

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

2

SENATE BILL 155
Second Edition Engrossed 4/6/93

Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors: Senators Plexico, Kerr, Seymour, and Winner of Buncombe.

Referred to: Finance.

February 15, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
3 REVENUE LAWS AND RELATED STATUTES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Section 7 of Chapter 1007 of the 1991 Session Laws is repealed.

6 Sec. 2. The catch line of G.S. 20-81.12 reads as rewritten:

7 "**§ 20-81.12. Collegiate insignia plates, high school insignia plates, plates and**
8 **historical attraction plates.**"

9 Sec. 3. G.S. 105-23(b) reads as rewritten:

10 "(b) Exception. – An inheritance tax return is not required to be filed for an estate
11 (i) whose beneficiaries are all either Class A beneficiaries, as described in G.S. 105-
12 4(a), or the surviving spouse, and (ii) whose gross value, including the value of transfers
13 over which the decedent retained an interest and the value of gifts made within three
14 years before the decedent's death, as provided in G.S. ~~105-2(3)~~, 105-2(a)(3), is less than
15 the amount specified in the following table:

16	Estates of Decedents Dying	
17	On or After	Gross Value of Estates
18	July 1, 1985	\$100,000
19	August 1, 1985	75,000
20	July 1, 1986	150,000
21	January 1, 1987	250,000."

22 Sec. 4. G.S. 105-113.82(e) reads as rewritten:

1 "(e) Population Estimates. – To determine the population of a city or county for
2 purposes of the distribution required by this section, the Secretary shall use the most
3 recent annual estimate of population certified by the State Budget Planning Officer."

4 Sec. 5. G.S. 105-125 reads as rewritten:

5 **"§ 105-125. Corporations not mentioned. Exempt corporations.**

6 None of the taxes levied in this Article shall apply to charitable, religious, fraternal,
7 benevolent, scientific or educational corporations, not operating for a profit; nor to
8 insurance companies; nor to mutual ditch or irrigation associations, mutual or
9 cooperative telephone associations or companies, mutual canning associations,
10 cooperative breeding associations, or like organizations or associations of a purely local
11 character deriving receipts solely from assessments, dues, or fees collected from
12 members for the sole purpose of meeting expenses; nor to cooperative marketing
13 associations operating solely for the purpose of marketing the products of members or
14 other farmers, which operations may include activities which are directly related to such
15 marketing activities, and turning back to them the proceeds of sales, less the necessary
16 operating expenses of the association, including interest and dividends on capital stock
17 on the basis of the quantity of product furnished by them; nor to production credit
18 associations organized under the act of Congress known as the Farm Credit Act of 1933;
19 nor to business leagues, boards of trade, clubs organized and operated exclusively for
20 pleasure, recreation and other nonprofitable purposes, civic leagues operated
21 exclusively for the promotion of social welfare, or chambers of commerce and
22 merchants' associations not organized for profit, and no part of the net earnings of which
23 inures to the benefit of any private stockholder, individual or other corporations; nor to
24 corporations or organizations, such as condominium associations, homeowner
25 associations or cooperative housing corporations not organized for profit, the
26 membership of which is limited to the owners or occupants of residential units in the
27 condominium, housing development, or cooperative housing corporation, and operated
28 exclusively for the management, operation, preservation, maintenance or landscaping of
29 the common areas and facilities owned by such corporation or organization or its
30 members situated contiguous to such houses, apartments or other dwellings or for the
31 management, operation, preservation, maintenance and repair of such houses,
32 apartments or other dwellings owned by the corporation or organization or its members,
33 but only if no part of the net earnings of such corporation or organization inures (other
34 than through the performance of related services for the members of such corporation or
35 organization) to the benefit of any member of such corporation or organization or other
36 person. In addition, absent a specific provision to the contrary, the taxes levied in this
37 Article do not apply to any organization that is exempt from federal income tax under
38 the Code.

39 Provided, that each such corporation must, upon request by the Secretary of
40 Revenue, establish in writing its claim for exemption from said provisions.

41 (a) Exemptions. – The following corporations are exempt from the taxes levied
42 by this Article. Upon request of the Secretary, an exempt corporation must establish its
43 claim for exemption in writing:

- 1 (1) A charitable, religious, fraternal, benevolent, scientific, or educational
2 corporation not operated for profit.
- 3 (2) An insurance company subject to tax under Article 8B of this Chapter.
- 4 (3) A mutual ditch or irrigation association, a mutual or cooperative
5 telephone association or company, a mutual canning association, a
6 cooperative breeding association, or a similar corporation of a purely
7 local character deriving receipts solely from assessments, dues, or fees
8 collected from members for the sole purpose of meeting expenses.
- 9 (4) A cooperative marketing association that operates solely for the
10 purpose of marketing the products of members or other farmers and
11 returns to the members and farmers the proceeds of sales, less the
12 association's necessary operating expenses, including interest and
13 dividends on capital stock, on the basis of the quantity of product
14 furnished by them. The association's operations may include activities
15 directly related to these marketing activities.
- 16 (5) A production credit association organized under the federal Farm
17 Credit Act of 1933.
- 18 (6) A club organized and operated exclusively for pleasure, recreation, or
19 other nonprofit purposes, a civic league operated exclusively for the
20 promotion of social welfare, a business league, or a board of trade.
- 21 (7) A chamber of commerce or merchants' association not organized for
22 profit, no part of the net earnings of which inures to the benefit of a
23 private stockholder, an individual, or another corporation.
- 24 (8) An organization, such as a condominium association, a homeowner
25 association, or a cooperative housing corporation not organized for
26 profit, the membership of which is limited to the owners or occupants
27 of residential units in the condominium, housing development, or
28 cooperative housing corporation. To qualify for the exemption, the
29 organization must be operated exclusively for the management,
30 operation, preservation, maintenance, or landscaping of the residential
31 units owned by the organization or its members or of the common
32 areas and facilities that are contiguous to the residential units and
33 owned by the organization or by its members. To qualify for the
34 exemption, no part of the net earnings of the organization may inure,
35 other than through the performance of related services for the members
36 of the organization, to the benefit of any person.
- 37 (9) Except as otherwise provided by law, an organization exempt from
38 federal income tax under the Code.

39 ~~The provisions of G.S. 105-122 shall apply to electric light, power, gas, water,~~
40 ~~Pullman, sleeping and dining car, express, telegraph, telephone, motor bus, and truck~~
41 ~~corporations to the extent and only to the extent that the franchise taxes levied in G.S.~~
42 ~~105-122 exceed the franchise taxes levied in other sections of this Article or schedule;~~
43 ~~except that the provisions of G.S. 105-122 shall not apply to businesses taxed under~~

1 ~~G.S. 105-120.1. The exemptions in this section shall apply only to those corporations~~
2 ~~specially mentioned, and no other.~~

3 (b) Certain Investment Companies. – A ~~Provided, that any corporation doing~~
4 ~~business in North Carolina that which in the opinion of the Secretary of Revenue of North~~
5 ~~Carolina, qualifies as a 'regulated investment company' under section 851 of the Code or~~
6 ~~as a 'real estate investment trust' under the provisions of section 856 of the Code and~~
7 ~~which files with the North Carolina Department of Revenue its election~~ elects for federal
8 income tax purposes to be treated as a 'regulated investment company' or as a 'real estate
9 investment trust,' shall may, in determining its basis for franchise tax be allowed to tax,
10 deduct the aggregate market value of its investments in the stocks, bonds, debentures, or
11 other securities or evidences of debt of other corporations, partnerships, individuals,
12 municipalities, governmental agencies agencies, or governments."

13 Sec. 6. G.S. 105-114(a) reads as rewritten:

14 "(a) Nature of Taxes. The taxes levied in this Article upon persons and
15 partnerships are for the privilege of engaging in business or doing the act named. The
16 taxes levied in this Article upon corporations are privilege or excise taxes levied upon:

- 17 (1) Corporations organized under the laws of this State for the existence of
18 the corporate rights and privileges granted by their charters, and the
19 enjoyment, under the protection of the laws of this State, of the
20 powers, rights, privileges and immunities derived from the State by the
21 form of such existence; and
22 (2) Corporations not organized under the laws of this State for doing
23 business in this State and for the benefit and protection which such
24 corporations receive from the government and laws of this State in
25 doing business in this State.

26 If the corporation is organized under the laws of this State, the payment of the taxes
27 levied by this Article shall be a condition precedent to the right to continue in such form
28 of organization; and if the corporation is not organized under the laws of this State,
29 payment of these taxes shall be a condition precedent to the right to continue to engage
30 in doing business in this State. The taxes levied in this Article or schedule shall be for
31 the fiscal year of the State in which the taxes become due; except that the taxes levied in
32 G.S. 105-122 shall be for the income year of the corporation in which the taxes become
33 due.

34 G.S. 105-122 does not apply to street transportation systems taxed under G.S. 105-
35 120.1 or holding companies taxed under G.S. 105-120.2. G.S. 105-122 applies to a
36 corporation taxed under another section of this Article only to the extent the taxes levied
37 on the corporation in G.S. 105-122 exceed the taxes levied on the corporation in other
38 sections of this Article."

39 Sec. 7. G.S. 105-127 is amended by adding at the end a new subsection to
40 read:

41 "(f) After the end of the income year in which a domestic corporation is dissolved
42 pursuant to Article 14 of Chapter 55 of the General Statutes, the corporation is no longer
43 subject to the tax levied in this Article unless the Secretary of Revenue finds that the

1 corporation has engaged in business activities in this State not appropriate to winding up
2 and liquidating its business and affairs."

3 Sec. 8. G.S. 105-130.40(c) reads as rewritten:

4 "(c) County Designation. – A severely distressed county is a county designated as
5 severely distressed by the Secretary of Commerce. Each year, on or before December
6 31, the Secretary of Commerce shall designate which counties are considered severely
7 distressed, and shall provide that information to the Secretary of Revenue. A county is
8 considered severely distressed if its distress factor is one of the thirty-three highest in
9 the State. The Secretary shall assign to each county in the State a distress factor that is
10 the sum of the following:

- 11 (1) The county's rank in a ranking of counties by rate of unemployment
12 from lowest to highest.
- 13 (2) The county's rank in a ranking of counties by per capita income from
14 highest to lowest.
- 15 (3) The county's rank in a ranking of counties by percentage growth in
16 population from lowest to highest.

17 In measuring rates of unemployment and per capita income, the Secretary shall use
18 the latest available data published by a State or federal agency generally recognized as
19 having expertise concerning the data. In measuring population growth, the Secretary
20 shall use the most recent estimates of population certified by the State ~~Budget-Planning~~
21 Officer. A designation as a severely distressed county is effective only for the calendar
22 year following the designation."

23 Sec. 9. G.S. 105-134.6(b) is amended by adding at the end a new subdivision
24 to read:

25 "(9) Income that is (i) earned or received by an enrolled member of a
26 federally recognized Indian tribe and (ii) derived from activities on a
27 federally recognized Indian reservation while the member resides on
28 the reservation. Income from intangibles having a situs on the
29 reservation and retirement income associated with activities on the
30 reservation are considered income derived from activities on the
31 reservation."

32 Sec. 10. G.S. 105-134.7(a)(5) reads as rewritten:

33 "(5) ~~The amount of any~~ If the taxpayer has a net operating loss for a taxable
34 year beginning on or after January 1, 1989, that part of the loss that is
35 carried back to and deducted in a taxable year beginning before
36 January 1, 1989, pursuant to section 172 of the Code may be deducted
37 from taxable income in the taxable year following the taxable year for
38 which the loss occurred."

39 Sec. 11. G.S. 105-151.17(c) reads as rewritten:

40 "(c) County Designation. – A severely distressed county is a county designated as
41 severely distressed by the Secretary of Commerce. Each year, on or before December
42 31, the Secretary of Commerce shall designate which counties are considered severely
43 distressed, and shall provide that information to the Secretary of Revenue. A county is
44 considered severely distressed if its distress factor is one of the thirty-three highest in

1 the State. The Secretary shall assign to each county in the State a distress factor that is
2 the sum of the following:

- 3 (1) The county's rank in a ranking of counties by rate of unemployment
4 from lowest to highest.
- 5 (2) The county's rank in a ranking of counties by per capita income from
6 highest to lowest.
- 7 (3) The county's rank in a ranking of counties by percentage growth in
8 population from lowest to highest.

9 In measuring rates of unemployment and per capita income, the Secretary shall use
10 the latest available data published by a State or federal agency generally recognized as
11 having expertise concerning the data. In measuring population growth, the Secretary
12 shall use the most recent estimates of population certified by the State ~~Budget-Planning~~
13 ~~Officer~~. A designation as a severely distressed county is effective only for the calendar
14 year following the designation."

15 Sec. 12. G.S. 105-163.010(8) reads as rewritten:

- 16 "(8) Qualified grantee business. – A North Carolina business that (i) has
17 received during the preceding three years a grant or other funding from
18 the North Carolina Technological Development Authority, The North
19 Carolina Technological Development Authority, Inc., the North
20 Carolina Biotechnology Center, the Microelectronics Center of North
21 Carolina, or the Federal Small Business Innovation Research Program,
22 and (ii) is registered with the Secretary of State under G.S. 105-
23 163.013."

24 Sec. 13. G.S. 105-163.013(c)(3) reads as rewritten:

- 25 "(3) It has received during the preceding three years a grant or other
26 funding from the North Carolina Technological Development
27 Authority, The North Carolina Technological Development Authority,
28 Inc., the North Carolina Biotechnology Center, the Microelectronics
29 Center of North Carolina, or the Federal Small Business Innovation
30 Research Program."

31 Sec. 14. G.S. 105-187.19 reads as rewritten:

32 "**§ 105-187.19. Use of tax proceeds.**

33 The Secretary shall distribute the taxes collected under this Article, less the cost of
34 collecting the taxes, in accordance with this section. The Secretary shall retain the cost
35 of collection as reimbursement to the Department of Revenue.

36 Each quarter, the Secretary shall credit ten percent (10%) of the net tax proceeds to
37 the Solid Waste Management Trust Fund and shall distribute ninety percent (90%) of
38 the net tax proceeds among the counties on a per capita basis according to the most
39 recent annual population estimates certified to the Secretary by the ~~Office of State Budget~~
40 ~~and Management~~ State Planning Officer. A county may use funds distributed to it under
41 this section only as provided in G.S. 130A-309.54."

42 Sec. 15. G.S. 105-266.1(c) reads as rewritten:

43 "(c) Within 90 days after notification of the Secretary's decision with respect to a
44 demand for refund of any tax or additional tax under this section ~~any taxpayer aggrieved~~

1 ~~thereby, in lieu~~ section, an aggrieved taxpayer may, instead of petitioning for
2 administrative review by the Tax Review Board under G.S. ~~105-241.1, may~~ 105-241.2,
3 bring a civil action against the Secretary of ~~Revenue~~ for recovery of the alleged
4 ~~overpayment~~ overpayment. If the alleged overpayment is more than two hundred dollars
5 (\$200.00), the taxpayer may bring the action either in the Superior Court of Wake
6 ~~County, County~~ or in the superior court of the county in which the taxpayer resides, if the
7 ~~alleged overpayment exceeds two hundred dollars (\$200.00), and if resides; if the alleged~~
8 overpayment is two hundred dollars (\$200.00) or less, the taxpayer may bring the action
9 in any State court of competent jurisdiction in Wake County. If upon trial it ~~shall be~~ is
10 determined that there has been ~~any~~ an overpayment of tax or additional tax, judgment
11 shall be rendered therefor, with interest, and the ~~same shall be refunded by the State. State~~
12 shall refund the amount due."

13 Sec. 16. G.S. 105-269.3 reads as rewritten:

14 "**§ 105-269.3. Administration and enforcement** **Enforcement of Subchapter V and**
15 **fuel inspection fee.**

16 This Article applies to taxes levied under Subchapter V of this Chapter and to
17 ~~inspection fees levied under Chapter 119 of the General Statutes.~~—The State Highway
18 Patrol and law enforcement officers and other appropriate personnel in the Division of
19 Motor Vehicles of the Department of Transportation may assist the Department of
20 Revenue in enforcing Subchapter V of this Chapter and Article 3 of Chapter 119 of the
21 General Statutes. The State Highway Patrol and law enforcement officers of the
22 Division of Motor Vehicles have the power of peace officers in matters concerning the
23 enforcement of Subchapter V of this Chapter and Article 3 of Chapter 119 of the
24 General Statutes."

25 Sec. 17. G.S. 105-277A(e) reads as rewritten:

26 "(e) Population Estimates. — In making the per capita calculations under this
27 section, the Secretary shall use the most recent annual population estimates certified by
28 the State ~~Budget Planning Officer.~~"

29 Sec. 18. G.S. 105-285(b) reads as rewritten:

30 "(b) Personal Property; General Rule. — Except as otherwise provided in ~~subsection~~
31 ~~(e) below, this Chapter,~~ the value, ownership, and place of taxation of personal property,
32 both tangible and intangible, shall be determined annually as of January 1."

33 Sec. 19. Effective on and after January 1, 1993, G.S. 105-330.1 reads as
34 rewritten:

35 "**§ 105-330.1. Classification of motor vehicles.**

36 (a) Classification. — All motor vehicles, ~~except (i) motor vehicles exempt from~~
37 ~~registration pursuant to G.S. 20-51, (ii) manufactured homes, mobile classrooms, and~~
38 ~~mobile offices, (iii) semitrailers registered on a multiyear basis under G.S. 20-88(c), and~~
39 ~~(iv) motor vehicles owned or leased by a public service company and appraised under~~
40 ~~G.S. 105-335, are hereby vehicles other than the motor vehicles listed in subsection (b)~~
41 are designated a special class of property under authority of Article V, Sec. 2(2) of the
42 North Carolina Constitution. Classified motor vehicles shall be listed and assessed as
43 provided in this Article and taxes on classified motor vehicles shall be collected as
44 provided in this Article.

1 (b) Exceptions. – The following motor vehicles are not classified under
2 subsection (a):

- 3 (1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
- 4 (2) Manufactured homes, mobile classrooms, and mobile offices.
- 5 (3) Semitrailers registered on a multiyear basis under G.S. 20-88(c).
- 6 (4) Motor vehicles owned or leased by a public service company and
7 appraised under G.S. 105-335.
- 8 (5) 'U-drive-it' passenger vehicles registered under G.S. 20-87(2)."

9 Sec. 20. G.S. 105-395(c) reads as rewritten:

10 "(c) It is the intent of the General Assembly to make the provisions of this
11 Subchapter ~~(being G.S. 105-291 [105-271] through 105-395, inclusive)~~ uniformly applicable
12 throughout the State, and to assure this objective all laws and clauses of laws, including
13 private and local acts ~~(except acts, other than local acts relating to the selection of tax~~
14 ~~collectors), collectors,~~ in conflict with the provisions of this Subchapter shall, as of July 1,
15 1971, be and are hereby repealed. repealed effective July 1, 1971. As used in this section,
16 the term 'local acts' means any acts of the General Assembly that apply to one or more
17 counties by name, to one or more municipalities by name, or to all municipalities within
18 one or more named counties."

19 Sec. 21. G.S. 105-441(a) reads as rewritten:

20 "(a) Acts. – Any distributor who commits one or more of the following acts is
21 guilty of a misdemeanor:

- 22 (1) Fails to obtain a license required by this Article.
- 23 (2) Willfully fails to make a report required by this Article.
- 24 (3) Willfully fails to pay a tax when due under this Article.
- 25 (4) Makes a false statement in an application, a report, or a statement
26 required under this Article.
- 27 (5) Fails to keep records as required under this Article.
- 28 (6) Refuses to allow the Secretary of Revenue or a representative of the
29 Secretary of Revenue to examine the distributor's books and records
30 concerning motor fuel.
- 31 (7) Fails to disclose the correct amount of motor fuel sold or used in this
32 State.
- 33 (8) Fails to file a replacement bond or an additional bond as required
34 under this Article.

35 On conviction, a distributor shall be fined not less than one hundred dollars
36 (\$100.00) and not more than five thousand dollars (\$5,000) or, in the case of an
37 individual or the officer or employee charged with the duty of making a report for a
38 corporation, imprisoned not exceeding 24 months, or both."

39 Sec. 22. G.S. 105-449.34 reads as rewritten:

40 "**§ 105-449.34. Acts and omissions declared to be ~~misdemeanors;~~ ~~penalties.~~**
41 **misdemeanors.**

42 A person who commits one or more of the following acts is guilty of a
43 misdemeanor:

- 44 (1) Fails to obtain a license required by this Article.

- 1 (2) Willfully fails to make a report required by this Article.
 2 (3) Willfully fails to pay a tax when due under this Article.
 3 (4) Makes a false statement in an application, a report, or a statement
 4 required under this Article.
 5 (5) Fails to keep records as required under this Article.
 6 (6) Refuses to allow the Secretary of Revenue or a representative of the
 7 Secretary of Revenue to examine the licensee's books and records
 8 concerning fuel.
 9 (7) Fails to disclose the correct amount of fuel sold or used in this State.
 10 (8) Fails to file a replacement bond or an additional bond as required
 11 under this Article."

12 Sec. 23. G.S. 105-466(d) reads as rewritten:

13 "~~(d) The board of county commissioners, upon adoption of said resolution, shall~~
 14 ~~cause a certified copy of the resolution to be delivered immediately to the Secretary of~~
 15 ~~Revenue. Upon adoption of a resolution levying the tax, the board of county~~
 16 ~~commissioners shall immediately deliver a certified copy of the resolution to the~~
 17 ~~Secretary, accompanied by a certified statement from the county board of elections, if~~
 18 ~~applicable, setting forth the results of any special election approving the tax in the~~
 19 ~~county. Thereupon, the Secretary of Revenue shall proceed as authorized in this Article~~
 20 ~~to administer the tax in such county, unless said county board of commissioners shall~~
 21 ~~notify the Secretary of Revenue in writing that, pursuant to a resolution duly adopted by~~
 22 ~~said Board, the tax will be collected and administered by the taxing county. Upon~~
 23 ~~receipt of these documents, the Secretary shall collect and administer the tax as~~
 24 ~~provided in this Article.~~"

25 Sec. 24. G.S. 105-469 reads as rewritten:

26 "~~§ 105-469. Collection and administration of local sales and use tax; authorization~~
 27 ~~to promulgate rules and regulations. Secretary to collect and administer~~
 28 ~~local sales and use tax.~~"

29 ~~Unless the county board of commissioners shall have notified the Secretary to the~~
 30 ~~contrary, as provided in G.S. 105-466(d), the Secretary of Revenue The Secretary shall~~
 31 ~~collect and administer the local sales and use tax imposed by a taxing a tax levied by a~~
 32 ~~county pursuant to the provisions of this Article and shall be charged with the duty of~~
 33 ~~administering the local sales and use tax authorized to be imposed by this Article. In~~
 34 ~~addition to the present statutory provisions authorizing the Secretary of Revenue to~~
 35 ~~adopt and promulgate rules and regulations pertaining to the administration and~~
 36 ~~collection of taxes, the Secretary of Revenue is empowered to promulgate such~~
 37 ~~additional rules and regulations as are necessary and proper for the implementation of~~
 38 ~~this Article.~~"

39 Sec. 25. G.S. 105-472 reads as rewritten:

40 "~~§ 105-472. Disposition and distribution of taxes collected.~~"

41 ~~(a) County Allocation. – The Secretary shall, on a quarterly basis, allocate to~~
 42 ~~each taxing county for which the Secretary collects the tax the net proceeds of the tax~~
 43 ~~collected in that county under this Article. For the purpose of this section, 'net proceeds'~~
 44 ~~means the gross proceeds of the tax collected in each county under this Article less~~

1 taxes refunded, the cost to the State of collecting and administering the tax in the county
2 as determined by the Secretary, and other deductions that may be charged to the county.
3 If the Secretary collects local sales or use taxes in a month and the taxes cannot be
4 identified as being attributable to a particular taxing county, the Secretary shall allocate
5 the taxes among the taxing counties in proportion to the amount of taxes collected in
6 each county under this Article during that month and shall include them in the quarterly
7 distribution.

8 ~~With respect to the counties in which he shall collect and administer the tax, the~~
9 ~~Secretary of Revenue shall, on a quarterly basis, distribute to each taxing county and to~~
10 ~~the municipalities therein the net proceeds of the tax collected in that county under this~~
11 ~~Article which amount shall be determined by deducting taxes refunded, the cost to the~~
12 ~~State of collecting and administering the tax in the taxing county and such other~~
13 ~~deductions as may be properly charged to the taxing county, from the gross amount of~~
14 ~~the tax remitted to the Secretary of Revenue from the taxing county. The Secretary~~
15 ~~shall determine the cost of collection and administration, and that amount shall be~~
16 ~~retained by the State before distribution of the net proceeds of the tax. For the purposes~~
17 ~~of this Article, "municipalities" shall mean cities as defined by G.S. 153A-1(1).~~

18 (b) Distribution Between Counties and Cities. – The Secretary shall divide the
19 amount allocated to each taxing county among the county and its municipalities in
20 accordance with the method determined by the county. The board of county
21 commissioners shall, ~~in the resolution levying the tax, determine that the net proceeds of the~~
22 ~~tax shall be distributed in one of the following methods and thereafter said proceeds shall be~~
23 ~~distributed in accordance therewith:~~ by resolution, choose one of the following methods of
24 distribution:

- 25 (1) Per Capita Method. ~~– The amount distributable to a taxing county and~~
26 ~~to the municipalities therein from the net proceeds of the tax collected~~
27 ~~therein shall be determined upon the following basis:~~ The net proceeds
28 of the tax collected in a taxing county shall be distributed to that taxing
29 county and to the municipalities ~~therein upon in the county on a per~~
30 ~~capita basis according to the total population of the taxing county, plus~~
31 ~~the total population of the municipalities in the county. In the case of a~~
32 ~~municipality located in more than one county, only that part of its~~
33 ~~population living in the taxing county is considered its 'total~~
34 ~~population.'~~ therein; provided, however, that "total population" of a
35 municipality lying within more than one county shall be only that part
36 of its population which lives within the taxing county. For this
37 purpose, the Secretary of Revenue ~~In order to make the distribution,~~
38 the Secretary shall determine a per capita figure by dividing the net
39 proceeds of the tax collected under this Article for the preceding
40 quarter within a amount allocated to each taxing county by the total
41 population of that taxing county plus the total population of all
42 municipalities therein in the county. ~~according to the most recent~~
43 ~~annual estimates of population as certified to the Secretary of Revenue~~
44 ~~by the State Budget Officer. The per capita figure thus derived shall be~~

~~multiplied~~ The Secretary shall then multiply this per capita figure by the population of the taxing county and by the population of each respective municipality therein according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer, and in the county; each respective product shall be the amount to be distributed to ~~each taxing the~~ county and to each municipality ~~therein in the county.~~ To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State Planning Officer. The State Budget Officer shall annually cause to be prepared and shall certify to the Secretary of Revenue such reasonably accurate population estimates of all counties and municipalities in the State as may be practicably developed; or

- (2) Ad Valorem Method. – The net proceeds of the tax collected in a taxing county shall be ~~divided between the~~ distributed to that county and the municipalities therein in the county in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding ~~such the~~ distribution. For purposes of this section, the amount of the ad valorem taxes levied by ~~such a~~ county or municipality ~~shall include any~~ includes ad valorem taxes levied by ~~such the~~ county or municipality in behalf of a taxing district ~~or districts~~ and collected by the county or municipality. In addition, the amount of taxes levied by a county ~~shall include any~~ includes ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to ~~any county or each county and~~ each county and municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a ~~distributable share of the sales and use~~ distribution of the proceeds of the tax levied under this Article shall in turn immediately share the proceeds with ~~any district or districts~~ each district in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality. Any county or municipality ~~which that~~ fails to provide the Department of Revenue with information concerning ad valorem taxes levied by ~~that county or municipality~~ it adequate to permit a timely determination of ~~the its~~ appropriate share of ~~that county or municipality~~ of tax proceeds collected under this Article may be excluded by the Secretary from each quarterly distribution with respect to which ~~such the~~ the information was not provided in a timely manner, and ~~such those~~ those tax proceeds shall then be distributed only to the ~~governmental unit or units whose information was provided in a timely manner.~~ remaining counties or municipalities, as appropriate. For the purpose of computing the distribution of the

1 tax under this subsection to any county and the municipalities located
2 ~~therein in the county~~ for any quarter with respect to which the property
3 valuation of a public service company is the subject of an appeal
4 pursuant to the provisions of the Machinery Act, or to applicable provisions
5 of federal law, and the Department of Revenue is restrained by operation
6 of law or by a court of competent jurisdiction from certifying such the
7 valuation to the county and the municipalities ~~therein, in the county~~, the
8 Department shall use the last property valuation of ~~such the~~ public
9 service company ~~which that~~ has been so certified in order to determine the
10 ad valorem tax levies applicable to such public service company in the
11 county and the municipalities ~~therein~~ certified.

12 ~~Where local use taxes, levied pursuant to this Article, or to any other local sales tax~~
13 ~~act, which cannot be identified as being attributable to any particular taxing county are~~
14 ~~collected and remitted to the Secretary, he shall apportion said taxes to the taxing~~
15 ~~counties in the same proportion that the local sales and use taxes collected each month~~
16 ~~in a taxing county bears to the total local sales and use taxes collected in all taxing~~
17 ~~counties each month during the quarter for which a distribution is to be made, and the~~
18 ~~total net proceeds shall then be distributed as above provided.~~

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

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

32 Sec. 26. G.S. 105-482 reads as rewritten:

33 "**§ 105-482. Limitations.**

34 This Article applies only to counties that levy one percent (1%) sales and use taxes
35 under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws and do
36 not levy one-half percent (1/2%) local sales and use taxes under Article 41 of this Chapter.
37 Laws."

38 Sec. 27. G.S. 105-483 reads as rewritten:

39 "**§ 105-483. Levy and collection of additional taxes.**

40 Any county subject to this Article may levy one-half percent (1/2%) local sales and
41 use taxes in addition to any other State and local sales and use taxes levied pursuant to
42 law. Except as provided in this Article, the adoption, levy, collection, distribution,
43 administration, and repeal of these additional taxes shall be in accordance with Article
44 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this

1 Article, references to 'this Article' mean Article 40 of ~~Chapter 105.~~this Chapter. ~~All~~
2 ~~taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected~~
3 ~~by a taxing county.~~—The exemption for building materials in G.S. 105-468.1 does not
4 apply to taxes levied under this Article."

5 Sec. 28. G.S. 105-498 reads as rewritten:

6 **"§ 105-498. Levy and collection of additional taxes.**

7 Any county subject to this Article may levy one-half percent (1/2%) local sales and
8 use taxes in addition to any other State and local sales and use taxes levied pursuant to
9 law. Except as provided in this Article, the adoption, levy, collection, distribution,
10 administration, and repeal of these additional taxes shall be in accordance with Article
11 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this
12 Article, references to 'this Article' mean Article 42 of ~~Chapter 105.~~this Chapter. ~~All~~
13 ~~taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected~~
14 ~~by a taxing county.~~—The exemption for building materials in G.S. 105-468.1 does not
15 apply to taxes levied under this Article."

16 Sec. 29. G.S. 160A-623(h) reads as rewritten:

17 "(h) Tax Situs. ~~—The fact that the county listed by the owner under G.S. 105-314~~
18 ~~as the county where the vehicle is subject to ad valorem taxation is within the territorial~~
19 ~~jurisdiction of the Authority shall be **prima facie** evidence that the vehicle has a tax~~
20 ~~situs within the territorial jurisdiction of the Authority.~~—The tax situs of a motor vehicle
21 for the purpose of this section is its ad valorem tax situs. If the vehicle is exempt from
22 ad valorem tax, its tax situs for the purpose of this section is the ad valorem tax situs it
23 would have if it were not exempt from ad valorem tax."

24 Sec. 30. The caption to G.S. 105-449.16 reads as rewritten:

25 **"§ 105-449.16. Levy of tax, tax and application of tax proceeds, and exemption for**
26 **nonanhydrous ethanol proceeds."**

27 Sec. 31. G.S. 105-434(c) is repealed.

28 Sec. 32. Except as otherwise provided in this act, this act is effective upon
29 ratification. Sections 21 and 22 of this act apply to offenses committed on or after the
30 date of ratification.