

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-414
SENATE BILL 165**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE
REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 10(h) of S.L. 2000-56, as amended by Section 92A(c) of S.L. 2000-140, reads as rewritten:

"Section 10.(h) Technical Correction. – Section 9 of this act becomes effective May 1, 1999, and applies to taxes paid on or after that date. Section ~~12-9~~ is repealed for taxes paid on or after January 1, 2008."

SECTION 2. G.S. 105-111 is repealed.

SECTION 3. G.S. 105-113.21(a) reads as rewritten:

"(a) Discount. – A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of four percent (4%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond."

SECTION 4. G.S. 105-113.39 reads as rewritten:

"§ 105-113.39. Discount.

A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this ~~Part and Part~~, who files a timely report under ~~G.S. 105-113.37~~ G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of four percent (4%). This discount covers losses due to damage to tobacco products, expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond."

SECTION 5. G.S. 105-113.85 reads as rewritten:

"§ 105-113.85. Discount.

Each wholesaler or importer who ~~remits the excise taxes on malt beverages or wine~~ files a timely return and sends a timely payment may deduct from the amount payable ~~by him~~ a discount of four percent (4%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond."

SECTION 6. G.S. 105-129.3A(c) reads as rewritten:

"(c) Relationship With Enterprise Tiers. – For the purpose of the wage standard requirement of G.S. ~~105-129.3(b)~~, 105-129.4, the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located."

SECTION 7. G.S. 105-129.4(b) reads as rewritten:

"(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. No credit is allowed for jobs not included in the wage calculation. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central office or aircraft facility if the jobs at the location

with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. In making the wage calculation, the taxpayer must include any positions that were filled for at least 1,600 hours during the immediately preceding taxable year even if they are not filled at the time the taxpayer applies for the credit.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State."

SECTION 8. G.S. 105-129.8(a) reads as rewritten:

"(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more full-time employees, and hires an additional full-time employee during ~~that~~ the taxable year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

| Area Enterprise Tier | Amount of Credit |
|----------------------|------------------|
| Tier One | \$12,500 |
| Tier Two | 4,000 |
| Tier Three | 3,000 |
| Tier Four | 1,000 |
| Tier Five | 500 |

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit ~~shall~~ must be taken in equal installments over the four years following the taxable year in which the additional employee was hired and ~~shall be~~ is conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State ~~shall not be~~ are not considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit ~~shall~~ must be calculated as if the position had been created initially in the area to which it was moved."

SECTION 9. G.S. 105-129.13(c) reads as rewritten:

"(c) Certification. – Before certifying that a development zone agency will undertake an improvement project in a development zone, the Secretary of Commerce must require the agency to provide sufficient documentation to establish the identity of the agency, the nature of the project, and that the project is for a community development purpose and is located in a development zone. The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a contribution made under this section for any purpose other than an improvement project."

SECTION 10. G.S. 105-129.19 reads as rewritten:

"§ 105-129.19. (See Editor's note for repeal) Reports.

The Department of Revenue ~~shall report to the Legislative Research Commission~~ must report to the Revenue Laws Study Committee and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

- (1) The number of taxpayers that claimed the credits allowed in this Article.
- (2) The cost of business property and renewable energy property with respect to which credits were claimed.
- (2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.
- (3) The total cost to the General Fund of the credits claimed."

SECTION 11. G.S. 105-151.21(b)(1) reads as rewritten:

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

- (1) Farm machinery. Machinery subject to State sales tax at the rate of one percent (1%) under G.S. ~~105-164.4(a)(1d)a.~~ 105-164.4A."

SECTION 12. G.S. 105-163.013(g) reads as rewritten:

"(g) Report by Secretary of State. – The Secretary of State shall report to the ~~Legislative Services Commission~~ Revenue Laws Study Committee by October 1 of each year all of the businesses that have registered with the Secretary of State as qualified business ventures and qualified grantee businesses. The report shall include the name and address of each business, the location of its headquarters and principal place of business, a detailed description of the types of business in which it engages, whether the business is a minority business as defined in G.S. 143-128, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs."

SECTION 13. G.S. 105-163.41(a) reads as rewritten:

"(a) Except as provided in subsection (d), if the amount of estimated tax paid by a corporation during the taxable year is less than the amount of tax imposed upon the corporation under Article 4 of this Chapter for the taxable year, the corporation ~~shall~~ must be assessed an additional tax as a penalty in an amount determined by multiplying the amount of the underpayment as determined under subsection (b), for the period of the underpayment as determined under subsection (c), by the percentage established as the rate of interest on assessments under G.S. 105-241.1(i) that is in effect for the period of the underpayment. For the purpose of this section, the amount of tax imposed under Article 4 of this Chapter is the net amount after subtracting the credits against the tax allowed by this Chapter other than the credit allowed by this Article."

SECTION 14. G.S. 105-164.3(4) is repealed.

SECTION 15. G.S. 105-164.6(a) reads as rewritten:

"(a) An excise tax at the following percentage rates is imposed on the storage, use, or consumption in this State of tangible personal property purchased inside or outside the State for storage, use, or consumption in the State:

- (1) At the applicable percentage rate of the ~~cost~~ purchase price of each item or article of tangible personal property that is stored, used, or

consumed in this State. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is stored, used, or consumed.

- (2) At the applicable percentage rate of the monthly lease or rental price paid, contracted, or agreed to be paid by the lessee or renter to the owner of tangible personal property that is stored, used, or consumed in this State. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a lease or rental of the property that is stored, used, or consumed."

SECTION 16. G.S. 105-164.12B(a) reads as rewritten:

"(a) **Bundled Transaction Defined.** – A bundled transaction is a transaction in which all of the following conditions are met:

- (1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase services on an ongoing basis for a minimum period of at least six months.
- (2) The agreement requires the consumer to pay a cancellation fee to the service provider if the consumer cancels the contract for services within the minimum period.
- (3) For the item transferred, the seller:
 - a. Does not charge the consumer; or
 - b. Charges the consumer a price that, after any discount or rebate the seller gives the consumer, is below the ~~cost~~-purchase price the seller paid for the item."

SECTION 17. G.S. 105-164.12B(f) reads as rewritten:

"(f) **Determination of ~~Cost~~-Purchase Price.** – For the purpose of this section, the ~~cost~~-purchase price a seller paid for an item is presumed to be no greater than the price the seller paid for the same model within 12 months before the bundled transaction, as shown on the seller's invoices."

SECTION 18. G.S. 105-164.16(a), as amended by S.L. 2001-347, reads as rewritten:

"(a) **General.** – Sales and use taxes are payable quarterly, monthly, or semimonthly as specified in this section. A return must be filed with the Secretary on a form prescribed by the Secretary and 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~~-purchase 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 will require a corrected return to be filed."

SECTION 19. G.S. 105-164.23 reads as rewritten:

"§ 104-164.23. **Consumer must keep records.**

Every consumer shall keep such records, receipts, invoices and other pertinent papers in such form as may be required by the Secretary and all such books, invoices and other records shall be open for examination by the Secretary or any of his duly authorized agents. In the event the retailer, user or consumer has imported the tangible personal property and fails to produce an invoice showing the ~~cost~~-purchase price of the tangible personal property as defined in this Article which is subject to tax or the invoices do not reflect the true or actual cost as defined herein, then the Secretary shall ascertain in any manner feasible the true ~~cost~~-purchase price and assess and collect the

tax with interest, plus penalties, if such have accrued, on the true cost price as determined by him."

SECTION 20. G.S. 105-164.27A(d) reads as rewritten:

"(d) Revocation. – A direct pay certificate is valid until the holder returns it to the Secretary or it is revoked by the Secretary. The Secretary may revoke a direct pay certificate if the holder of the certificate does not file a sales and use tax return on time, does not pay sales and use tax on time, or otherwise fails to comply with the sales and use tax laws."

SECTION 21. G.S. 105-164.32 reads as rewritten:

"§ 105-164.32. Incorrect returns; estimate.

In the event any retailer, wholesale merchant or consumer fails to make a return and to pay the tax as provided by this Article or in case any retailer, wholesale merchant or consumer makes a grossly incorrect return or a report that is false or fraudulent, it shall be the duty of the Secretary or his authorized agent to make an estimate for the taxable period of wholesale and/or retail sales of such retailer or wholesale merchant or of the gross proceeds of rentals or leases of tangible personal property by the retailer and to estimate the ~~cost~~ purchase price of all articles of tangible personal property imported by the consumer for use, storage, or consumption in this State and to assess and collect the tax and interest, plus penalties, if such have accrued, upon the basis of such estimate."

SECTION 22. G.S. 105-187.16(a) reads as rewritten:

"§ 105-187.16. (Effective until June 30, 2002) Tax imposed.

(a) Levy. – A privilege tax is imposed on a tire retailer at a percentage rate of the sales price of each new tire sold at retail by the retailer. A privilege tax is imposed on a tire retailer and on a tire wholesale merchant at a percentage rate of the sales price of each new tire sold by the retailer or wholesale merchant to a wholesale merchant or retailer for placement on a vehicle offered for sale, lease, or rental by the retailer or wholesale merchant. An excise tax is imposed on a new tire purchased for storage, use, or consumption in this State or for placement in this State on a vehicle offered for sale, lease, or rental. This excise tax is a percentage rate of the ~~cost~~ purchase price of the tire. These taxes are in addition to all other taxes."

SECTION 23. G.S. 105-228.90 reads as rewritten:

"§ 105-228.90. Scope and definitions.

(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, to the annual report filing requirements of G.S. 55-16-22, to the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes.

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

- (1) Charter school. – A nonprofit corporation that has a charter under G.S. 115C-238.29D to operate a charter school.
- (1a) City. – A city as defined by G.S. 160A-1(2). The term also includes an urban service district defined by the governing board of a consolidated city-county, as defined by G.S. 160B-2(1).
- (1b) Code. – The Internal Revenue Code as enacted as of January 1, 2000, including any provisions enacted as of that date which become effective either before or after that date.
- (1c) County. – Any one of the counties listed in G.S. 153A-10. The term also includes a consolidated city-county as defined by G.S. 160B-2(1).
- (2) Department. – The Department of Revenue.
- (3) Electronic Funds Transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.
- (4) Reserved.
- (5) Person. – An individual, a fiduciary, a firm, an association, a partnership, a limited liability company, a corporation, a unit of

government, or another group acting as a unit. The term includes an officer or employee of a corporation, a member, a manager, or an employee of a limited liability company, and a member or employee of a partnership who, as officer, employee, member, or manager, is under a duty to perform an act in meeting the requirements of Subchapter I, V, or VIII of this ~~Chapter~~ Chapter, of G.S. 55-16-22, of Article 12 of Chapter 113A of the General Statutes, or of Article 3 of Chapter 119 of the General Statutes.

- (6) Secretary. – The Secretary of Revenue.
- (7) Tax. – A tax levied under Subchapter I, V, or VIII of this ~~Chapter~~ Chapter, the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the terms "tax" and "additional tax" include penalties and interest as well as the principal amount.
- (8) Taxpayer. – A person subject to the tax or reporting requirements of Subchapter I, V, or VIII of this ~~Chapter~~ Chapter, of Article 12 of Chapter 113A of the General Statutes, or of Article 3 of Chapter 119 of the General Statutes."

SECTION 24. G.S. 105-249.2, as amended by S.L. 2001-87, reads as rewritten:

"§ 105-249.2. **Due date extended and penalties waived for certain military personnel or individuals affected by a presidentially declared disaster.**

(a) Combat. – The Secretary may not assess interest or a penalty against a taxpayer for any period that is disregarded under section 7508 of the Code in determining the taxpayer's liability for a federal tax. A taxpayer is granted an extension of time to file a return or take another action concerning a State tax for any period during which the Secretary may not assess interest or a penalty under this section.

(b) Disaster. – The penalties in G.S. 105-236(2), (3), and (4) may not be assessed for any period in which the time for filing a federal return or report or for paying a federal tax is extended under section 7508A of the Code because of a presidentially declared disaster. For the purpose of this section, 'presidentially declared disaster' has the same meaning as in section 1033(h)(3) of the Code."

SECTION 25. G.S. 143B-218.1 is recodified as G.S. 105-256(a)(6), and G.S. 105-256(a)(6) reads as rewritten:

"(a) Reports. – The Secretary shall prepare and publish the following:

- ...
- (6) ~~The Department of Revenue shall report annually to the Joint Legislative Commission on Governmental Operations~~ On an annual basis, a report on the quality of services provided to taxpayers, including telephone and walk-in assistance and taxpayer education. The report must be submitted to the Joint Legislative Commission on Governmental Operations."

SECTION 26. G.S. 105-256 is amended by adding a new subsection to read:

"(d) Other Requirements. – The following requirements apply to the Secretary:

- (1) Video Poker. – G.S. 14-306.1(j) requires the Department to provide summary reports quarterly to the Joint Legislative Commission on Governmental Operations.
- (2) Escheats. – G.S. 116B-60(g) requires the Secretary to furnish information to the Escheat Fund on October 1 of each year."

SECTION 27. G.S. 105-449.60(41) reads as rewritten:

"(41) User. – A person who owns or operates a licensed highway vehicle that has a registered gross vehicle weight of at ~~last~~ least 10,001 pounds and who does not maintain storage facilities for motor fuel."

SECTION 28. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, ~~shall~~ must begin and continue only on and after the first day of the month of either January or July, as set by the ~~board of county commissioner set by the~~ board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change."

SECTION 29. G.S. 105-467(5) reads as rewritten:

"§ 105-467. Scope of sales tax.

The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

- ... (5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but ~~would be is~~ exempt from the State sales and use tax pursuant to ~~G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51.~~ G.S. 105-164.13B."

SECTION 30. Subdivision (5) in the first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, reads as rewritten:

"(5) The sales price of food and other items that are not otherwise exempt from tax pursuant to G.S. 105-164.13 but ~~would be is~~ exempt from the State sales and use tax pursuant to ~~G.S. 105-164.13 if purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51.~~ G.S. 105-164.13B."

SECTION 31. G.S. 20-87(6) reads as rewritten:

"§ 20-87. Passenger vehicle registration fees.

These shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

- ... (6) Private Motorcycles. – The base ~~tax-fee~~ on private passenger motorcycles shall be nine dollars (\$9.00); except that when a motorcycle is equipped with an additional form of device designed to transport persons or property, the base ~~tax-fee~~ shall be sixteen dollars (\$16.00). An additional ~~tax-fee~~ of three dollars (\$3.00) is imposed on each private motorcycle registered under this subdivision in addition to the base ~~tax-fee~~. The revenue from the additional ~~tax-fee~~, in addition to any other funds appropriated for this purpose, shall be credited to the General Fund, and may be used to implement fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.

SECTION 32. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

| | <u>Special Plate</u> | <u>SRPA</u> | <u>CCAPA</u> | <u>NHTF</u> |
|------------------------------|----------------------|-------------|----------------------|-------------|
| Animal Lovers | | \$10 | \$10 | 0 |
| Ducks Unlimited | | \$10 | \$10 | 0 |
| Goodness Grows | | \$10 | \$10 \$15 | 0 |
| Historical Attraction | | \$10 | \$20 | 0 |
| In-State Collegiate Insignia | | \$10 | \$15 | 0 |
| Kids First | | \$10 | \$15 | 0 |
| Litter Prevention | | \$10 | \$10 | 0 |
| March of Dimes | | \$10 | \$10 | 0 |

| | | | |
|--|------|------|------|
| Olympic Games | \$10 | \$15 | 0 |
| Omega Psi Phi Fraternity | \$10 | \$10 | 0 |
| Out-of-state Collegiate Insignia | \$10 | 0 | \$15 |
| Personalized | \$10 | 0 | \$10 |
| Scenic Rivers | \$10 | \$10 | 0 |
| School Technology | \$10 | \$10 | 0 |
| Soil and Water Conservation | \$10 | \$10 | 0 |
| Special Olympics | \$10 | \$10 | 0 |
| State Attraction | \$10 | \$20 | 0 |
| Support Public Schools | \$10 | \$10 | 0 |
| University Health Systems of Eastern Carolina | \$10 | \$15 | 0 |
| Wildlife Resources | \$10 | \$10 | 0 |
| All other Special Plates | \$10 | 0 | 0". |

SECTION 33. G.S. 69-25.4 reads as rewritten:

"§ 69-25.4. Tax to be levied and used for furnishing fire protection.

(a) If a majority of the qualified voters voting at said election vote in favor of levying and collecting a tax in said district, then the board of county commissioners is authorized and directed to levy and collect a tax in said district in such amount as it may deem necessary, not exceeding ten cents (10¢) on the one hundred dollars (\$100.00) valuation of property in said district from year to year, and shall keep the same as a separate and special fund, to be used only for furnishing fire protection within said district, as provided in G.S. 69-25.5.

Provided, that if a majority of the qualified voters voting at such elections vote in favor of levying and collecting a tax in such district, or vote in favor of increasing the tax limit in said district, then the board of county commissioners is authorized and directed to levy and collect a tax in such districts in such amount as it may deem necessary, not exceeding fifteen cents (15¢) on the one hundred dollars (\$100.00) valuation of property in said district from year to year.

(b) For purposes of this Article, the term "fire protection" and the levy of a tax for that purpose may include the levy, appropriation, and expenditure of funds for furnishing emergency medical, rescue and ambulance services to protect persons within the district from injury or death; and the levy, appropriation, and expenditure of the tax to provide such services are proper, authorized and lawful. In providing these services the fire district shall be subject to G.S. 153A-250.

(c) For purposes of this Article, a fire protection district is a municipal corporation organized for a special purpose. Except in cases when a fire protection district commission is appointed to govern the district, the board of county commissioners, or joint boards of county commissioners when the area lies in more than one county, shall serve as the governing body."

SECTION 34. G.S. 96-8(8) is recodified as G.S. 96-8(7c).

SECTION 35. G.S. 96-8 is amended by adding a new subdivision to read:

"(7f) Internal Revenue Code. – The Code as defined in G.S. 105-228.90."

SECTION 36. G.S. 96-8(5)k. reads as rewritten:

"k. Notwithstanding any other provision of this Chapter, any nonprofit organization or a group of organizations (hereafter, where the words "nonprofit organization" are used in this Chapter, it shall include a group of nonprofit organizations), ~~corporations, any corporation, or any community chest, fund, or foundation which are~~ that is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or ~~animals and which animals, and that is exempt or~~ may be exempted from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, provided such

Code, as long as the employing unit for some portion of a day in each of 20 different calendar weeks within the current or preceding calendar year (whether or not ~~such-the~~ weeks are or were consecutive) has or had in employment four or more individuals (not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each ~~such-week~~)."

SECTION 37. G.S. 96-8(6)k.12. reads as rewritten:

"12. Service in any calendar quarter in the employ of any organization exempt from income tax under the provisions of section 501(a) of the Internal Revenue Code ~~of 1954~~ (other than an organization described in section 401(a) of ~~said-the~~ Internal Revenue Code ~~of 1954~~ Code) or under section 521 of the Internal Revenue Code ~~of 1954~~ Code, if the remuneration for ~~such-the~~ service is less than fifty dollars (\$50.00)."

SECTION 38. G.S. 96-8(6)k.16. reads as rewritten:

"16. Notwithstanding the provisions of G.S. 96-8(6)f.3. and 96-8(6)k.6., service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under the arrangement with the owner or operator of such boat pursuant to which: (A) ~~Such-The~~ individual does not receive any cash remuneration (other than as provided in subparagraph (B)), (B) ~~Such-The~~ individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and (C) The amount of ~~such-the~~ individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life, but only if the operating crew of ~~such-the~~ boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals. In order to preserve the State's right to collect State unemployment taxes for which a credit against federal unemployment taxes may be taken for contributions paid into a State unemployment insurance fund, this paragraph 16 ~~shall~~ does not apply, with respect to any individual, to service during any period for which an assessment for federal unemployment taxes is made by the Internal Revenue Service pursuant to the Federal Unemployment Tax Act which assessment becomes a final determination (as defined by section 1313 of the Internal Revenue Code ~~of 1954 as amended~~ Code)."

SECTION 39. G.S. 96-8(13)b. reads as rewritten:

"b. "Wages" shall not include:

1. Any payment made to, or on behalf of, an employee or ~~his-the employee's~~ beneficiary from or to a trust ~~which~~ that qualifies under the conditions set forth in ~~Sections~~ sections 401(a)(1) and (2) of the Internal Revenue Code ~~of 1954; Code;~~

2. Any payment made to, or under, an annuity plan which at the time of the payment meets the requirements of ~~Sections~~ sections 401(a)(3), (4), (5) and (6) of the Internal Revenue Code and exempt from tax under ~~Section~~ section 501(a) of the Internal Revenue Code at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as beneficiary of the trust; or
3. Any payment made to, or on behalf of, an employee or his beneficiary under a Cafeteria Plan within the meaning of ~~Section~~ section 125 of the Internal Revenue Code."

SECTION 40. The first paragraph of G.S. 96-9(d) reads as rewritten:

"(d) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this paragraph. For the purposes of this paragraph, a nonprofit organization is an organization (or group of organizations) described in section 501(c)(3) of the ~~United States~~ Internal Revenue Code of 1954 which ~~that is~~ is exempt from income tax under section 501(a) of ~~said the~~ the Internal Revenue Code."

SECTION 41. G.S. 96-12(g)(3) reads as rewritten:

"(3) The individual may elect to have federal individual income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in section 3402 of the Internal Revenue Code. ~~The term "Code" has the same meaning as defined in G.S. 105-228.90."~~

SECTION 42. G.S. 96-12.01(a) is recodified as G.S. 91-12.01(a1).

SECTION 43. The first sentence of G.S. 96-12.01 is designated as subsection (a) of that section and reads as rewritten:

"(a) ~~Effective January 1, 1972, extended~~ Extended benefits shall be paid under this Chapter as ~~herein specified; provided in this section.~~"

SECTION 44. G.S. 96-12.01(a1)(11) reads as rewritten:

"(11) "State law" means the unemployment insurance law of any state approved by the United States Secretary of Labor under section 3304 of the ~~Internal Revenue Code of 1954.~~ Code."

SECTION 45. G.S. 116D-11(g) reads as rewritten:

"(g) University Improvement Bonds Fund. – The proceeds of university improvement general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated 'University Improvement Bonds Fund'. Moneys in the University Improvement Bonds Fund shall be used for the purposes set forth in this Article.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any university improvements authorized by this Article may be placed by the State Treasurer in the University Improvement Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this ~~act [the Michael K. Hooker Higher Education Facilities Financing Act, S. L. 2000-3].~~ Article.

The proceeds of university improvement general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of university improvements, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of university improvement bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the

Budget. The funds provided by this Article for university improvements shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes."

SECTION 46. G.S. 116D-46(g) reads as rewritten:

"(g) Community College Bonds Fund. – The proceeds of community college general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated 'Community College Bonds Fund'. Moneys in the Community College Bonds Fund shall be used for the purposes set forth in this Article.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any community college capital facilities authorized by this Article may be placed by the State Treasurer in the Community College Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act [~~the Michael K. Hooker Higher Education Facilities Financing Act, S. L. 2000-3~~]. Article.

The proceeds of community college general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of grants to community colleges for capital facilities, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of community college bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for grants to community colleges shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes."

SECTION 47. G.S. 143B-221 is repealed.

SECTION 48. G.S. 159-81(3) reads as rewritten:

"(3) "Revenue bond project" means any undertaking for the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any one or combination of the ~~following~~ revenue-producing utility or public service enterprise facilities or systems listed in this subdivision, owned or leased as lessee by the issuing unit, to be financed through the issuance of revenue bonds, thereby providing funds to pay the costs of the undertaking or to reimburse funds loaned or advanced by or on the behalf of either the State or a municipality to pay the costs of the undertaking.

A revenue bond project shall be (i) owned or leased as lessee by the issuing unit or (ii) owned by one or more of the municipalities participating in an undertaking established pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes. If the revenue bond project is owned by one or more municipalities as provided in (ii) of this subdivision, any one or more of the participating municipalities may each be an issuing unit consistent with their agreement to establish a joint undertaking. In addition, any joint agency established by participating municipalities pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes may be an issuing unit without owning the revenue bond project or leasing it as lessee.

The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with the undertaking; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which such structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project.

The following facilities or systems may be revenue bond projects under this subdivision:

- a. Water systems or facilities, including all plants, works, instrumentalities and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.
- b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.
- c. Systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed) or electric energy for lighting, heating, or power for public and private uses, where gas systems shall include the purchase and/or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such gas systems may be located either within the State or without.
- d. Systems, facilities and equipment for the collection, treatment, or disposal of solid waste.
- e. Public transportation systems, facilities, or equipment, including but not limited to bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.
- f. Public parking lots, areas, garages, and other vehicular parking structures and facilities.
- g. Aeronautical facilities, including but not limited to airports, terminals, and hangars.
- h. Marine facilities, including but not limited to marinas, basins, docks, dry docks, piers, marine railways, wharves, harbors, warehouses, and terminals.
- i. Hospitals and other health-related facilities.
- j. Public auditoriums, gymnasiums, stadiums, and convention centers.
- k. Recreational facilities.
- l. In addition to the foregoing, in the case of the State of North Carolina, low-level radioactive waste facilities developed pursuant to Chapter 104G of the General Statutes, hazardous waste facilities developed pursuant to Chapter 130B of the General Statutes, and any other project authorized by the General Assembly.
- m. Economic development projects, including the acquisition and development of industrial parks, the acquisition and resale of land suitable for industrial or commercial purposes, and the construction and lease or sale of shell buildings in order to

provide employment opportunities for citizens of the municipality.

- n. Facilities for the use of any agency or agencies of the government of the United States of America.
- o. Structural and natural stormwater and drainage systems of all types.

~~The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with any of the foregoing utilities and enterprises; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which such structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project."~~

SECTION 49. Section 47 of this act does not derogate any existing powers.

SECTION 50. G.S. 159-96(a) reads as rewritten:

"(a) Each utility or public service enterprise listed in G.S. 159-81(3), if financed wholly or partially by revenue bonds issued under this Article, shall be owned or operated by the municipality for its own use and for the use of public and private consumers residing within its corporate ~~limits.~~ limits or, in the case of a joint agency or undertaking established pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, for the use of the municipalities that established the joint agency or undertaking and for the use of the public and private consumers residing within their corporate limits. A utility or public service enterprise financed wholly or partially by revenue bonds, when operated primarily for the municipality's own use and for users within its corporate ~~limits.~~ limits or, in the case of two or more municipalities participating in a joint agency or undertaking, when operated primarily for the use of the municipalities that established the joint agency or undertaking, may be operated incidentally for users outside its ~~the corporate limits.~~ limits of either the issuing unit or a participating municipality. Provided, however, that revenue bonds may be issued for the purpose of financing in whole or in part mass transit systems, aeronautical facilities, marine facilities and systems, systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed), facilities and equipment for the collection, treatment or disposal of solid waste, notwithstanding that such systems, facilities or equipment may be operated for users outside the corporate limits of a municipality that is an issuing unit where the municipality finds that the ~~system, facilities~~ systems, facilities, or equipment so financed would benefit the ~~municipality; provided further that revenue~~ municipality or, in the case of two or more municipalities participating in a joint agency or undertaking, where the municipalities that are the issuing units find that the systems, facilities, or equipment so financed would benefit the municipalities that established the joint agency or undertaking.

Revenue bonds may not be issued for the purpose of financing in whole or in part systems or facilities for the transmission or distribution of gas (natural, artificial, or mixed) to users outside the corporate limits of a municipality to whom service is available or will be available within a reasonable time from a local distribution natural gas utility pursuant to a certificate of public convenience and necessity issued by the North Carolina Utilities Commission. A finding by the governing body of a municipality that is an issuing unit that the systems or facilities to be provided by the financing will not provide service to users to whom such service is available or will be available within a reasonable time from a local distribution natural gas utility shall be conclusive upon (i) the expiration of a 45 day period following the making of such finding, (ii) the mailing by the municipality of a copy of such notice within five days after the making of such finding to any local distribution company certificated to

provide service to the area in which the facilities are to be located, and (iii) the absence of a written objection to such finding being mailed by any such certificated local distribution company to ~~a~~the municipality by not later than five days prior to the end of such 45 day period, all such mailings to be properly given or made if sent by United States registered mail, return receipt requested, postage prepaid. Time shall be computed pursuant to G.S. 1A-1, Rule 6(a)."

SECTION 51. G.S. 160A-215.1(e) reads as rewritten:

"(e) The following definitions apply in this section:

(1) Vehicle. – Any of the following:

- a. A motor vehicle of the passenger type, including a passenger van, minivan, or sport utility vehicle.
- b. A motor vehicle of the cargo type, including cargo van, pickup truck, or truck with a gross vehicle weight rating of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial drivers license.
- c. A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.

(2) Short-term lease or rental. – Defined in G.S. 105-187.1."

SECTION 52. S.L. 1997-380 is repealed.

SECTION 53. Section 32 of this act is effective retroactively to August 2, 2000. Sections 14 through 19, 21, 22, 29, and 30 become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

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

s/ Michael F. Easley
Governor

Approved 10:00 p.m. this 14th day of September, 2001