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Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE TAX BASE OF THE REGIONAL TRANSIT  
AUTHORITY VEHICLE RENTAL TAX TO THE TAX BASE OF THE  
ALTERNATE HIGHWAY USE TAX ON SHORT-TERM VEHICLE RENTALS,  
AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE  
REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

PART I. MODIFICATION OF THE VEHICLE RENTAL TAX.

Section 1. G.S. 105-550 reads as rewritten:

"§ 105-550. Definitions.

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

- (1) Authority. – A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.
- (2) Long-term lease or rental. – Defined in G.S. 105-187.1.
- (2a) Motor vehicle. – Defined in G.S. 105-164.3.
- (3) Motorcycle. – Defined in G.S. 20-4.01.
- (4) Repealed by Session Laws 1998-98, s. 33.

1 (5) Public transportation system. – Any combination of real and personal  
2 property established for purposes of public transportation. The systems  
3 may include one or more of the following: structures, improvements,  
4 buildings, equipment, vehicle parking or passenger transfer facilities,  
5 railroads and railroad rights-of-way, rights-of-way, bus services, shared-  
6 ride services, high-occupancy vehicle facilities, carpool and vanpool  
7 programs, voucher programs, telecommunications and information  
8 systems, integrated fare systems, bus lanes, and busways. The term  
9 does not include, however, streets, roads, or highways except to the  
10 extent they are dedicated to public transportation vehicles or to the  
11 extent they are necessary for access to vehicle parking or passenger  
12 transfer facilities.

13 (6) Short-term lease or rental. – A lease or rental that is not a long-term  
14 lease or rental.

15 ~~(7) U-drive-it passenger vehicle.—Defined in G.S. 20-4.01."~~

16 Section 2. G.S. 105-551(a) reads as rewritten:

17 "(a) Tax. – The board of trustees of an Authority may levy a privilege tax on a  
18 retailer who is engaged in the business of leasing or renting ~~U-drive-it passenger vehicles or~~  
19 ~~motorcycles~~ motor vehicles based on the gross receipts derived by the retailer from the  
20 short-term lease or rental of these vehicles. The tax rate must be a percentage and may  
21 not exceed five percent (5%). A tax levied under this section applies to short-term leases  
22 or rentals made by a retailer whose place of business or inventory is located within the  
23 territorial jurisdiction of the Authority. This tax is in addition to all other taxes."

24 Section 3. G.S. 105-552(b) reads as rewritten:

25 "(b) Collection. – A tax levied by an Authority under this Article shall be collected  
26 by the Authority but shall otherwise be administered in the same manner as the optional  
27 gross receipts tax levied by G.S. 105-187.5. Like the optional gross receipts tax, a tax  
28 levied under this Article is to be added to the lease or rental price of a ~~U-drive-it passenger~~  
29 ~~vehicle or motorcycle~~ motor vehicle and thereby be paid by the person to whom it is leased  
30 or rented.

31 A tax levied under this Article applies regardless of whether the retailer who leases or  
32 rents the ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle has elected to pay the  
33 optional gross receipts tax on the lease or rental receipts from the vehicle. A tax levied  
34 under this Article must be paid to the Authority that levied the tax by the date an optional  
35 gross receipts tax would be payable to the Secretary of Revenue under G.S. 105-187.5 if  
36 the retailer who leases or rents the ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle  
37 had elected to pay the optional gross receipts tax."

38 Section 4. This Part becomes effective July 1, 1999, and applies to contracts  
39 entered into on or after that date.

#### 40 PART II. REVENUE LAWS TECHNICAL CHANGES.

41 Section 5. Section 7 of S.L. 1998-158 reads as rewritten:

42 "Section 7. ~~Section 5 of this act is effective for taxable years beginning on or after~~  
43 ~~October 1, 1998. The remainder of this~~ This act is effective when it becomes law."

1 Section 6. G.S. 1C-1601(a)(9) reads as rewritten:

2 "(a) Exempt property. – Each individual, resident of this State, who is a debtor is  
3 entitled to retain free of the enforcement of the claims of his creditors:

4 ...  
5 (9) Individual retirement accounts as described in Section 408(a) of the  
6 Internal Revenue Code, individual retirement annuities as described in  
7 Section 408(b) of the Internal Revenue Code, and accounts established  
8 as part of a trust described in Section 408(c) of plans as defined in the  
9 Internal Revenue Code and any plan treated in the same manner as an  
10 individual retirement plan under the Internal Revenue Code. For  
11 purposes of this subdivision, 'Internal Revenue Code' means Code as  
12 defined in G.S. 105-228.90."

13 Section 7.(a) G.S. 10A-4(b) reads as rewritten:

14 "(b) A person qualified for a notarial commission shall meet all of the following  
15 requirements:

- 16 (1) Be at least 18 years of age.  
17 (2) Reside or work in this State.  
18 (3) Satisfactorily complete a course of study that is approved by the  
19 Secretary and consists of not less than three hours nor more than six  
20 hours of classroom instruction provided by community colleges  
21 throughout the State, unless the person is a licensed member of the Bar  
22 of this State.  
23 (4) Purchase and keep as a reference a manual approved by the Secretary  
24 that describes the duties, authority, and ethical responsibilities of  
25 notaries public.  
26 (5) Submit an application containing no significant misstatement or  
27 omission of fact. The application form shall be provided by the  
28 Secretary and be available at the register of deeds office in each county.  
29 Every application shall bear the signature of the applicant written with  
30 pen and ink, and the signature shall be acknowledged by the applicant  
31 before a person authorized to administer oaths. The applicant shall also  
32 obtain the recommendation of one publicly elected official in North  
33 Carolina whose recommendation shall be contained on the application.  
34 (6) Pay a nonrefundable fee of ~~twenty five dollars (\$25.00)~~ thirty dollars  
35 (\$30.00)."

36 Section 7.(b) G.S. 10A-7(a) reads as rewritten:

37 "(a) The course of study required by G.S. 10A-4(b) shall be taught by an instructor  
38 certified in accordance with rules adopted by the Secretary. An instructor must meet the  
39 following requirements to be certified to teach a course of study for notaries public:

- 40 (1) Complete and pass a six-hour instructor's course taught by the Director  
41 or other person approved by the Secretary.  
42 (2) Have six months of active experience as a notary public.  
43 (3) Maintain a current commission as a notary public.

1 (4) Purchase the current notary public guidebook.

2 (5) Pay a nonrefundable fee of fifty dollars (\$50.00).  
3 ~~thirty dollars (\$30.00) thirty dollars (\$30.00)"~~

4 Section 7.(c) This section becomes effective July 1, 1999.

5 Section 8. G.S. 28A-21-2(a) reads as rewritten:

6 "(a) Unless the time for filing the final account has been extended by the clerk of  
7 superior court, the personal representative or collector must file ~~his~~the final account for  
8 settlement within one year ~~of his qualification~~after qualifying or within six months after  
9 ~~his receipt of the State~~receiving a State estate or inheritance tax release, whichever is later.  
10 If no estate or inheritance tax return was required to be filed for the ~~estate under G.S. 105-~~  
11 ~~23 because the estate met the requirements of subsection (b) of that section,~~estate, the personal  
12 representative or collector shall so certify in the final account filed with the clerk of  
13 superior court. Such certification shall list the amount and value of all of the decedent's  
14 property, and with respect to real estate, its particular location within or outside the State,  
15 including any property transferred by the decedent over which ~~he~~the decedent had  
16 retained any ~~interest as described in G.S. 105-2(a)(3),~~interest, or any property transferred  
17 within three years prior to the date of the decedent's death, and after being filed and  
18 accepted by the clerk of the superior court shall be prima facie evidence that such  
19 property is free of any State inheritance or State estate tax liability. The personal  
20 representative or collector shall produce vouchers for all payments or verified proof for  
21 all payments in lieu of vouchers. With the approval of the clerk of superior court, such  
22 account may be filed voluntarily at any time. In all cases, the accounting shall be  
23 reviewed, audited and recorded by the clerk of superior court in the manner prescribed in  
24 G.S. 28A-21-1."

25 Section 9. G.S. 29-13 reads as rewritten:

26 "**§ 29-13. Descent and distribution upon intestacy.**

27 All the estate of a person dying intestate shall descend and be distributed, subject to  
28 the payment of costs of administration and other lawful claims against the estate, and  
29 subject to the payment ~~by the recipient~~of State inheritance or estate taxes, as provided in  
30 this Chapter."

31 Section 10. G.S. 29-20 reads as rewritten:

32 "**§ 29-20. Descent and distribution upon intestacy of illegitimate children.**

33 All the estate of a person dying illegitimate and intestate shall descend and be  
34 distributed, subject to the payment of costs of administration and other lawful claims  
35 against ~~his~~the estate, and subject to the payment ~~by the recipient~~of State inheritance or  
36 estate taxes, as provided in this Article."

37 Section 11. G.S. 36A-100(c) reads as rewritten:

38 "(c) A person having the right to designate the beneficiary under a life insurance  
39 policy, employee benefit plan or group life insurance policy described in subsection (a) or  
40 (b) of this section may designate as such beneficiary a trustee named or to be named in  
41 his will whether or not the will is in existence at the time of the designation. The proceeds  
42 received by the trustee shall be held and disposed of as part of the trust estate under the  
43 terms of the will as they exist at the death of the testator. If no qualified trustee makes

1 claim to the proceeds within six months after the death of the decedent or if within that  
2 period it is established that no trustee can qualify to receive the proceeds, payments shall  
3 be made to the personal representative of the estate of the person making the designation  
4 unless it is otherwise provided by an alternative designation or by the policy or plan. The  
5 proceeds received by the trustee shall not be subject to claims against the estate of the  
6 decedent or to estate or inheritance taxes to any greater extent than if the proceeds were  
7 payable directly to the beneficiary or beneficiaries named in the trust. The proceeds may  
8 be commingled with any other assets which may properly become part of such trust, but  
9 the proceeds shall not become part of the decedent's estate for purposes of trust  
10 administration unless the will of the decedent expressly so provides."

11 Section 12. G.S. 36A-125(a) reads as rewritten:

12 "(a) If at any time the trustee of a noncharitable irrevocable trust determines in  
13 good faith that the value of the assets held in trust is ten thousand dollars (\$10,000) or  
14 less, and the continuance of the trust pursuant to its terms in relation to the cost of its  
15 administration would defeat or substantially impair the accomplishment of the purposes  
16 of the trust, the trustee, without approval of the court, may, but is not required to,  
17 terminate the trust and distribute the trust property, including principal and undistributed  
18 income, to the beneficiaries in a manner which conforms as nearly as possible to the  
19 intention of the settlor as determined by the trustee from the trust agreement; provided,  
20 however, that the trust property, including principal and undistributed income, shall be  
21 distributed to the income beneficiary of the trust if the trust otherwise qualifies for the  
22 marital deduction for federal estate tax or North Carolina estate or inheritance tax  
23 purposes, or is a Qualified Subchapter S Trust as defined in the Internal Revenue Code.  
24 The trustee may enter into an agreement or make such other provisions that the trustee  
25 deems necessary or appropriate to protect the interests of the beneficiaries and to carry  
26 out the intent and purpose of the trust."

27 Section 13. G.S. 41-2.1(f) reads as rewritten:

28 "(f) This section does not repeal or modify any provisions of the law relating to  
29 estate or inheritance taxes."

30 Section 14. G.S. 41-2.2(d) reads as rewritten:

31 "(d) This section does not repeal or modify any provisions of the law relating to  
32 estate or inheritance taxes."

33 Section 15. G.S. 41-2.5(d) reads as rewritten:

34 ~~"(d) Nothing herein contained shall be construed to repeal or modify any of the~~  
35 ~~provisions of Article 1 of Chapter 105 relating to the administration of the inheritance tax~~  
36 ~~laws or any other provision of the law relating to~~ This section does not repeal or modify  
37 any provisions of the law relating to estate or inheritance taxes."

38 Section 16. G.S. 93B-15 reads as rewritten:

39 **"§ 93B-15. Payment of license fees by members of the armed forces.**

40 An individual who is serving in the armed forces of the United States and to whom  
41 G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of  
42 time to pay any license fee charged by an occupational licensing board ~~or~~ as a condition

1 of retaining a license granted by the board. The extension is for the same period that  
2 would apply if the license fee were a tax."

3 Section 17. G.S. 105-32.8 reads as rewritten:

4 **"§ 105-32.8. Federal determination that changes the amount of tax payable to the**  
5 **State.**

6 If the federal government corrects or otherwise determines the amount of the  
7 maximum state death tax credit allowed an estate under section 6166 of the Code, the  
8 personal representative must, within two years after being notified of the correction or  
9 final determination by the federal government, file an estate tax return with the Secretary  
10 reflecting the correct amount of tax payable under this Article. If the federal government  
11 corrects or otherwise determines the amount of the maximum state generation-skipping  
12 transfer tax credit allowed under section 2604 of the Code, the person who made the  
13 transfer must, within two years after being notified of the correction or final  
14 determination by the federal government, file a tax return with the Secretary reflecting  
15 the correct amount of tax payable under this Article.

16 The Secretary must assess and collect any additional tax due as provided in Article 9  
17 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this  
18 Chapter. A person who fails to report a federal correction or determination in accordance  
19 with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any  
20 refund due by reason of the determination."

21 Section 18.(a) G.S. 105-37.1 reads as rewritten:

22 ~~"§ 105-37.1. (Effective July 1, 1999) Amusements — Forms of amusement not~~  
23 ~~otherwise taxed.~~

24 (a) ~~Every person engaged in the business of giving, offering, or managing any~~  
25 ~~form of entertainment or amusement not otherwise taxed under this Article, for which an~~  
26 ~~admission is charged, shall pay a tax upon the gross receipts of the business at the rate of~~  
27 ~~three percent (3%). Reports shall be made to the Secretary within the first 10 days of each~~  
28 ~~month covering all the gross receipts for the previous month, and the tax shall be paid~~  
29 ~~monthly at the time the reports are made.~~

30 ~~Every person giving, offering, or managing any dance or athletic contest of any kind,~~  
31 ~~except high school and elementary school athletic contests, for which an admission fee in~~  
32 ~~excess of fifty cents (50¢) is charged, shall pay a tax upon the gross receipts derived from~~  
33 ~~admission charges at the rate of three percent (3%). The tax upon gross receipts shall be~~  
34 ~~levied and collected as prescribed by the Secretary.~~

35 (b) ~~Counties shall not levy any license tax on the business taxed under this section,~~  
36 ~~but cities may levy a license tax not in excess of twenty five dollars (\$25.00).~~

37 (c), (d) ~~Repealed by Session Laws 1998-95, s. 4, effective July 1, 1999.~~

38 **§ 105-37.1. (Effective July 1, 1999) Dances, athletic events, shows, exhibitions, and**  
39 **other entertainments.**

40 (a) Scope. — A privilege tax is imposed on the gross receipts of a person who is  
41 engaged in any of the following:

- 42 (1) Giving, offering, or managing a dance or an athletic contest for which  
43 an admission fee in excess of fifty cents (50¢) is charged.

1           (2) Giving, offering, or managing a form of amusement or entertainment  
2           that is not taxed by another provision of this Article and for which an  
3           admission fee is charged.

4           (3) Exhibiting a performance, show, or exhibition, such as a circus or dog  
5           show, that is not taxed by another provision of this Article.

6           (b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the  
7           gross receipts from the activities described in subsection (a) of this section. The tax is  
8           due when a return is due. A return is due by the 10th day after the end of each month and  
9           covers the gross receipts received during the previous month.

10          (c) Advance Report. – A person who owns or controls a performance, show, or  
11          exhibition subject to the tax imposed by this section and who plans to bring the  
12          performance to this State from outside the State must file a statement with the Secretary  
13          that lists the dates, times, and places of the performance, show, or exhibition. The  
14          statement must be filed no less than five days before the first performance, show, or  
15          exhibition in this State.

16          (d) Local Taxes. – Cities may levy a license tax on a person taxed under  
17          subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five  
18          dollars (\$25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3)  
19          of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for each day  
20          or part of a day the performance, show, or exhibition is given at each location.

21          Counties may not levy a license tax on a person taxed under subdivision (a)(1) or  
22          (a)(2) of this section. Counties may levy a license tax on a person taxed under  
23          subdivision (a)(3) to the same extent as a city."

24          Section 18.(b) G.S. 105-38 is repealed.

25          Section 18.(c) This section becomes effective July 1, 1999.

26          Section 19.(a) G.S. 105-38.1 reads as rewritten:

27          "**§ 105-38.1. Amusements—Motion picture shows.**

28          (a) Tax.—A privilege tax at the rate of one percent (1%) is imposed on the gross  
29          receipts of a person who is engaged in the business of operating a motion picture show  
30          for which an admission is charged. The tax is due when a return is due. A return is due  
31          by the 10th day after the end of each month and covers the gross receipts received during  
32          the previous month. If a person offers an entertainment or amusement that includes both  
33          a motion picture taxable under this section and an entertainment or amusement taxable  
34          under G.S. 105-37.1 or G.S. 105-38, G.S. 105-37.1, the tax in G.S. 105-37.1 or G.S. 105-38,  
35          as appropriate, that statute applies to the entire gross receipts and the tax levied in this  
36          section does not apply.

37          (b) Exemption.—Gross receipts from a motion picture show promoted and  
38          managed by a qualifying corporation that operates a center for the performing and visual  
39          arts is exempt from the tax imposed under this section if the motion picture is shown at  
40          the center and if the showing of motion pictures is not the primary purpose of the center.  
41          As used in this subsection, "qualifying corporation" and "center for the performing and  
42          visual arts" have the same meaning as in G.S. 105-40."

43          Section 19.(b) G.S. 105-40(7) reads as rewritten:

1           "(7) All ~~dances~~—dances, motion picture shows, and other amusements  
2 promoted and managed by a qualifying corporation that operates a  
3 center for the performing and visual arts if the dance or other  
4 amusement is held at the center. "Qualifying corporation" means a  
5 corporation that is exempt from income tax under G.S. 105-  
6 130.11(a)(3). "Center for the performing and visual arts" means a  
7 facility, having a fixed location, that provides space for dramatic  
8 performances, studios, classrooms, and similar accommodations to  
9 organized arts groups and individual artists. This exemption does not  
10 apply to athletic events."

11       Section 19.(c) This section becomes effective July 1, 1999.

12       Section 20. G.S. 105-109.1 is repealed.

13       Section 21. G.S. 105-113 is repealed.

14       Section 22. G.S. 105-113.27(c) reads as rewritten:

15       "(c) The possession of more than six hundred cigarettes ~~bearing the tax stamp of on~~  
16 which tax has been paid to another state or country, by any person other than a licensed  
17 distributor, ~~shall be~~ is prima facie evidence that the cigarettes are possessed in violation of  
18 this Part."

19       Section 23. G.S. 105-114(b)(2) reads as rewritten:

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

21       ...

22       (2) Corporation. – A domestic corporation, a foreign corporation, an  
23 electric membership corporation organized under Chapter 117 of the  
24 General Statutes or doing business in this State, or an association that is  
25 organized for pecuniary gain, has capital stock represented by shares,  
26 whether with or without par value, and has privileges not possessed by  
27 individuals or partnerships. The term includes a mutual or capital stock  
28 savings and loan association or building and loan association chartered  
29 under the laws of any state or of the United States. The term does not  
30 include a limited liability company."

31       Section 24. G.S. 105-122(c)(1) reads as rewritten:

32       "(c)       (1) After ascertaining and determining the amount of its capital  
33 stock, surplus and undivided profits, as provided herein, every  
34 corporation permitted to allocate and apportion its net income for  
35 income tax purposes under the provisions of Article 4 of this Chapter  
36 shall apportion said capital stock, surplus and undivided profits to this  
37 State through use of the fraction computed for apportionment of its  
38 business income under said Article. A corporation that is subject to  
39 franchise tax under this Article but is not subject to income tax under  
40 Article 4 of this Chapter must apportion its capital stock, surplus, and  
41 undivided profits to this State by using the apportionment formula that  
42 would apply to the corporation if it were subject to Article 4.



1            Provided, that although a corporation is authorized by the Tax  
2            Review Board to apportion its business income by use of an alternative  
3            formula or method, the corporation may not use such alternative  
4            formula or method for apportioning its capital stock, surplus and  
5            undivided profits unless specifically authorized to do so by order of the  
6            Tax Review Board.

7            Provided, further, that a corporation which is required to pay an  
8            income tax to this State on its entire net income shall apportion its entire  
9            capital stock, surplus and undivided profits to this State."

10           Section 25. G.S. 105-130.16 reads as rewritten:

11           **"§ 105-130.16. Returns.**

12           (a)    Return. – Every corporation doing business in this State shall file with the  
13           Secretary of Revenue ~~must file with the Secretary~~ an income tax return under affirmation,  
14           showing ~~therein~~ specifically the items of gross income and the deductions allowed by this  
15           Part, ~~Part~~ and such other facts as the Secretary may require for the purpose of making any other  
16           facts the Secretary requires to make any computation required by this Part. The return of  
17           a corporation shall be signed by ~~either~~ must be signed by its president, vice-president,  
18           treasurer, assistant treasurer, ~~secretary~~ secretary, or assistant secretary. ~~There shall be~~  
19           ~~annexed to the return the affirmation of the officer signing the same, which shall be in the form~~  
20           ~~prescribed in G.S. 105-130.17 of this Part, and the same penalties prescribed in G.S. 105-236~~  
21           ~~shall apply to any person making wilful misstatements in said returns.~~ The officer signing the  
22           return must furnish an affirmation verifying the return. The affirmation must be in the  
23           form required by the Secretary.

24           (b)    Correction of Distortions. – When the Secretary of Revenue has reason to  
25           believe that any corporation so conducts its trade or business in such manner as to either  
26           directly or indirectly distort its true net income and the net income properly attributable  
27           to the State, whether by the arbitrary shifting of income, through price fixing, charges for  
28           service, or otherwise, whereby the net income is arbitrarily assigned to one or another  
29           unit in a group of taxpayers carrying on business under a substantially common control,  
30           ~~he may require such facts as he deems~~ the Secretary may require any facts the Secretary  
31           considers necessary for the proper computation of the entire net income and the net  
32           income properly attributable to the State, and in determining ~~same~~ ~~the Secretary of Revenue~~  
33           ~~shall these computations, the Secretary must have regard to the fair profit which that~~  
34           ~~would normally arise from the conduct of the trade or business.~~

35           (c)    Other Corrections. – When any corporation liable to taxation under this Part  
36           conducts its business in such a manner as to either directly or indirectly benefit the  
37           members or stockholders thereof or any person interested in ~~such~~ the business by selling  
38           its products or goods or commodities in which it deals at less than the fair price which  
39           might be obtained therefor, or ~~where~~ when a corporation, a substantial portion of whose  
40           capital stock is owned either directly or indirectly by another corporation, acquires and  
41           disposes of the products of the corporation so owning a substantial portion of its stock in  
42           such a manner as to create a loss or improper net income for either of ~~said~~ the  
43           corporations, or ~~where~~ when a corporation, owning directly or indirectly a substantial

1 portion of the stock of another corporation, acquires and disposes of the products of the  
2 corporation of which it so owns a substantial portion of the stock in such manner as to  
3 create a loss or improper net income for either of ~~said~~the corporations, the Secretary of  
4 ~~Revenue~~ may determine the amount of taxable income of ~~any~~the such corporations for the  
5 calendar or fiscal year, having due regard to the reasonable profits which, but for such  
6 arrangement or understanding, might or could have been obtained by the ~~corporation~~or  
7 corporations liable to taxation under this Part from dealing in such products, goods or  
8 commodities."

9 Section 26. G.S. 105-130.33(a) reads as rewritten:

10 "(a) Any corporation that constructs or installs a hydroelectric generator with a  
11 capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream  
12 located in this State shall be allowed a credit against the tax imposed by this Part equal to  
13 ten percent (10%) of the installation and equipment costs of the hydroelectric generator  
14 paid during the taxable year. The credit allowed under this section may not exceed five  
15 thousand dollars (\$5,000) for any single installation. No credit is allowed, however, to  
16 the extent that any of the costs of the system were provided by federal, State, or local  
17 grants. To secure the credit allowed by this section, the taxpayer must own or control the  
18 site at the time the hydroelectric generator is installed. The credit allowed by this section  
19 may not exceed the amount of the tax imposed by this Part for the taxable year reduced  
20 by the sum of all credits ~~allowable under this Part,~~ allowable, except payments of tax made  
21 by or on behalf of the taxpayer."

22 Section 27. G.S. 105-131.7(d) reads as rewritten:

23 "(d) The agreements required to be filed pursuant to subsection (c) of this section  
24 shall be filed at the following times:

- 25 (1) At the time the annual return is required to be filed for the first taxable  
26 period for which the S Corporation becomes subject to the provisions of  
27 this ~~Division, and Part.~~  
28 (2) At the time the annual return is required to be filed for any taxable  
29 period in which the corporation has a nonresident shareholder on whose  
30 behalf such an agreement has not been previously filed."

31 Section 28. G.S. 105-152(e) reads as rewritten:

32 "(e) Joint Returns. – A husband and wife shall file a single income tax return jointly  
33 if (i) their federal taxable income is determined on a joint federal return and (ii) both  
34 spouses are residents of this State or both spouses have North Carolina taxable income.  
35 Except as otherwise provided in this Part, a wife and husband filing jointly are treated as  
36 one taxpayer for the purpose of determining the tax imposed by this Part. A husband and  
37 wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced  
38 by the sum of all credits allowable including tax payments made by or on behalf of the  
39 husband and wife. However, if a spouse has been relieved of liability for federal tax  
40 attributable to a substantial understatement by the other spouse pursuant to section ~~6013~~  
41 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part  
42 attributable to the same substantial understatement by the other spouse. A wife and  
43 husband filing jointly have expressly agreed that if the amount of the payments made by

1 them with respect to the taxes for which they are liable, including withheld and estimated  
2 taxes, exceeds the total of the taxes due, refund of the excess may be made payable to  
3 both spouses jointly or, if either is deceased, to the survivor alone."

4 Section 29. G.S. 105-154(c) reads as rewritten:

5 "(c) Information Returns of Partnerships. – A partnership doing business in this  
6 State and required to file a return under the Code shall file an information return with the  
7 Secretary. A partnership that the Secretary believes to be doing business in this State and  
8 to be required to file a return under the Code shall file an information return when  
9 requested to do so by the Secretary. The information return shall contain all information  
10 required by the Secretary. It shall state specifically the items of the partnership's gross  
11 income, the deductions allowed under the Code, and the adjustments required by this  
12 Part. The information return shall also include the name and address of each person who  
13 would be entitled to share in the partnership's net income, if distributable, and the amount  
14 each person's distributive share would be. The information return shall specify the part of  
15 each person's distributive share of the net income that represents corporation dividends.  
16 The information return shall be signed by one of the partners under affirmation in the  
17 form ~~prescribed in G.S. 105-155~~ required by the Secretary.

18 A partnership that files an information return under this subsection shall furnish to  
19 each person who would be entitled to share in the partnership's net income, if  
20 distributable, any information necessary for that person to properly file a State income tax  
21 return. The information shall be in the form prescribed by the Secretary and must be  
22 furnished on or before the due date of the information return."

23 Section 30. G.S. 105-163.011 reads as rewritten:

24 "**§ 105-163.011. (Repealed effective for investments made on or after January 1,**  
25 **2003) Tax credits allowed.**

26 (a) No Credit for Brokered Investments. – No credit is allowed under this section  
27 for a purchase of equity securities or subordinated debt if a broker's fee or commission or  
28 other similar remuneration is paid or given directly or indirectly for soliciting the  
29 purchase.

30 (b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an  
31 individual who purchases the equity securities or subordinated debt of a qualified  
32 business venture or a qualified grantee business directly from that business is allowed as  
33 a credit against the tax imposed by Part 2 of this Article for the taxable year an amount  
34 equal to twenty-five percent (25%) of the amount invested. The aggregate amount of  
35 credit allowed an individual for one or more investments in a single taxable year under  
36 this ~~Division, Part,~~ whether directly or indirectly as owner of a pass-through entity, may  
37 not exceed fifty thousand dollars (\$50,000). The credit may not be taken for the year in  
38 which the investment is made but shall be taken for the taxable year beginning during the  
39 calendar year in which the application for the credit becomes effective as provided in  
40 subsection (c) of this section.

41 (b1) Pass-Through Entities. – This subsection does not apply to a pass-through  
42 entity that has committed capital under management in excess of five million dollars  
43 (\$5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified

1 business venture, or a North Carolina Enterprise Corporation. Subject to the limitations  
2 provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities  
3 or subordinated debt of a qualified grantee business or a qualified business venture  
4 directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of  
5 the amount invested. The aggregate amount of credit allowed a pass-through entity for  
6 one or more investments in a single taxable year under this ~~Division, Part,~~ whether  
7 directly or indirectly as owner of another pass-through entity, may not exceed seven  
8 hundred fifty thousand dollars (\$750,000). The pass-through entity is not eligible for the  
9 credit for the year in which the investment by the pass-through entity is made but shall be  
10 eligible for the credit for the taxable year beginning during the calendar year in which the  
11 application for the credit becomes effective as provided in subsection (c) of this section.

12 Each individual who is an owner of a pass-through entity is allowed as a credit against  
13 the tax imposed by Part 2 of this Article for the taxable year an amount equal to the  
14 owner's allocated share of the credits for which the pass-through entity is eligible under  
15 this subsection. The aggregate amount of credit allowed an individual for one or more  
16 investments in a single taxable year under this ~~Division, Part,~~ whether directly or  
17 indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars  
18 (\$50,000).

19 If an owner's share of the pass-through entity's credit is limited due to the maximum  
20 allowable credit under this section for a taxable year, the pass-through entity and its  
21 owners may not reallocate the unused credit among the other owners.

22 (c) Application. – To be eligible for the tax credit provided in this section, the  
23 taxpayer must file an application for the credit with the Secretary on or before April 15 of  
24 the year following the calendar year in which the investment was made. The Secretary  
25 may grant extensions of this deadline, as the Secretary finds appropriate, upon the request  
26 of the taxpayer, except that the application may not be filed after September 15 of the  
27 year following the calendar year in which the investment was made. An application is  
28 effective for the year in which it is timely filed. The application shall be on a form  
29 prescribed by the Secretary and shall include any supporting documentation that the  
30 Secretary may require. If an investment for which a credit is applied for was paid for  
31 other than in money, the taxpayer shall include with the application a certified appraisal  
32 of the value of the property used to pay for the investment. The application for a credit  
33 for an investment made by a pass-through entity must be filed by the pass-through entity.

34 (d) Penalties. – The penalties provided in G.S. 105-236 apply in this ~~Division,~~  
35 Part."

36 Section 31.(a) G.S. 105-164.3(8b) is recodified as G.S. 105-164.3(8c) and reads as  
37 rewritten:

38 "**§ 105-164.3. Definitions.**

39 The following definitions apply in this Article, except when the context clearly  
40 indicates a different meaning:

41 ...

- 1           ~~(8b)~~(8c)           "Motor vehicle" means a vehicle that is designed primarily for  
2                            use upon the highways and is either self-propelled or propelled  
3                            by a self-propelled vehicle, but does not include:  
4                    a.       A ~~moped as defined in G.S. 20-4.01(27) (d1).~~ moped.  
5                    b.       Special mobile ~~equipment as defined in G.S. 20-4.01(44).~~  
6                            equipment.  
7                    c.       A tow dolly that is exempt from motor vehicle title and  
8                            registration requirements under G.S. 20-51(10) or (11).  
9                    d.       A farm tractor or other implement of husbandry.  
10                   e.       A manufactured home, a mobile office, or a mobile  
11                            classroom.  
12                   f.       Road construction or road maintenance machinery or  
13                            equipment."

14       Section 31.(b) G.S. 105-164.3 is amended by adding the following new  
15 subdivisions in the appropriate alphabetical order:

16       "(8b) Moped. – A vehicle that has two or three wheels, no external shifting  
17       device, and a motor that does not exceed 50 cubic centimeters piston  
18       displacement and cannot propel the vehicle at a speed greater than 20  
19       miles per hour on a level surface.

20       ...

21       (16b) Special mobile equipment. – Any of the following:

- 22       a.       A vehicle that has a permanently attached crane, mill, well-  
23       boring apparatus, ditch-digging apparatus, air compressor,  
24       electric welder, feed mixer, grinder, or other similar apparatus is  
25       driven on the highway only to get to and from a nonhighway job  
26       and is not designed or used primarily for the transportation of  
27       persons or property.  
28       b.       A vehicle that has permanently attached special equipment and is  
29       used only for parade purposes.  
30       c.       A vehicle that is privately owned, has permanently attached fire-  
31       fighting equipment, and is used only for fire-fighting purposes.  
32       d.       A vehicle that has permanently attached playground equipment  
33       and is used only for playground purposes."

34       Section 31.(c) G.S. 20-4.01(21a) reads as rewritten:

35       "(21a) Moped. – A type of passenger vehicle as defined in G.S. 20-  
36       4.01(27).-G.S. 105-164.3."

37       Section 31.(d) G.S. 20-4.01(27)d1. reads as rewritten:

38       "d1. Moped. – A vehicle that has two or three wheels, no external  
39       shifting device, and a motor that does not exceed 50 cubic  
40       centimeters piston displacement and cannot propel the vehicle at  
41       a speed greater than 20 miles per hour on a level surface.  
42       Defined in G.S. 105-164.3."

43       Section 31.(e) G.S. 20-4.01(44) reads as rewritten:

1           "(44) Special Mobile Equipment. – Any of the following:

- 2           a. ~~A vehicle that has a permanently attached crane, mill, well-~~  
3           ~~boring apparatus, ditch digging apparatus, air compressor,~~  
4           ~~electric welder, feed mixer, grinder, or other similar apparatus, is~~  
5           ~~driven on the highway only to get to and from a nonhighway job,~~  
6           ~~and is not designed or used primarily for the transportation of~~  
7           ~~persons or property.~~  
8           b. ~~A vehicle that has permanently attached special equipment and is~~  
9           ~~used only for parade purposes.~~  
10          c. ~~A vehicle that is privately owned, has permanently attached fire-~~  
11          ~~fighting equipment, and is used only for fire-fighting purposes.~~  
12          d. ~~A vehicle that has permanently attached playground equipment~~  
13          ~~and is used only for playground purposes. Defined in G.S. 105-~~  
14          ~~164.3."~~

15           Section 32. G.S. 105-164.4(a)(4) reads as rewritten:

16   "**§ 105-164.4. Tax imposed on retailers.**

17   (a) (Effective July 1, 1999) A privilege tax is imposed on a retailer at the following  
18   percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The  
19   general rate of tax is four percent (4%).

- 20           ...
- 21           (4) Every person engaged in the business of operating a dry cleaning,  
22           pressing, or hat-blocking establishment, a laundry, or any similar  
23           business, engaged in the business of renting clean linen or towels or  
24           wearing apparel, or any similar business, or engaged in the business of  
25           soliciting cleaning, pressing, hat blocking, laundering or linen rental  
26           business for any of these businesses, is considered a retailer under this  
27           Article. A tax at the general rate of tax is levied on the gross receipts  
28           derived by these retailers from services rendered in engaging in any of  
29           the occupations or businesses named in this subdivision. The tax  
30           imposed by this subdivision does not apply to receipts derived from  
31           ~~coin or token-operated coin, token, or card-operated~~ washing machines,  
32           extractors, and dryers. The tax imposed by this subdivision does not  
33           apply to gross receipts derived from services performed for resale by a  
34           retailer that pays the tax on the total gross receipts derived from the  
35           services."

36           Section 33. G.S. 105-164.4(c) reads as rewritten:

37   "(c) Certificate of Registration. – Before a person may engage in business as a  
38   retailer or a wholesale merchant, the person must obtain a certificate of registration from  
39   the Department. To obtain a certificate of registration, a person must register with the  
40   Department and pay fifteen dollars (\$15.00).

41   A certificate of registration is valid unless it is revoked for failure to comply with the  
42   provisions of this Article or becomes void. A certificate ~~issued to a retailer~~ becomes void

1 if, for a period of 18 months, the retailer or wholesale merchant to whom it was issued  
2 files no returns or files returns showing no sales."

3 Section 34. G.S. 105-164.13(4d) reads as rewritten:

4 "(4d) The lease or rental of ~~bur~~lap-tobacco sheets used in handling tobacco  
5 in the warehouse and transporting tobacco to and from the  
6 warehouse."

7 Section 35.(a) G.S. 105-187.43 reads as rewritten:

8 **"§ 105-187.43. (Effective July 1, 1999) Payment of the tax.**

9 (a) ~~Monthly Return Payment.~~ – The tax imposed by this Article is payable monthly  
10 to the Secretary. A monthly tax payment is due by the last day of the month that follows  
11 the month in which the tax accrues. The tax imposed by this Article on piped natural gas  
12 delivered to a sales or transportation customer accrues when the gas is delivered. The tax  
13 payable on piped natural gas received by a person who has direct access to an interstate  
14 pipeline for consumption by that person accrues when the gas is received.

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

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

22 Section 35.(b) G.S. 105-187.44 reads as rewritten:

23 **"§ 105-187.44. (Effective July 1, 1999) Distribution of part of tax proceeds to cities.**

24 (a) City Information. – A ~~monthly~~quarterly return filed under this Article must  
25 indicate the amount of tax attributable to the following:

- 26 (1) Piped natural gas delivered during the ~~month~~quarter to sales or  
27 transportation customers in each city in the State.  
28 (2) Piped natural gas received during the ~~month~~quarter in each city in the  
29 State by persons who have direct access to an interstate gas pipeline  
30 and who receive the gas for their own consumption.

31 If a tax return does not state this information, the Secretary must determine how much of  
32 the tax proceeds are to be attributed to each city.

33 (b) Distribution. – Within 75 days after the end of each calendar quarter, the  
34 Secretary must distribute to the cities part of the tax proceeds collected under this Article  
35 during that quarter. The amount to be distributed to a city is one-half of the amount of  
36 tax attributable to that city for that quarter under subsection (a) of this section."

37 Section 36. G.S. 105-194 reads as rewritten:

38 **"§ 105-194. Death of donor within three years; time of assessment.**

39 ~~Where~~If a donor dies within three years after filing a return, gift taxes may be  
40 assessed at any time within ~~said~~those three years, or on or before the date of final  
41 settlement of the donor's State estate or inheritance taxes, whichever is later."

42 Section 37. G.S. 105-253(a) reads as rewritten:

1       "(a) Any officer, trustee, or receiver of any corporation or limited liability company  
2 required to file a report with the Secretary who has custody of funds of the corporation or  
3 company and who allows the funds to be paid out or distributed to the stockholders of the  
4 corporation or company without having remitted to the Secretary any State taxes that are  
5 due is personally liable for the payment of the tax."

6       Section 38.(a) G.S. 105-275 is amended by adding a new subdivision to read:

7       "(41) Objects of art held by the North Carolina State Art Society,  
8       Incorporated."

9       Section 38.(b) G.S. 140-15 reads as rewritten:

10       "~~§ 140T-All gifts made to the North Carolina State Art Society, Incorporated, shall~~  
11       ~~be exempt from State gift and inheritance taxes, and objects of art held by~~  
12       ~~the Society shall be exempt from ad valorem taxes.~~"

13       Section 39. G.S. 160A-31(e2), as enacted by S.L. 1999-19, as it applies to the  
14 Town of Huntersville, reads as rewritten:

15       "(e2) Annexation of property subject to annexation under subsection (e1) of this  
16 section shall become effective as to each tract of such property or such part thereof on the  
17 last day of the month in which that tract or part thereof becomes ineligible for  
18 classification pursuant to ~~G.S. 105-227.4~~ G.S. 105-277.4 and no longer meets the  
19 requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of  
20 a tract becomes effective pursuant to this subsection, the tract or part of a tract is not  
21 subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes,  
22 nor is the tract or part of the tract entitled to services provided by the city. When  
23 annexation becomes effective pursuant to this subsection as to a tract or part of a tract,  
24 the city shall provide all required services upon payment of city taxes."

25       Section 40. This act does not affect the rights or liabilities of the State, a  
26 taxpayer, or another person arising under a statute amended or repealed by this act before  
27 the effective date of its amendment or repeal; nor does it affect the right to any refund or  
28 credit of a tax that accrued under the amended or repealed statute before the effective  
29 date of its amendment or repeal.

30       Section 41. Except as otherwise provided in this act, this act is effective when  
31 it becomes law.