

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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Short Title: Budget Revenue Provisions.

(Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

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

20 The General Assembly of North Carolina enacts:

21 **INSURANCE REGULATORY CHARGE**

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

25 **SECTION 1.(b)** This section is effective when it becomes law.
26

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:

...

(1b) 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

1 taxable income for the 2000 taxable year become effective for taxable years beginning
2 on or after January 1, 2001.

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

6 7 **ACCELERATE PAYMENT OF WITHHOLDING TAXES**

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

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

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

15 "(c) Monthly. – An employer who withholds an average of at least ~~five hundred~~
16 two hundred fifty dollars (~~\$500.00~~)(\$250.00) but less than two thousand dollars
17 (\$2,000) from wages each month ~~shall~~must file a return and pay the withheld taxes on a
18 monthly basis. A return for the months of January through November is due by the 15th
19 day of the month following the end of the month covered by the return. A return for the
20 month of December is due the following January 31."

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

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

28 29 **ACCELERATE PAYMENT OF SALES AND UTILITY TAXES**

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

32 **"§ 105-164.16. Returns and payment of taxes.**

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

38 A sales tax return must state the taxpayer's gross sales for the reporting period, the
39 amount and type of sales made in the period that are exempt from tax under G.S.
40 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other
41 information required by the Secretary. A use tax return must state the cost price of
42 tangible personal property that was purchased or received during the reporting period
43 and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other

1 information required by the Secretary. Returns that do not contain the required
2 information will not be accepted. When an unacceptable return is submitted, the
3 Secretary must require a corrected return to be filed.

4 (b) Quarterly. – A taxpayer who is consistently liable for less than one hundred
5 dollars (\$100.00) a month in State and local sales and use taxes must file a return and
6 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and
7 is due by the 15th day of the month following the end of the quarter.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 average amount of the taxpayer's required payments of the tax was at
2 least twenty thousand dollars (\$20,000) a month. If it was not, the
3 Secretary ~~shall~~must suspend the requirement that the taxpayer pay the
4 tax by electronic funds transfer and ~~shall~~must notify the taxpayer in
5 writing that the requirement has been suspended."

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

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

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

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

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

- 1 (4) For an electric power company the entity's gross receipts from the sale
2 within each city of the commodities and services described in
3 subsection (a).

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

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

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

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

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

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

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

42 "**§ 105-187.43. Payment of the tax.**

1 (a) Payment. – The tax imposed by this Article is payable ~~monthly~~ semimonthly
2 ~~to the Secretary. A monthly tax payment is due by the last day of the month that follows~~
3 ~~the month in which the tax accrues.~~ in accordance with the schedule set in G.S. 105-
4 164.16 for semimonthly payments of sales and use taxes. The tax imposed by this
5 Article on piped natural gas delivered to a sales or transportation customer accrues
6 when the gas is delivered. The tax payable on piped natural gas received by a person
7 who has direct access to an interstate pipeline for consumption by that person accrues
8 when the gas is received.

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

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

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

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

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

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

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

36 **SECTION 7.(a)** G.S. 153A-158.1(e), as amended by S.L. 2001-76, reads as
37 rewritten:
38

39 "(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson,
40 Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret,
41 Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland,
42 Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin,
43 Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson,

1 Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison,
2 Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover,
3 Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph,
4 Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly,
5 Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, and
6 ~~Wilson~~Wilson, and Yadkin Counties."

7 **SECTION 7.(b)** This section is effective when it becomes law.
8

9 **GENERAL ASSEMBLY OVERSIGHT OF AGENCY FEES**

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

11 **"§ 12-3.1. Fees and charges by agencies.**

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

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

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

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

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

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

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

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

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

18 COMMUNITY COLLEGE FUEL TAX EXEMPTION

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

20 "§ 105-449.88. Exemptions from the excise tax.

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

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

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

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

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

9
10 **CLARIFYING CHANGES IN THE SUBSIDIARY DIVIDEND PROVISIONS**

11 **SECTION 10.(a)** G.S. 105-130.5(b)(3a) and (3b), as enacted by S.L.
12 2001-327, reads as rewritten:

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

15 ...

16 (3a) Dividends treated as received from sources outside the United States
17 as determined under section 862 of the Code, net of related expenses,
18 to the extent included in federal taxable income.

19 (3b) Any amount included in federal taxable income under section 78 or
20 section 951 of the ~~Code.~~ Code, net of related expenses."

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

26
27 **LABOR COMMISSIONER FEE AUTHORITY**

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

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

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

31 **"§ 95-107. Assessment and collection of fees; certificates of safe operation.**

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

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

41 **"§ 95-108. Disposition of fees.**

42 All fees collected by the Department of Labor pursuant to ~~this Article~~ G.S. 95-110.5
43 and G.S. 95-111.4 shall be deposited with the State Treasurer and shall be used

1 exclusively for inspection purposes of the equipment referenced in this Article. and
2 certification purposes."

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

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

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

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

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

20

21 TECHNICAL AND CLARIFYING CHANGES TO THE FRANCHISE TAX

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

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

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

27 (2) ~~One-half~~

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

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

33

34 ACCELERATE PAYMENT OF LOCAL SALES AND USE TAX REVENUE TO

35 LOCAL GOVERNMENTS

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

37 "§ 105-472. **Disposition and distribution of taxes collected.**

38 (a) County Allocation. – The Secretary shall, on a ~~quarterly~~ monthly basis,
39 allocate to each taxing county for which the Secretary collects the tax the net proceeds
40 of the tax collected in that county under this Article. For the purpose of this section, "net
41 proceeds" means the gross proceeds of the tax collected in each county under this
42 Article less taxes refunded, the cost to the State of collecting and administering the tax
43 in the county as determined by the Secretary, and other deductions that may be charged

1 to the county. If the Secretary collects local sales or use taxes in a month and the taxes
2 cannot be identified as being attributable to a particular taxing county, the Secretary
3 shall allocate the taxes among the taxing counties in proportion to the amount of taxes
4 collected in each county under this Article during that month and shall include them in
5 the ~~quarterly~~-monthly distribution.

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

10 (1) Per Capita Method. – The net proceeds of the tax collected in a taxing
11 county shall be distributed to that county and to the municipalities in
12 the county on a per capita basis according to the total population of the
13 taxing county, plus the total population of the municipalities in the
14 county. In the case of a municipality located in more than one county,
15 only that part of its population living in the taxing county is considered
16 its "total population". In order to make the distribution, the Secretary
17 shall determine a per capita figure by dividing the amount allocated to
18 each taxing county by the total population of that county plus the total
19 population of all municipalities in the county. The Secretary shall then
20 multiply this per capita figure by the population of the taxing county
21 and by the population of each municipality in the county; each
22 respective product shall be the amount to be distributed to the county
23 and to each municipality in the county. To determine the population of
24 each county and each municipality, the Secretary shall use the most
25 recent annual estimate of population certified by the State Planning
26 Officer.

27 (2) Ad Valorem Method. – The net proceeds of the tax collected in a
28 taxing county shall be distributed to that county and the municipalities
29 in the county in proportion to the total amount of ad valorem taxes
30 levied by each on property having a tax situs in the taxing county
31 during the fiscal year next preceding the distribution. For purposes of
32 this section, the amount of the ad valorem taxes levied by a county or
33 municipality includes ad valorem taxes levied by the county or
34 municipality in behalf of a taxing district and collected by the county
35 or municipality. In addition, the amount of taxes levied by a county
36 includes ad valorem taxes levied by a merged school administrative
37 unit described in G.S. 115C-513 in the part of the unit located in the
38 county. In computing the amount of tax proceeds to be distributed to
39 each county and municipality, the amount of any ad valorem taxes
40 levied but not substantially collected shall be ignored. Each county and
41 municipality receiving a distribution of the proceeds of the tax levied
42 under this Article shall in turn immediately share the proceeds with
43 each district in behalf of which the county or municipality levied ad

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

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

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

30 (d) No municipality may receive any funds under this section if it was
31 incorporated with an effective date of on or after January 1, 2000, and is disqualified
32 from receiving funds under G.S. 136-41.2. No municipality may receive any funds
33 under this section, incorporated with an effective date on or after January 1, 2000,
34 unless a majority of the mileage of its streets are open to the public. The previous
35 sentence becomes effective with respect to distribution of funds on or after July 1,
36 1999."

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

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

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

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

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

10 "**§ 105-501. Distribution of additional taxes.**

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

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

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

- 33 (1) The Department of Revenue in performing the duties imposed by G.S.
34 105-275.2 and by Article 15 of this Chapter.
- 35 (2) The Property Tax Commission.
- 36 (3) The Institute of Government in operating a training program in
37 property tax appraisal and assessment.
- 38 (4) The personnel and operations provided by the Department of State
39 Treasurer for the Local Government Commission."

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

- 42 (1) By deleting the word "quarterly" each time it appears and substituting
43 the word "monthly".

1 (2) By deleting the word "quarter" in the first sentence of the second
2 paragraph and substituting the word "month".

3 **SECTION 13.(f)** G.S. 105-510(a), as enacted by Section 1 of S. L. 1997-
4 417, reads as rewritten:

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

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

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

20 ACCELERATE PAYMENT OF EXCISE TAX ON CONVEYANCES

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

22 "(b) The register of deeds of each county must remit the proceeds of the tax levied
23 by this section to the county finance officer. The finance officer of each county must
24 credit one-half of the proceeds to the county's general fund and remit the remaining one-
25 half of the proceeds, less the county's allowance for administrative expenses, to the
26 Department of Revenue on a ~~quarterly~~monthly basis. A county may retain two percent
27 (2%) of the amount of tax proceeds allocated for remittance to the Department of
28 Revenue as compensation for the county's cost in collecting and remitting the State's
29 share of the tax. Of the funds remitted to it pursuant to this section, the Department of
30 Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund
31 established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage
32 Trust Fund established under G.S. 113-77.7."

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

36 PRISON PROPERTY TAX EXEMPTION

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

39 "§ 105-275. **Property classified and excluded from the tax base.**

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

43 ...

1 (39a) A correctional facility, including construction in progress, that is
2 located on land owned by the State and is constructed pursuant to a
3 contract with the State, and any leasehold interest in the land owned by
4 the State upon which the correctional facility is located."

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