

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1160
Finance Committee Substitute Adopted 7/2/02

Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors:

Referred to:

June 4, 2002

1 A BILL TO BE ENTITLED

2 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE
3 REVENUE LAWS AND RELATED STATUTES AND TO PROVIDE A
4 ONE-TIME EXTENSION TO THE TIME PERIOD IN WHICH A TAXPAYER
5 MAY SIGN A LETTER OF COMMITMENT WITH THE DEPARTMENT OF
6 COMMERCE TO QUALIFY FOR A LOWER TIER DESIGNATION.

7 The General Assembly of North Carolina enacts:

8 **PART I: SUBSTANTIVE CHANGE**

9 **SECTION 1.** Notwithstanding the provisions of Article 3A of Chapter 105
10 of the General Statutes to the contrary, if during January or February 2002 a taxpayer
11 signed a letter of commitment with the Department of Commerce under G.S. 105-129.8
12 to create new jobs at a location or a letter of commitment with the Department of
13 Commerce under G.S. 105-129.9 to place specific machinery and equipment in service
14 at a location, then the taxpayer may calculate the credit for which the taxpayer qualifies
15 based on the location's enterprise tier designation and development zone designation for
16 2001.

17 **PART II: TECHNICAL CHANGES**

18 **SECTION 2.** Subdivision (5) in the first paragraph of Section 4 of Chapter
19 1096 of the 1967 Session Laws, as amended, reads as rewritten:

20 "(5) The sales price of food and other items that are not otherwise exempt from tax
21 pursuant to G.S. 105-164.13 but ~~is~~are exempt from the State sales and use tax pursuant
22 to G.S. 105-164.13B."

23 **SECTION 3.** Section 3 of S.L. 2001-264 reads as rewritten:

24 "**SECTION 3.** Any provision of a local act that conflicts with G.S. 153A-154.1 or
25 G.S. 160A-214.1 is repealed. Any local meals tax penalty in addition to or greater than
26 the corresponding penalty provided in G.S. 153A-154.1 or G.S. 160A-214.1 is
27 repealed."

28 **SECTION 4.** Section 49 of S.L. 2001-414 reads as rewritten:

29 "**SECTION 49.** Section 47-~~48~~ of this act does not derogate any existing powers."

1 **SECTION 5.** The introductory language of Section 13(a) of S.L. 2001-427
2 reads as rewritten:

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

4 **SECTION 6.** G.S. 20-10.1 reads as rewritten:

5 "**§ 20-10.1. Mopeds.**

6 It shall be unlawful for any person who is under the age of 16 years to operate a
7 moped as defined in G.S. ~~20-4.01(27)~~ 105-164.3 upon any highway or public
8 vehicular area of this State."

9 **SECTION 7.** G.S. 20-17.4(a)(1) reads as rewritten:

10 "(1) A first conviction of G.S. 20-138.1, driving while impaired, that
11 occurred while the person was driving a motor vehicle that is not a
12 commercial motor vehicle."

13 **SECTION 8.** G.S. 20-87(6) reads as rewritten:

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

23 **SECTION 9.(a)** G.S. 58-6-25(c) reads as rewritten:

24 "(c) Returns; When Payable. – ~~The charge levied on each health maintenance~~
25 ~~organization is payable March 15 following the end of each calendar year.~~ The charge
26 levied on each insurance company ~~other than a health maintenance organization~~ is
27 payable at the time the insurance company remits its premium tax. If the insurance
28 company is required to remit installment payments of premiums tax under G.S.
29 105-228.5 for a taxable year, it shall also remit installment payments of the charge
30 levied in this section for that taxable year at the same time and on the same basis as the
31 premium tax installment payments. Each installment payment shall be equal to at least
32 thirty-three and one-third percent (33.3%) of the insurance company's regulatory charge
33 liability incurred in the immediately preceding taxable year.

34 Every insurance company shall, on or before the date the charge levied in this
35 section is due, file a return on a form prescribed by the Secretary of Revenue. The return
36 shall state the company's total North Carolina premiums or presumed premiums for the
37 taxable year and shall be accompanied by any supporting documentation that the
38 Secretary of Revenue may by rule require."

39 **SECTION 9.(b)** This section becomes effective for taxable years beginning
40 on or after January 1, 2003.

41 **SECTION 10.** G.S. 105-116(a) reads as rewritten:

42 "(a) Tax. – An annual franchise or privilege tax is imposed on the following:

43 (1) An electric power company engaged in the business of furnishing
44 electricity, electric lights, current, or power.

- 1 (2), (2a) Repealed by Session Laws 1998-22, s. 2, effective July 1, 1999.
2 (3) A water company engaged in owning or operating a water system
3 subject to regulation by the North Carolina Utilities Commission.
4 (4) A public sewerage company engaged in owning or operating a public
5 sewerage system.

6 The tax on an electric power company is three and twenty-two hundredths percent
7 (3.22%) of the company's taxable gross receipts from the business of furnishing
8 electricity, electric lights, current, or power. The tax on a water company is four percent
9 (4%) of the company's taxable gross receipts from owning or operating a water system
10 subject to regulation by the North Carolina Utilities Commission. The tax on a public
11 sewerage company is six percent (6%) of the company's taxable gross receipts from
12 owning or operating a public sewerage company. A company's taxable gross receipts
13 are its gross receipts from business inside the State less the amount of gross receipts
14 from sales reported under subdivision (b)(2). A company that engages in more than one
15 business taxed under this section shall pay tax on each business. ~~A company is allowed
16 a credit against the tax imposed by this section for the company's investments in certain
17 entities in accordance with Part 5 of Article 4 of this Chapter."~~

18 **SECTION 11.** G.S. 105-127(d) and (e) are repealed.

19 **SECTION 12.** G.S. 105-129.4(b3) reads as rewritten:

20 "(b3) Environmental Impact. – A taxpayer is eligible for a credit allowed under this
21 Article only if the taxpayer certifies that, at the time the taxpayer first claims the credit,
22 the taxpayer has no pending administrative, civil, or criminal enforcement action based
23 on alleged significant violations of any program implemented by an agency of the
24 Department of Environment and Natural Resources, and has had no final determination
25 of responsibility for any significant administrative, civil, or criminal violation of any
26 program implemented by an agency of the Department of Environment and Natural
27 Resources within the last five years. A significant violation is a violation or alleged
28 violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The
29 Secretary of Environment and Natural Resources must notify the Department of
30 Revenue annually of every person that currently has any of these pending actions and
31 every person that has had any of these final determinations within ~~this the~~ last five
32 years."

33 **SECTION 13.** G.S. 105-129.12A(a) reads as rewritten:

34 "(a) Credit. – If a taxpayer that has purchased or leased real property in an
35 enterprise tier one or two area begins to use the property in an eligible business during
36 the taxable year, the taxpayer is allowed a credit equal to thirty percent (30%) of the
37 eligible investment amount if all of the eligibility requirements of G.S. 105-129.4 are
38 met. For the purposes of this section, property is located in an enterprise tier one or two
39 area if the area the property is located in was an enterprise tier one or two area at the
40 time the taxpayer applied for the ~~certification~~ determination required under G.S.
41 105-129.4(b5). The eligible investment amount is the lesser of (i) the cost of the
42 property and (ii) the amount by which the cost of all of the real property the taxpayer is
43 using in this State in an eligible business on the last day of the taxable year exceeds the
44 cost of all of the real property the taxpayer was using in this State in an eligible business

1 on the last day of the base year. The base year is that year, of the three immediately
2 preceding taxable years, in which the taxpayer was using the most real property in this
3 State in an eligible business. In the case of property that is leased, the cost of the
4 property is not determined as provided in G.S. 105-129.2 but is considered to be the
5 taxpayer's lease payments over a seven-year period, plus any expenditures made by the
6 taxpayer to improve the property before it is used by the taxpayer if the expenditures are
7 not reimbursed or credited by the lessor. The entire credit may not be taken for the
8 taxable year in which the property is first used in an eligible business but shall be taken
9 in equal installments over the seven years following the taxable year in which the
10 property is first used in an eligible business. When part of the property is first used in an
11 eligible business in one year and part is first used in an eligible business in a later year,
12 separate credits may be claimed for the amount of property first used in an eligible
13 business in each year. The basis in any real property for which a credit is allowed under
14 this section shall be reduced by the amount of credit allowable."

15 **SECTION 14.** G.S. 105-130.5(b)(17) reads as rewritten:

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

18 ...
19 (17) ~~The~~ To the extent included in federal taxable income, the following:

20 a. The amount of 911 charges collected under G.S. 62A-5 and
21 remitted to a local government under G.S. ~~62A-6,~~ and the
22 62A-6.

23 b. The amount of wireless Enhanced 911 service charges collected
24 under G.S. 62A-23 and remitted to the Wireless Fund under
25 G.S. 62A-24."

26 **SECTION 15.(a)** G.S. 105-130.34(a) reads as rewritten:

27 "(a) Any corporation that makes a qualified donation of an interest in real property
28 located in North Carolina during the taxable year that is useful for public beach access
29 or use, public access to public waters or trails, fish and wildlife conservation, or other
30 similar land conservation purposes is allowed a credit against the tax imposed by this
31 Part equal to twenty-five percent (25%) of the fair market value of the donated property
32 interest. To be eligible for this credit, the interest in real property must be donated in
33 perpetuity to and accepted by ~~either~~ the State, a local government, or a body that is both
34 organized to receive and administer lands for conservation purposes and qualified to
35 receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be
36 dedicated pursuant to local governmental regulation or ordinance and dedications made
37 to increase building density levels permitted under a regulation or ordinance are not
38 eligible for this credit. The credit allowed under this section may not exceed five
39 hundred thousand dollars (\$500,000). To support the credit allowed by this section, the
40 taxpayer must file with its income tax return, for the taxable year in which the credit is
41 claimed, a certification by the Department of Environment and Natural Resources that
42 the property donated is suitable for one or more of the valid public benefits set forth in
43 this subsection."

44 **SECTION 15.(b)** G.S. 105-151.12(a) reads as rewritten:

1 "(a) A person who makes a qualified donation of an interest in real property
2 located in North Carolina during the taxable year that is useful for (i) public beach
3 access or use, (ii) public access to public waters or trails, (iii) fish and wildlife
4 conservation, or (iv) other similar land conservation purposes is allowed a credit against
5 the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value
6 of the donated property interest. To be eligible for this credit, the interest in property
7 must be donated in perpetuity to and accepted by ~~either~~ the State, a local government, or
8 a body that is both organized to receive and administer lands for conservation purposes
9 and qualified to receive charitable contributions under the Code. Lands required to be
10 dedicated pursuant to local governmental regulation or ordinance and dedications made
11 to increase building density levels permitted under a regulation or ordinance are not
12 eligible for this credit. The credit allowed under this section may not exceed two
13 hundred fifty thousand dollars (\$250,000). To support the credit allowed by this section,
14 the taxpayer must file with the income tax return for the taxable year in which the credit
15 is claimed a certification by the Department of Environment and Natural Resources that
16 the property donated is suitable for one or more of the valid public benefits set forth in
17 this subsection."

18 **SECTION 16.** G.S. 105-163.7(c) is repealed.

19 **SECTION 17.** G.S. 105-164.23 reads as rewritten:

20 "**§ 105-164.23. Consumer must keep records.**

21 Every consumer shall keep such records, receipts, invoices and other pertinent
22 papers in such form as may be required by the Secretary and all such books, invoices
23 and other records shall be open for examination by the ~~Secretary or any of his duly~~
24 ~~authorized agents.~~ Department of Revenue. In the event the retailer, user or consumer
25 has imported the tangible personal property and fails to produce an invoice showing the
26 purchase price of the tangible personal property as defined in this Article which is
27 subject to tax or the invoices do not reflect the true or actual cost as defined ~~herein, in~~
28 this Article, then the Secretary shall ascertain in any manner feasible the true purchase
29 price and assess and collect the tax with interest, plus penalties, if such have accrued, on
30 the true ~~cost price as determined by him.~~ purchase price as determined by the Secretary."

31 **SECTION 18.** G.S. 105-164.27A(b) reads as rewritten:

32 "(b) Telecommunications Service. – A direct pay permit for telecommunications
33 service authorizes its holder to purchase telecommunications service without paying tax
34 to the seller and authorizes the seller to not collect any tax on a sale to the permit holder.
35 A person who purchases telecommunications service under a direct pay permit must file
36 a return and pay the tax due monthly to the Secretary. A direct pay permit issued under
37 this subsection does not apply to any tax other than the tax on telecommunications
38 service.

39 A call center that purchases interstate telecommunications service that originates
40 outside this State and terminates in this State may apply to the Secretary for a direct pay
41 permit for telecommunications service. A call center is a business that is primarily
42 engaged in providing support services to customers by telephone to support products or
43 services of the business. A business is primarily engaged in providing support services
44 by telephone if at least sixty percent (60%) of its calls are incoming.

1 ~~must be made on a form provided by the"~~

2 **SECTION 19.(a)** G.S. 105-187.1(4) reads as rewritten:

3 "(4) ~~Recreational vehicle. – A motorized or towable vehicle that combines~~
4 ~~transportation and temporary living quarters for travel, recreation, and~~
5 ~~camping. To qualify as a motorized recreational vehicle, the vehicle~~
6 ~~must be a camping and travel vehicle built on or as an integral part of a~~
7 ~~self-propelled motor vehicle chassis. If a towable vehicle is of such~~
8 ~~size or weight as to require a special highway movement permit, it is~~
9 ~~not a recreational vehicle. Towable recreational vehicles include travel~~
10 ~~trailers, fifth-wheel travel trailers, folding camping trailers, and truck~~
11 ~~campers. Defined in G.S. 20-4.01."~~

12 **SECTION 19.(b)** G.S. 20-4.01(32a) reads as rewritten:

13 "(32a) ~~Recreation~~ Recreational Vehicle. – A vehicular type unit primarily
14 designed as temporary living quarters for recreational, camping, or
15 travel use that either has its own motive power or is mounted on, or
16 towed by, another vehicle. The basic entities are camping trailer,
17 fifth-wheel travel trailer, motor home, travel trailer, and truck camper.

18 a. Motor home. – As defined in G.S. 20-4.01(27)d2.

19 b. Travel trailer. – A vehicular unit mounted on wheels, designed
20 to provide temporary living quarters for recreational, camping,
21 or travel use, and of a size or weight that does not require a
22 special highway movement permit when towed by a motorized
23 vehicle.

24 c. Fifth-wheel trailer. – A vehicular unit mounted on wheels
25 designed to provide temporary living quarters for recreational,
26 camping, or travel use, of a size and weight that does not
27 require a special highway movement permit and designed to be
28 towed by a motorized vehicle that contains a towing mechanism
29 that is mounted above or forward of the tow vehicle's rear axle.

30 d. Camping trailer. – A vehicular portable unit mounted on wheels
31 and constructed with collapsible partial side walls that fold for
32 towing by another vehicle and unfold at the campsite to provide
33 temporary living quarters for recreational, camping, or travel
34 use.

35 e. Truck camper. – A portable unit that is constructed to provide
36 temporary living quarters for recreational, camping, or travel
37 use, consisting of a roof, floor, and sides and is designed to be
38 loaded onto and unloaded from the bed of a pickup truck."

39 **SECTION 19.(c)** G.S. 20-116(d) reads as rewritten:

40 "(d) Maximum Length. – ~~The following maximum lengths apply to vehicles. A~~
41 ~~single vehicle having two axles shall not exceed 40 feet in length of extreme overall~~
42 ~~dimensions inclusive of front and rear bumpers. A single vehicle having three axles~~
43 ~~shall not exceed 40 feet in length overall of dimensions inclusive of front and rear~~
44 ~~bumpers. Provided, however, trucks transporting unprocessed cotton from farm to gin~~

1 shall not exceed 48 feet in length overall of dimensions inclusive of front and rear
2 bumpers. A truck-tractor and semitrailer shall be regarded as two vehicles for the
3 purpose of determining lawful length and license taxes.

4 (1) Except as otherwise provided in this subsection, a single vehicle
5 having two or three axles shall not exceed 40 feet in length overall of
6 dimensions inclusive of front and rear bumpers.

7 (2) Trucks transporting unprocessed cotton from farm to gin shall not
8 exceed 48 feet in length overall of dimensions inclusive of front and
9 rear bumpers.

10 (3) ~~Recreation~~Recreational vehicles shall not exceed 45 feet in length
11 overall, excluding bumpers and mirrors."

12 **SECTION 19.(d)** G.S. 20-305.2(a)(7) reads as rewritten:

13 "(7) The ownership, operation, or control of a dealership that sells
14 primarily ~~recreation~~recreational vehicles as defined in ~~G.S. 20-~~
15 ~~4.01(32a)~~20-4.01 by a manufacturer, factory branch, distributor, or
16 distributor branch, or subsidiary thereof, if the manufacturer, factory
17 branch, distributor, or distributor branch, or subsidiary thereof, owned,
18 operated, or controlled the dealership as of October 1, 2001."

19 **SECTION 19.(e)** G.S. 20-305.2(b) reads as rewritten:

20 "(b) This section ~~shall~~does not apply to manufacturers or distributors of trailers or
21 semitrailers that are not ~~recreation~~recreational vehicles as defined in ~~G.S. 20-~~
22 ~~4.01(32a)~~G.S. 20-4.01."

23 **SECTION 20.** G.S. 105-269.14(b) reads as rewritten:

24 "(b) Distribution. – The Secretary must distribute ~~one-third~~a portion of the net use
25 tax proceeds collected under this section to counties and ~~cities in proportion to their~~
26 ~~total distributions under Articles 39, 40, and 42 of this Chapter and Chapter 1096 of the~~
27 ~~1967 Session Laws for the most recent period for which data is available.~~cities. The
28 portion to be distributed to all counties and cities is the total net use tax proceeds
29 collected under this section multiplied by a fraction. The numerator of the fraction is the
30 local use tax proceeds collected under this section. The denominator of the fraction is
31 the total use tax proceeds collected under this section. The Secretary must distribute this
32 portion to the counties and cities in proportion to their total distributions under Articles
33 39, 40, 42, 43, and 44 of this Chapter and Chapter 1096 of the 1967 Session Laws for
34 the most recent period for which data are available. The provisions of G.S. 105-472,
35 105-486, and 105-501 do not apply to tax proceeds distributed under this section."

36 **SECTION 21.** G.S. 159I-1 reads as rewritten:

37 "**§ 159I-1. Short title.**

38 This Chapter may be cited as the ~~North Carolina~~North Carolina Solid Waste Management Loan
39 Program~~Program~~ and Local Government Special Obligation Bond Act."

40 **PART III: EFFECTIVE DATE**

41 **SECTION 22.** Except as otherwise provided in this act, this act is effective
42 when it becomes law.