives the motor fuel at
- 25 the terminal rack for export, and the supplier that is the position holder
- 26 collects tax on the motor fuel at the rate of the motor fuel's destination
- 27 state.
- 28 (2) Motor fuel sold to the federal government for its use.
- 29 (3) Motor fuel sold to the State for its use.
- 30 (4) Motor fuel sold to a local board of education for use in the public
- 31 school system.
- 32 (5) Diesel that is kerosene and is sold to an airport.
- 33 (6) Motor fuel sold to a charter school for use for charter school purposes.
- 34 (7) Motor fuel sold to a community college for use for community college
- 35 purposes."

36 **SECTION 9.(b)** G.S. 115D-5 is amended by adding a new subsection to
37 read:

38 "(n) The North Carolina Community Colleges System Office shall provide the
39 Department of Revenue with a list of all community colleges, including name, address,
40 and other identifying information requested by the Department of Revenue. The North
41 Carolina Community Colleges System Office shall update this list whenever there is a
42 change."

43 **SECTION 9.(c)** This section becomes effective January 1, 2002.

1

2 **INCREASE BUTNER TAXES**

3 **SECTION 10.(a)** Section 1 of Chapter 830 of the 1983 Session Laws reads
4 as rewritten:

5 "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection
6 District shall include: (i) any property formerly a part of the original Camp Butner
7 reservation, including both those areas currently owned and occupied by the State and
8 its agencies and those which may have been leased or otherwise disposed of by the
9 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County
10 adjoining the Butner reservation and the Lyons Station Sanitary District situated north
11 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those
12 roads and the boundaries of said reservation and said sanitary district.

13 (b) The territorial jurisdiction set forth in subsection (a) of this section shall
14 constitute the Butner Fire and Police Protection District. The tax collectors of Durham
15 and Granville Counties shall annually collect ~~beginning with fiscal year 1983-84~~ a tax
16 of ~~twenty cents (20¢)~~ thirty cents (30¢) per one hundred dollars (\$100.00) valuation of
17 all real and personal property in the portions of said district in their respective counties
18 from year to year which tax shall be collected as county taxes are collected and shall
19 remit the same to the State Treasurer for deposit in the General Fund."

20 **SECTION 10.(b)** Subsection (a) of this section is effective for taxes
21 imposed for taxable years beginning on or after July 1, 2001.

22 **SECTION 10.(c)** Section 1 of Chapter 830 of the 1983 Session Laws, as
23 amended by subsection (a) of this section, reads as rewritten:

24 "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection
25 District shall include: (i) any property formerly a part of the original Camp Butner
26 reservation, including both those areas currently owned and occupied by the State and
27 its agencies and those which may have been leased or otherwise disposed of by the
28 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County
29 adjoining the Butner reservation and the Lyons Station Sanitary District situated north
30 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those
31 roads and the boundaries of said reservation and said sanitary district.

32 (b) The territorial jurisdiction set forth in subsection (a) of this section shall
33 constitute the Butner Fire and Police Protection District. The tax collectors of Durham
34 and Granville Counties shall annually collect a tax of ~~thirty cents (30¢)~~ forty cents (40¢)
35 per one hundred dollars (\$100.00) valuation of all real and personal property in the
36 portions of said district in their respective counties from year to year which tax shall be
37 collected as county taxes are collected and shall remit the same to the State Treasurer
38 for deposit in the General Fund."

39 **SECTION 10.(d)** Subsection (c) of this section is effective for taxes
40 imposed for taxable years beginning on or after July 1, 2002.

41

42 **CLARIFYING CHANGES IN THE SUBSIDIARY DIVIDEND PROVISIONS**

1 **SECTION 11.(a)** G.S. 105-130.5(b)(3a) and (3b), as enacted by S.L.
2 2001-327, reads as rewritten:

3 "(b) The following deductions from federal taxable income shall be made in
4 determining State net income:

5 ...

6 (3a) Dividends treated as received from sources outside the United States
7 as determined under section 862 of the Code, net of related expenses,
8 to the extent included in federal taxable income.

9 (3b) Any amount included in federal taxable income under section 78 or
10 section 951 of the ~~Code~~. Code, net of related expenses."

11 **SECTION 11.(b)** This section is effective for taxable years beginning on or
12 after January 1, 2001. Notwithstanding G.S. 105-163.41, no addition to tax may be
13 made under that statute for a taxable year beginning on or after January 1, 2001, and
14 before January 1, 2002, with respect to an underpayment of corporation income tax to
15 the extent the underpayment was created or increased by this section.

16 17 **LABOR COMMISSIONER FEE AUTHORITY**

18 **SECTION 12.(a)** G.S. 95-105 is repealed.

19 **SECTION 12.(b)** G.S. 95-106 is repealed.

20 **SECTION 12.(c)** G.S. 95-107 reads as rewritten:

21 **"§ 95-107. Assessment and collection of fees; certificates of safe operation.**

22 The assessment of the fees ~~pursuant to this Article~~ adopted by the Commissioner
23 pursuant to G.S. 95-110.5 and G.S. 95-111.4 shall be made against the owner or
24 operator of ~~such~~ the equipment and may be collected at the time of inspection. If the
25 fees are not collected at the time of inspection, the Department must bill the owner or
26 operator of the equipment for the amount of the fee assessed ~~under this Article~~ for the
27 inspection of the equipment and the amount assessed is payable by the owner or
28 operator of the equipment upon receipt of the bill. Certificates of safe operation may be
29 withheld by the Department of Labor until such time as the assessed fees are collected."

30 **SECTION 12.(d)** G.S. 95-108 reads as rewritten:

31 **"§ 95-108. Disposition of fees.**

32 All fees collected by the Department of Labor pursuant to ~~this Article~~ G.S. 95-110.5
33 and G.S. 95-111.4 shall be deposited with the State Treasurer and shall be used
34 exclusively for inspection ~~purposes of the equipment referenced in this Article.~~ and
35 certification purposes."

36 **SECTION 12.(e)** G.S. 95-110.5 is amended by adding a new subdivision to
37 read:

38 "(20) To establish fees not to exceed two hundred dollars (\$200.00) for the
39 inspection and issuance of certificates of operation for all devices and
40 equipment subject to this Article upon installation or alteration, for
41 each follow-up inspection, and for periodic inspections thereafter."

42 **SECTION 12.(f)** G.S. 95-111.4 is amended by adding a new subdivision to
43 read:

1 "(19) To establish fees not to exceed two hundred fifty dollars (\$250.00) for
2 the inspection and issuance of certificates of operation for devices
3 subject to this Article that are in use."

4 **SECTION 12.(g)** Subsection (a) of this section becomes effective upon the
5 effective date of a rule adopted pursuant to G.S. 95-110.5(20), as enacted by this
6 section. Subsection (b) of this section becomes effective upon the effective date of a
7 rule adopted pursuant to G.S. 95-111.4(19), as enacted by this section. The remainder of
8 this section is effective when it becomes law.

9

10 **TECHNICAL AND CLARIFYING CHANGES TO THE FRANCHISE TAX**

11 **SECTION 13.(a)** G.S. 105-122(d1) reads as rewritten:

12 "(d1) Credits. – A corporation is allowed ~~the following credits~~ a credit against the
13 tax imposed by this section for a taxable ~~year~~ year equal to

14 (1) ~~The credit claimed for the taxable year under Part 5 of Article 4 of this~~
15 ~~Chapter.~~

16 (2) ~~One half~~

17 one-half of the amount of tax payable during the taxable year under Article 5E of this
18 Chapter. The credit allowed by this subsection may not exceed the amount of tax
19 imposed by this section for the taxable year, reduced by the sum of all other credits
20 allowed against that tax, except tax payments made by or on behalf of the taxpayer."

21 **SECTION 13.(b)** This section is effective when it becomes law.

22

23 **ACCELERATE PAYMENT OF LOCAL SALES AND USE TAX REVENUE TO**

24 **LOCAL GOVERNMENTS**

25 **SECTION 14.(a)** G.S. 105-472(a) reads as rewritten:

26 **"§ 105-472. Disposition and distribution of taxes collected.**

27 (a) County Allocation. – The Secretary shall, on a ~~quarterly~~ monthly basis,
28 allocate to each taxing county for which the Secretary collects the tax the net proceeds
29 of the tax collected in that county under this Article. For the purpose of this section, "net
30 proceeds" means the gross proceeds of the tax collected in each county under this
31 Article less taxes refunded, the cost to the State of collecting and administering the tax
32 in the county as determined by the Secretary, and other deductions that may be charged
33 to the county. If the Secretary collects local sales or use taxes in a month and the taxes
34 cannot be identified as being attributable to a particular taxing county, the Secretary
35 shall allocate the taxes among the taxing counties in proportion to the amount of taxes
36 collected in each county under this Article during that month and shall include them in
37 the ~~quarterly~~ monthly distribution.

38 (b) Distribution Between Counties and Cities. – The Secretary shall divide the
39 amount allocated to each taxing county among the county and its municipalities in
40 accordance with the method determined by the county. The board of county
41 commissioners shall, by resolution, choose one of the following methods of distribution:

42 (1) Per Capita Method. – The net proceeds of the tax collected in a taxing
43 county shall be distributed to that county and to the municipalities in

1 the county on a per capita basis according to the total population of the
2 taxing county, plus the total population of the municipalities in the
3 county. In the case of a municipality located in more than one county,
4 only that part of its population living in the taxing county is considered
5 its "total population". In order to make the distribution, the Secretary
6 shall determine a per capita figure by dividing the amount allocated to
7 each taxing county by the total population of that county plus the total
8 population of all municipalities in the county. The Secretary shall then
9 multiply this per capita figure by the population of the taxing county
10 and by the population of each municipality in the county; each
11 respective product shall be the amount to be distributed to the county
12 and to each municipality in the county. To determine the population of
13 each county and each municipality, the Secretary shall use the most
14 recent annual estimate of population certified by the State Planning
15 Officer.

- 16 (2) Ad Valorem Method. – The net proceeds of the tax collected in a
17 taxing county shall be distributed to that county and the municipalities
18 in the county in proportion to the total amount of ad valorem taxes
19 levied by each on property having a tax situs in the taxing county
20 during the fiscal year next preceding the distribution. For purposes of
21 this section, the amount of the ad valorem taxes levied by a county or
22 municipality includes ad valorem taxes levied by the county or
23 municipality in behalf of a taxing district and collected by the county
24 or municipality. In addition, the amount of taxes levied by a county
25 includes ad valorem taxes levied by a merged school administrative
26 unit described in G.S. 115C-513 in the part of the unit located in the
27 county. In computing the amount of tax proceeds to be distributed to
28 each county and municipality, the amount of any ad valorem taxes
29 levied but not substantially collected shall be ignored. Each county and
30 municipality receiving a distribution of the proceeds of the tax levied
31 under this Article shall in turn immediately share the proceeds with
32 each district in behalf of which the county or municipality levied ad
33 valorem taxes in the proportion that the district levy bears to the total
34 levy of the county or municipality. Any county or municipality that
35 fails to provide the Department of Revenue with information
36 concerning ad valorem taxes levied by it adequate to permit a timely
37 determination of its appropriate share of tax proceeds collected under
38 this Article may be excluded by the Secretary from each ~~quarterly~~
39 monthly distribution with respect to which the information was not
40 provided in a timely manner, and those tax proceeds shall then be
41 distributed only to the remaining counties or municipalities, as
42 appropriate. For the purpose of computing the distribution of the tax
43 under this subsection to any county and the municipalities located in

1 the county for any ~~quarter-month~~ with respect to which the property
2 valuation of a public service company is the subject of an appeal and
3 the Department of Revenue is restrained by law from certifying the
4 valuation to the county and the municipalities in the county, the
5 Department shall use the last property valuation of the public service
6 company that has been certified.

7 The board of county commissioners in each taxing county shall, by resolution
8 adopted during the month of April of each year, determine which of the two foregoing
9 methods of distribution shall be in effect in the county during the next succeeding fiscal
10 year. In order for the resolution to be effective, a certified copy of it must be delivered
11 to the Secretary in Raleigh within 15 calendar days after its adoption. If the board fails
12 to adopt a resolution choosing a method of distribution not then in effect in the county,
13 or if a certified copy of the resolution is not timely delivered to the Secretary, the
14 method of distribution then in effect in the county shall continue in effect for the
15 following fiscal year. The method of distribution in effect on the first of July of each
16 fiscal year shall apply to every distribution made during that fiscal year.

17 (c) Municipality Defined. – As used in this Article, the term "municipality"
18 means "city" as defined in G.S. 153A-1.

19 (d) No municipality may receive any funds under this section if it was
20 incorporated with an effective date of on or after January 1, 2000, and is disqualified
21 from receiving funds under G.S. 136-41.2. No municipality may receive any funds
22 under this section, incorporated with an effective date on or after January 1, 2000,
23 unless a majority of the mileage of its streets are open to the public. The previous
24 sentence becomes effective with respect to distribution of funds on or after July 1,
25 1999."

26 **SECTION 14.(b)** G.S. 105-486(a) reads as rewritten:

27 "(a) County Allocation. – The Secretary shall, on a ~~quarterly-monthly~~ basis,
28 allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes
29 levied under this Article to the taxing counties on a per capita basis according to the
30 most recent annual population estimates certified to the Secretary by the State Budget
31 Officer."

32 **SECTION 14.(c)** G.S. 105-486(c) reads as rewritten:

33 "(c) Distribution Between Counties and Cities. – The amount allocated to each
34 taxing county shall then be divided among the county and its municipalities in
35 accordance with the method by which the one percent (1%) sales and use taxes levied in
36 that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session
37 Laws are distributed. ~~If any taxes levied under this Article by a county have not been~~
38 ~~collected in that county for a full quarter because of the levy or repeal of the taxes, the~~
39 ~~Secretary shall distribute a pro rata share to that county for that quarter based on the~~
40 ~~number of months the taxes were collected in that county during the quarter."~~

41 **SECTION 14.(d)** G.S. 105-501 reads as rewritten:

42 "§ 105-501. Distribution of additional taxes.

1 The Secretary shall, on a ~~quarterly~~-monthly basis, allocate the net proceeds of the
2 additional one-half percent (1/2%) sales and use taxes levied under this Article to the
3 taxing counties on a per capita basis according to the most recent annual population
4 estimates certified to the Secretary by the State Budget Officer. The Secretary shall then
5 adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount
6 allocated to each taxing county shall then be divided among the county and the
7 municipalities located in the county in accordance with the method by which the one
8 percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this
9 Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may
10 receive any funds under this section if it was incorporated with an effective date of on or
11 after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No
12 municipality may receive any funds under this section, incorporated with an effective
13 date on or after January 1, 2000, unless a majority of the mileage of its streets are open
14 to the public. The previous sentence becomes effective with respect to distribution of
15 funds on or after July 1, 1999.

16 ~~If any taxes levied under this Article by a county have not been collected in that~~
17 ~~county for a full quarter because of the levy or repeal of the taxes, the Secretary shall~~
18 ~~distribute a pro rata share to that county for that quarter based on the number of months~~
19 ~~the taxes were collected in that county during the quarter.~~

20 In determining the net proceeds of the tax to be distributed, the Secretary shall
21 deduct from the collections to be allocated an amount equal to ~~one-fourth~~one-twelfth
22 of the costs during the preceding fiscal year of:

- 23 (1) The Department of Revenue in performing the duties imposed by G.S.
24 105-275.2 and by Article 15 of this Chapter.
- 25 (2) The Property Tax Commission.
- 26 (3) The Institute of Government in operating a training program in
27 property tax appraisal and assessment.
- 28 (4) The personnel and operations provided by the Department of State
29 Treasurer for the Local Government Commission."

30 **SECTION 14.(e)** Section 9 of Chapter 1096 of the 1967 Session Laws, as
31 amended, is amended as follows:

- 32 (1) By deleting the word "quarterly" each time it appears and substituting
33 the word "monthly".
- 34 (2) By deleting the word "quarter" in the first sentence of the second
35 paragraph and substituting the word "month".

36 **SECTION 14.(f)** G.S. 105-510(a), as enacted by Section 1 of S. L. 1997-
37 417, reads as rewritten:

38 "(a) Distribution. – The Secretary shall, on a ~~quarterly~~-monthly basis, allocate to
39 each taxing county the net proceeds of the tax levied under this Article by that county.
40 If the Secretary collects taxes under this Article in a month and the taxes cannot be
41 identified as being attributable to a particular taxing county, the Secretary shall allocate
42 these taxes among the taxing counties, in proportion to the amount of taxes collected in

1 each county under this Article in that month and shall include them in the ~~quarterly~~
2 monthly distribution.

3 The Secretary shall distribute the net proceeds of the tax levied by a county on a per
4 capita basis among the county and the units of local government in the county that
5 operate public transportation systems. No proceeds shall be distributed to a county that
6 does not operate a public transportation system or to a unit of local government that
7 does not operate a public transportation system."

8 **SECTION 14.(g)** This section becomes effective July 1, 2003, and applies to
9 amounts collected on or after that date.