

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

**SESSION LAW 2001-427  
HOUSE BILL 232**

AN ACT TO SET THE INSURANCE REGULATORY CHARGE, THE PUBLIC UTILITY REGULATORY FEE, AND THE ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE; INCREASE THE NONRESIDENT FEE FOR SEARCHING PUBLIC ARCHIVES; UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE; ACCELERATE PAYMENT OF WITHHOLDING TAXES; ACCELERATE PAYMENT OF SALES AND UTILITY TAXES; AUTHORIZE CERTAIN COUNTIES TO ACQUIRE PROPERTY FOR PUBLIC SCHOOLS; PROVIDE GENERAL ASSEMBLY OVERSIGHT OF AGENCY FEES; EXEMPT FROM FUEL TAX FUEL USED BY COMMUNITY COLLEGES; MAKE CLARIFYING CHANGES IN THE SUBSIDIARY DIVIDEND PROVISIONS; AUTHORIZE THE COMMISSIONER OF LABOR TO ESTABLISH CERTAIN FEES; MAKE TECHNICAL AND CLARIFYING CHANGES TO THE FRANCHISE TAX; ACCELERATE PAYMENT OF LOCAL SALES AND USE TAX REVENUE TO LOCAL GOVERNMENTS; AND ACCELERATE PAYMENT OF THE REVENUE GENERATED BY THE STATE EXCISE TAX ON CONVEYANCES TO THE STATE AND EXEMPT PRISONS LOCATED ON LAND OWNED BY THE STATE AND BUILT PURSUANT TO A CONTRACT WITH THE STATE FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

**INSURANCE REGULATORY CHARGE**

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

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

**REGULATORY FEE FOR UTILITIES COMMISSION**

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

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

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

**INCREASE NONRESIDENT SEARCH FEE**

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

"(d) Preservation of Permanently Valuable Records. – Public records certified by the Department of Cultural Resources as being of permanent value shall be preserved in the custody of the agency in which the records are normally kept or of the North Carolina State Archives. Any State, county, municipal, or other public official is hereby authorized and empowered to turn over to the Department of Cultural Resources any State, county, municipal, or other public records no longer in current official use, and the Department of Cultural Resources is authorized in its discretion to accept such

records, and having done so shall provide for their administration and preservation in the North Carolina State Archives. When such records have been thus surrendered, photocopies, microfilms, typescripts, or other copies of them shall be made and certified under seal of the Department, upon application of any person, which certification shall have the same force and effect as if made by the official or agency by which the records were transferred to the Department of Cultural Resources; and the Department may charge reasonable fees for ~~such these~~ copies. The Department may answer written inquiries for nonresidents of ~~North Carolina the State~~ and for ~~such this~~ service may charge a search and handling fee not to exceed ~~ten dollars (\$10.00), twenty-five dollars (\$25.00),~~ the receipts from ~~which this~~ fee shall be used to defray the cost of providing ~~such this~~ service."

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

#### **UPDATE INTERNAL REVENUE CODE REFERENCE**

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

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

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

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

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

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

#### **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~~ 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~~ 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 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and is due by the 15<sup>th</sup> day of the month following the end of the quarter.

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

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

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

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

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

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

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

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

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

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

- (1) Corporate estimated taxes. – A corporation that is required under the Code to pay its federal-estimated corporate income tax by electronic funds transfer must pay its State-estimated corporate income tax by electronic funds transfer as provided in G.S. 105-163.40.
- (2) Semimonthly taxes. – A taxpayer that is required to pay tax on a semimonthly schedule must pay the tax by electronic funds transfer.
- (3) Large tax payments. – ~~Except as provided in G.S. 105-163.40,~~ otherwise provided in this subsection, the Secretary shall not require a taxpayer to pay a tax by electronic funds transfer unless, during the applicable period for that tax, the average amount of the taxpayer's required payments of the tax was at least twenty thousand dollars (\$20,000) a month. The twenty thousand dollar (\$20,000) threshold applies separately to each tax. The applicable period for a tax is a 12-month period, designated by the Secretary, preceding the imposition or review of the payment requirement. The requirement that a taxpayer pay a tax by electronic funds transfer remains in effect until suspended by the Secretary. Every 12 months after requiring a taxpayer to pay a tax by electronic funds transfer, the Secretary ~~shall~~ must determine whether, during the applicable period for that tax, the average amount of the taxpayer's required payments of the tax was at least twenty thousand dollars (\$20,000) a month. If it was not, the Secretary ~~shall~~ must suspend the requirement that the taxpayer pay the tax by electronic funds transfer and ~~shall~~ must notify the taxpayer in writing that the requirement has been suspended."

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

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

A water company or public sewerage company must pay tax quarterly when filing a return. ~~An electric power company shall pay tax monthly. A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues, except the~~

~~payment for tax that accrues in May. The payment for tax that accrues in May is due by June 25. A taxpayer is not subject to interest on or penalties for an underpayment of a monthly amount due if the taxpayer timely pays at least ninety five percent (95%) of the amount due and includes the underpayment with the next report the company files. must pay tax in accordance with the schedule that applies to its payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly. An electric power company is not subject to interest on or penalties for an underpayment for a semimonthly or monthly payment period if the electric power company timely pays at least ninety-five percent (95%) of the amount due for each semimonthly or monthly payment period and includes the underpayment with the quarterly return for those semimonthly or monthly payment periods. A water company or a public sewerage company shall pay tax quarterly when filing a report. A~~

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

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

~~A taxpayer must report its gross receipts on an accrual basis. If a taxpayer's report does not state the taxpayer's taxable gross receipts derived within a city, the Secretary must determine a practical method of allocating part of the taxpayer's taxable gross receipts to the city."~~

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

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

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

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

~~month in which the tax accrues, except the payment for tax that accrues in May. The payment for tax that accrues in May is due by June 25. A company is not subject to interest on or penalties for an underpayment of a monthly amount due if the company timely pays at least ninety five percent (95%) of the amount due and includes the underpayment with the next report the company files.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

## **GENERAL ASSEMBLY OVERSIGHT OF AGENCY FEES**

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

### **"§ 12-3.1. Fees and charges by agencies.**

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

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

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

- (1) Agency. – ~~Every "Agency" means every~~ agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the legislative, executive or judicial branches of State government. ~~"Agency"~~ The term does not include counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of ~~such these~~ subdivisions, the University of North Carolina, community colleges, hospitals, county or city boards of education, other local public districts, units, or bodies of any kind, or private corporations created by act of the General Assembly.
- (2) Rule. – ~~Every "Rule" means every~~ rule, regulation, ordinance, standard, and amendment thereto adopted by any ~~agency and includes~~ agency, including rules and regulations regarding substantive matters, standards for products, procedural rules for complying with statutory or regulatory authority or requirements and executive orders of the Governor.

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

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

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

## **COMMUNITY COLLEGE FUEL TAX EXEMPTION**

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

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

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

- (1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the motor fuel is removed by a licensed distributor or a licensed exporter and the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state.
- (1a) Motor fuel removed by transport truck from a terminal for export if the motor fuel is removed by a licensed distributor or licensed exporter, the supplier that is the position holder for the motor fuel sells the motor fuel to another supplier as the motor fuel crosses the terminal rack, the purchasing supplier or its customer receives the motor fuel at the terminal rack for export, and the supplier that is the position holder collects tax on the motor fuel at the rate of the motor fuel's destination state.
- (2) Motor fuel sold to the federal government for its use.
- (3) Motor fuel sold to the State for its use.
- (4) Motor fuel sold to a local board of education for use in the public school system.
- (5) Diesel that is kerosene and is sold to an airport.
- (6) Motor fuel sold to a charter school for use for charter school purposes.
- (7) Motor fuel sold to a community college for use for community college purposes."

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

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

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

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

**SECTION 10.(a)** G.S. 105-130.5(b)(3a) and (3b), as enacted by S.L. 2001-327, reads as rewritten:

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

- (3a) Dividends treated as received from sources outside the United States as determined under section 862 of the Code, net of related expenses, to the extent included in federal taxable income.
- (3b) Any amount included in federal taxable income under section 78 or section 951 of the ~~Code~~-Code, net of related expenses."



**SECTION 10.(b)** This section is effective for taxable years beginning on or after January 1, 2001. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of corporation income tax to the extent the underpayment was created or increased by this section.

#### **LABOR COMMISSIONER FEE AUTHORITY**

**SECTION 11.(a)** G.S. 95-105 is repealed.

**SECTION 11.(b)** G.S. 95-106 is repealed.

**SECTION 11.(c)** G.S. 95-107 reads as rewritten:

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

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

**SECTION 11.(d)** G.S. 95-108 reads as rewritten:

**"§ 95-108. Disposition of fees.**

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

**SECTION 11.(e)** G.S. 95-110.5 is amended by adding a new subdivision to read:

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

**SECTION 11.(f)** G.S. 95-111.4 is amended by adding a new subdivision to read:

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

**SECTION 11.(g)** Subsection (a) of this section becomes effective upon the effective date of a rule adopted pursuant to G.S. 95-110.5(20), as enacted by this section. Subsection (b) of this section becomes effective upon the effective date of a rule adopted pursuant to G.S. 95-111.4(19), as enacted by this section. The remainder of this section is effective when it becomes law.

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

**SECTION 12.(a)** G.S. 105-122(d1) reads as rewritten:

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

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

**(2)** ~~One-half~~

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

**SECTION 12.(b)** This section is effective when it becomes law.

## ACCELERATE PAYMENT OF LOCAL SALES AND USE TAX REVENUE TO LOCAL GOVERNMENTS

**SECTION 13.(a)** G.S. 105-472(a) reads as rewritten:

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

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

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

- (1) Per Capita Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and to the municipalities in the county on a per capita basis according to the total population of the taxing county, plus the total population of the municipalities in the county. In the case of a municipality located in more than one county, only that part of its population living in the taxing county is considered its "total population". In order to make the distribution, the Secretary shall determine a per capita figure by dividing the amount allocated to each taxing county by the total population of that county plus the total population of all municipalities in the county. The Secretary shall then multiply this per capita figure by the population of the taxing county and by the population of each municipality in the county; each respective product shall be the amount to be distributed to the county and to each municipality in the county. To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State Planning Officer.
- (2) Ad Valorem Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and the municipalities in the county in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding the distribution. For purposes of this section, the amount of the ad valorem taxes levied by a county or municipality includes ad valorem taxes levied by the county or municipality in behalf of a taxing district and collected by the county or municipality. In addition, the amount of taxes levied by a county includes ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to each county and municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a distribution of the proceeds of the tax levied under this Article shall in turn immediately share the proceeds with each district in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total

levy of the county or municipality. Any county or municipality that fails to provide the Department of Revenue with information concerning ad valorem taxes levied by it adequate to permit a timely determination of its appropriate share of tax proceeds collected under this Article may be excluded by the Secretary from each ~~quarterly~~ monthly distribution with respect to which the information was not provided in a timely manner, and those tax proceeds shall then be distributed only to the remaining counties or municipalities, as appropriate. For the purpose of computing the distribution of the tax under this subsection to any county and the municipalities located in the county for any ~~quarter-month~~ with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the county and the municipalities in the county, the Department shall use the last property valuation of the public service company that has been certified.

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

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

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

**SECTION 13.(b)** G.S. 105-486(a) reads as rewritten:

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

**SECTION 13.(c)** G.S. 105-486(c) reads as rewritten:

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

**SECTION 13.(d)** G.S. 105-501 reads as rewritten:

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

The Secretary shall, on a ~~quarterly~~ monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population

estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.

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

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

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

**SECTION 13.(e)** Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended as follows:

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

**SECTION 13.(f)** G.S. 105-510(a), as enacted by Section 1 of S. L. 1997-417, reads as rewritten:

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

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

**SECTION 13.(g)** This section becomes effective July 1, 2003, and applies to amounts collected on or after that date.

## **ACCELERATE PAYMENT OF EXCISE TAX ON CONVEYANCES**

**SECTION 14.(a)** G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less the county's allowance for administrative expenses, to the

Department of Revenue on a ~~quarterly~~ monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7."

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

#### **PRISON PROPERTY TAX EXEMPTION**

**SECTION 15.(a)** G.S. 105-275 is amended by adding a new subdivision to read:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...  
(39a) A correctional facility, including construction in progress, that is located on land owned by the State and is constructed pursuant to a contract with the State, and any leasehold interest in the land owned by the State upon which the correctional facility is located."

**SECTION 15.(b)** This section is effective for taxes imposed for taxable years beginning on or after July 1, 2001.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of September, 2001.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 2:55 p.m. this 28<sup>th</sup> day of September, 2001