

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 646
SENATE BILL 1178

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
REVENUE LAWS AND RELATED STATUTES AND TO ALLOW THE
VOLUNTARY WITHHOLDING OF INCOME TAX FROM UNEMPLOYMENT
COMPENSATION PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-53(i2) reads as rewritten:

"(i2) Affidavit in Lieu of Records. – The merchant may satisfy the record requirement of subsection (i1) of this section by producing, in lieu of a receipt or invoice, an affidavit under oath or affirmation identifying the source of the merchandise for which a record is requested, including the name and address of the seller, the license number of any auctioneer seller, and the date and place of purchase of the merchandise."

Sec. 2. G.S. 105-113.45(c) reads as rewritten:

"(c) Liquid Base Products. – An excise tax at the rate of seventy-five cents (75¢) a gallon is levied on each individual container of a liquid base product. The tax applies regardless whether the liquid base product is diverted to and used for a purpose other than making a soft drink."

Sec. 3. G.S. 105-117 and G.S. 105-118 are repealed.

Sec. 4. G.S. 105-164.13(2a) reads as rewritten:

"(2a) Any of the following when purchased for use ~~in the commercial production of animals or plants, as appropriate:~~ on animals or plants, as appropriate, held or produced for commercial purposes:

- a. Remedies, vaccines, medications, litter materials, and feeds for animals.
- b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
- c. Defoliants for use on cotton or other crops.
- d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops."

Sec. 5. G.S. 105-164.13(29a) is repealed.

Sec. 6. G.S. 105-164.14(c)(2a) reads as rewritten:

"(2a) A consolidated city-county ~~created pursuant to Article 2 or Article 5 of Chapter 160B of the General Statutes.~~ as defined in G.S. 160B-2."

Sec. 7. G.S. 105-191 and G.S. 105-196 are repealed.

Sec. 8. G.S. 105-197 reads as rewritten:

"§ 105-197. When return required; due date of tax and return.

Anyone who, during the calendar year, gives to a donee a gift of a future interest or one or more gifts whose total value exceeds the amount of the annual exclusion set in G.S. 105-188(d) must file a gift tax return, under oath or affirmation, with the Secretary of Revenue on a form prescribed by the Secretary. ~~A return~~ The tax is due on ~~or before~~ April 15th following the end of the calendar year. A return must be filed on or before the due date of the tax. A taxpayer may ask the Secretary of Revenue for an extension of time for filing a return under G.S. 105-263."

Sec. 9. G.S. 105-229 is repealed.

Sec. 10. G.S. 105-236 reads as rewritten:

"§ 105-236. Penalties.

Except as otherwise provided ~~in this Subchapter, by law,~~ and subject to the provisions of G.S. 105-237, the following penalties shall be applicable:

- (1) Penalty for Bad Checks. – When the bank upon which any uncertified check tendered to the Department of Revenue in payment of any obligation due to the Department returns the check because of insufficient funds or the nonexistence of an account of the drawer, an additional tax equal to ten percent (10%) of the check shall be imposed, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). This penalty does not apply if the Secretary of Revenue finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by ~~inadvertance, inadvertence,~~ the drawer of the check failed to draw the check on the account that had sufficient funds. The additional tax imposed may not be waived or diminished by the ~~Secretary of Revenue. This subsection applies to all taxes levied or assessed by the State.~~ Secretary.
- (1a) Penalty for Bad Electronic Funds Transfer. – When an electronic funds transfer cannot be completed due to insufficient funds or the nonexistence of an account of the transferor, the Secretary shall assess a penalty equal to ten percent (10%) of the amount of the transfer, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). ~~This subdivision applies to all taxes levied or assessed by the State.~~ This penalty may be waived by the Secretary in accordance with G.S. 105-237.
- (1b) Making Payment in Wrong Form. – For making a payment of tax in a form other than the form required by the Secretary pursuant to G.S. 105-241(a), the Secretary shall assess a penalty equal to five percent (5%) of the amount of the tax, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). This penalty may be waived by the Secretary in accordance with G.S. 105-237.

- (2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, there shall be assessed an additional tax equal to five percent (5%) of the amount prescribed for ~~such the~~ license per month or fraction thereof until paid, which additional tax shall not exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars (\$5.00).
- (3) Failure to File Return. – In case of failure to file any return ~~required under this Subchapter~~ on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that ~~such the~~ failure is due to reasonable cause, there shall be added to the amount required to be shown as tax on ~~such the~~ return, as a penalty, five percent (5%) of the amount of ~~such the~~ tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which ~~such the~~ failure continues, not exceeding twenty-five percent (25%) in the aggregate, or five dollars (\$5.00), whichever is the greater.
- (4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, there shall be an additional tax, as a penalty, of ten percent (10%) of the tax; provided, that such penalty shall in no event be less than five dollars (\$5.00).
- (5) Negligence. –
- a. Most cases. – For negligent failure to comply with any of the provisions ~~of this Subchapter, to which this Article applies,~~ or rules ~~and regulations~~ issued pursuant thereto, without intent to defraud, there shall be assessed, as a penalty, an additional tax of ten percent (10%) of the deficiency due to ~~such negligence; provided, that in the negligence.~~
- b. Large income tax deficiency. – In the case of income tax, if ~~gross income is understated by as much as twenty five percent (25%), or deductions, exclusive of personal exemptions, are overstated by as much as twenty five percent (25%) of gross income, or if there is a combination of understatement of gross income and overstatement of deductions, exclusive of personal exemptions, equaling twenty five percent (25%) of gross income, there shall be assessed, as a penalty, an additional tax equal to twenty five percent (25%) of the total deficiency; provided further, that in a taxpayer understates gross income, overstates deductions from gross income, other than personal exemptions, makes erroneous adjustments to federal taxable income, or does any combination of these, and the combined errors equal or exceed twenty-five percent (25%) of gross income, the penalty assessed shall be twenty-five percent (25%) of the deficiency. For purposes of this subdivision, 'gross~~

income' means gross income as defined in section 61 of the Code and 'deductions' means deductions allowed in arriving at federal taxable income.

c. Large sales tax deficiency. – In the case of sales and use taxes, if it is established that the a taxpayer understates total tax liability is understated by twenty-five percent (25%) or more as a result of any one or more of the following reasons, the penalty assessed shall be twenty-five percent (25%) of the total deficiency:

a. 1. Omission or understatement of gross sales, gross receipts receipts, or gross purchases; purchases.

b. 2. Overstatement of exemptions or deductions; deductions.

e. 3. Incorrect application of a lesser rate of tax. tax; or

d. Any combination of the foregoing; there shall be assessed as a penalty an additional tax equal to twenty-five percent (25%) of the total deficiency. If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.

d. No double penalty. – If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.

(5a) Misuse of Certificate of Resale. – For misuse of a certificate of resale by a purchaser, the Secretary shall assess an additional tax, as a penalty, of two hundred fifty dollars (\$250.00).

(5b) Road Tax Understatement. – If a motor carrier understates its liability for the road tax imposed by Article 36B of this Chapter by twenty-five percent (25%) or more, the Secretary shall assess the motor carrier a penalty in an amount equal to two times the amount of the deficiency.

(6) Fraud. – If there is a deficiency or delinquency in payment of any tax levied by this Subchapter, due to tax because of fraud with intent to evade the tax, there shall be assessed, as a penalty, an additional tax equal to fifty percent (50%) of the total deficiency.

(7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts, or any person who aids or abets any person to attempt in any manner to evade or defeat any tax imposed by this Subchapter of the General Statutes, or the payment thereof, a tax or its payment, shall, in addition to other penalties provided by law, be guilty of a Class I felony which may include a fine up to twenty-five thousand dollars (\$25,000).

(8) Willful Failure to Collect, Withhold, or Pay Over Tax. – Any person required under this Subchapter to collect, withhold, account for, and pay over any tax imposed by this Subchapter

who willfully fails to collect or truthfully account for and pay over ~~such the~~ tax shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation.

(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person required ~~under this Subchapter~~ to pay any tax, to make a return, to keep any records, or to supply any information, who willfully fails to pay ~~such the~~ tax, make ~~such the~~ return, keep ~~such the~~ records, or supply ~~such the~~ information, at the time or times required by law, or ~~regulations~~ rules issued pursuant thereto, shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation.

(9a) Aid or Assistance. – Any person, pursuant to or in connection with the revenue laws, who willfully aids, assists in, procures, counsels, or advises the preparation, presentation, or filing of a return, affidavit, claim, or any other document that ~~he the~~ person knows is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present or file the return, affidavit, claim, or other document, shall be guilty of a Class I felony which may include a fine up to ten thousand dollars (\$10,000).

(10) Failure to File Informational Returns. –

a. For failure to file a partnership or a fiduciary informational return when ~~such returns are the~~ return is due to be filed, there shall be assessed as a tax against the delinquent five dollars (\$5.00) per month or fraction thereof of ~~such the~~ delinquency, ~~such tax, this penalty,~~ however, in the aggregate not to exceed ~~the sum of~~ twenty-five dollars (\$25.00). When assessed against a fiduciary, the ~~tax herein provided~~ penalty shall be paid by the fiduciary and shall not be passed on to the trust or estate. No tax may be assessed against the delinquent when it is a partnership as defined under Section 6231(a)(1)(B) of the Code and no penalty could be assessed as provided by Rev. Proc. 84-35, except that for the purpose of Section 3.01 of that procedure 'the Department of Revenue' is substituted for 'the Internal Revenue Service'.

- b. For failure to file timely statements of payments to another person ~~or persons~~ with respect to wages, dividends, ~~rents~~ rents, or interest paid to ~~such other person or persons~~, that person, there shall be assessed as a tax a penalty of one dollar (\$1.00) for each statement not filed on time, the aggregate of ~~such the~~ penalties for each tax year not to exceed one hundred dollars (\$100.00), and in addition thereto, if the Secretary ~~shall request~~ requests the ~~payor~~ payer to file ~~such the~~ statements and ~~shall set~~ sets a date ~~on or before such statements shall by which the statements must be filed~~, and the ~~payor shall fail to file such~~ payer fails to file the statements within ~~such this~~ time, the amounts claimed on ~~payor's~~ payer's income tax return as deductions for salaries and wages, or rents or interest shall be disallowed to the extent that the ~~payor~~ payer failed to comply with the Secretary's request with respect to ~~such the~~ statements.
- (11) Any violation of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes is considered an act committed in part at the office of the Secretary in Raleigh. The certificate of the Secretary that a tax has not been paid, a return has not been filed, or information has not been supplied, as required by law, is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied.

(12) Repealed by Session Laws 1991, c. 45, s. 27."

Sec. 11. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. —~~The~~ There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. If a taxpayer forfeits a tax credit pursuant to G.S. 105-163.014, the Secretary must assess any tax ~~or additional tax~~ due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided

under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

Sec. 12. G.S. 105-275(21) reads as rewritten:

"(21) The first thirty-eight thousand dollars (\$38,000) in assessed value of housing together with the necessary land therefor, owned and used as a residence by a disabled veteran who receives benefits under ~~Title 38, section 801, United States Code Annotated.~~ 38 U.S.C. § 2101. This exclusion shall be the total amount of the exclusion applicable to such property."

Sec. 13. Effective July 1, 1996, G.S. 105-275.1(b) reads as rewritten:

"(b) Subsequent Distributions. – As soon as practicable after January 1, 1990, the Secretary shall pay to each county and city the amount it received under subsection (a) in 1989 plus an amount equal to the county or city average rate multiplied by the value of the items described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the county or city, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. As soon as practicable after January 1, 1990, the Secretary shall also pay to each county and city an amount equal to the average rate for each special district for which the county or city collected taxes in 1987, but whose tax rates were not included in the county or city's rates, multiplied by the value of the items described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. As soon as practicable after January 1, 1991, except as provided in subsection (f), the Secretary shall pay to each county and city the amount it received under this section the preceding year plus an amount equal to the county or city average rate multiplied by the value of the items described in subdivision (v) of subsection (a) contained in the list submitted by the county or city, plus or minus

the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. As soon as practical after January 1, 1992, except as provided in subsection (f), the Secretary shall distribute to each county and city the amount it received under this section the preceding year. On or before April 30, 1993, except as provided in subsection (f), the Secretary shall distribute to each county and city ninety-nine and eighty-one one-hundredths percent (99.81%) of the amount it received under this section the preceding year. Thereafter, until August 1995, except as provided in subsection (f), on or before April 30 of each year, the Secretary shall distribute to each county and city the amount it received under this section the preceding year. On or before August 30, 1995, the Secretary shall determine for each county and city the amount it received in April 1995 under this section. ~~Beginning in August 1995 and each~~ Each year thereafter, except as provided in subsection (f), the Secretary shall distribute to each county and city ~~sixty percent (60%)~~ fifty percent (50%) of this amount on or before ~~August~~ September 30 and the remaining ~~forty percent (40%)~~ fifty percent (50%) on or before the following April 30.

Of the funds received by each county and city pursuant to this subsection in 1990, the portion that was received because the county or city was collecting taxes for a special district (either because the district's tax rate was included in the city or county's rate or because the Secretary paid the county or city the product of the district's average rate and the value of the inventories and other items in the district) shall be distributed among the districts in the county or city as soon as practicable after the city or county receives the funds. The county or city shall distribute to each special district in the county or city the amount it distributed to the district in 1989 plus an amount equal to the average rate for the district multiplied by the value of the items, other than inventory, described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

Each year thereafter, until August 1995, as soon as practicable after receiving funds under this subsection, every county and city shall distribute among the special districts for which the county or city collects tax an amount equal to the amount it distributed among such districts the previous year. Each year thereafter, ~~beginning in August 1995,~~ as soon as practical after receiving funds under this subsection in ~~August~~ September, every county and city shall distribute among the special districts for which the county or city collects tax an amount equal to ~~sixty percent (60%)~~ fifty percent (50%) of the amount it distributed among such districts in April 1995, and as soon as practicable after receiving funds under this subsection in April, every county and city shall distribute among the special districts for which the county or city collects tax an amount equal to ~~forty percent (40%)~~ fifty percent (50%) of the amount it distributed among such districts in April 1995.

The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this subsection. In addition, the Local Government Commission may adopt rules for the reallocation of funds when a special district is dissolved, merged, or consolidated, or when a special district ceases to levy tax, either temporarily or permanently."

Sec. 14. Effective July 1, 1996, G.S. 105-277A reads as rewritten:

"§ 105-277A. Reimbursement for exclusion of retailers' and wholesalers' inventories.

(a) Submission of Claims. – On or before January 15, 1989, the governing body of each county and city shall furnish to the Secretary a list of all the inventories owned by retailers and wholesalers that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the county or city under this Subchapter. The list shall contain the value of the inventories as well as the property tax rates in effect in the county or city for the eight years from 1980 through 1987. The list shall also contain the property tax rates in effect for those years in each special district for which the county or city collected taxes in 1987 but whose tax rates were not included in the rates listed for the county or city, and the value of the inventories owned by retailers and wholesalers that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in that district. The list shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary.

The Secretary shall calculate an average rate for each county and city, and for each special district whose tax rates were not included in the tax rates of a county or city, as the arithmetic mean of the property tax rates in effect in the county, city, or district for the eight years from 1980 through 1987. If a county, city, or district did not have tax rates in effect for the entire eight-year period, the average rate shall be the arithmetic mean of the property rates in effect for the years during the eight-year period that it did have rates in effect.

(b) First Per Capita Distribution. – As soon as practicable after January 1 of 1989, the Secretary shall distribute to each taxing unit the unit's per capita share of the sum of fifteen million seven hundred forty-five thousand dollars (\$15,745,000). Thereafter, as soon as practicable after January 1 of 1990 and 1991, the Secretary shall distribute to each taxing unit the unit's per capita share of an amount equal to the sum distributed to all taxing units the previous year under this subsection plus or minus the product of the sum distributed the previous year and the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

On or before April 30 of 1992, 1993, 1994, and 1995, the Secretary shall distribute to each taxing unit the unit's per capita share of the sum that this subsection provided was to be distributed to all taxing units in 1991. Beginning August 1995 and each year thereafter, the Secretary shall determine for each taxing unit the unit's per capita share of the sum that this subsection provided was to be distributed to all taxing units in 1991. Each year, the Secretary shall distribute to each taxing unit ~~sixty percent (60%)~~ fifty

~~percent (50%) of this share on or before August-September 30 and the remaining forty percent (40%)-fifty percent (50%) of this share on or before the following April 30.~~

To make the per capita distributions required by this subsection, the Secretary shall first allocate the sum to be distributed among the counties on a per capita basis. The Secretary shall then compute a per capita distributable amount for each county by dividing the amount allocated to a county by the total population of the county, plus the population of any incorporated towns and cities located in the county. Each taxing unit in a county, including the county itself, shall receive the product of the population of the taxing unit and the per capita distributable amount for that county.

A city or county that receives funds under this subsection and that collects taxes for another taxing unit shall distribute part of the taxes received by it to the taxing unit for which it collects tax. The distribution shall be made on the basis of the proportionate amount of ad valorem taxes levied, for the most recent fiscal year beginning July 1, by the city or county and by all the taxing units for which the city or county collects tax. This distribution shall be made as soon as practicable after a city or county receives funds from the State under this section.

(c) Second Per Capita Distribution. – On or before March 20, 1989, the Secretary shall allocate to each county the county's per capita share of the sum of thirty-nine million dollars (\$39,000,000).

Each year thereafter through April 1995, on or before April 30, the Secretary of Revenue shall allocate to each county the amount it received the previous year under this subsection. On or before August 30, 1995, the Secretary shall determine for each county the amount it received in April 1995 under this subsection. ~~Beginning in August 1995 and each~~ Each year thereafter, the Secretary shall distribute ~~sixty percent (60%)~~ fifty percent (50%) of this amount to each county on or before ~~August-September 30~~ and the remaining ~~forty percent (40%)-fifty percent (50%)~~ to each county on or before the following April 30.

Amounts allocated to a county under this subsection shall in turn be divided and distributed between the county and the cities located in the county in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the distribution. For the purposes of this section, the amount of the ad valorem taxes levied by a county or city shall include any ad valorem taxes collected by the county or city in behalf of a special district. For the purpose of computing the distribution for any year with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the appropriate counties and cities, the Department shall use the latest property valuation of that public service company that has been certified.

The governing body of each county and city shall report to the Secretary of Revenue such information as he may request in order to make the distribution under this subsection. If a county or city fails to make a requested report within the time prescribed, the Secretary may disregard that county or city and the other taxing units in the county or city in making the distribution.

(c1) Claims-based Distribution. – On or before March 20, 1989, the Secretary shall distribute to each county and city an amount equal to the amount by which the

county or city's inventory loss, as defined in subsection (d) of this section, exceeds the amount of the reimbursement received by the county or city under subsection (c) of this section.

Except as provided in subsection (g) of this section, each year thereafter through April 1995, on or before April 30, the Secretary shall distribute to each county and city the amount it received the previous year under this subsection. On or before August 30, 1995, the Secretary shall determine for each county and city the amount it received in April 1995 under this subsection. ~~Beginning in August 1995 and each~~ Each year thereafter, the Secretary shall distribute ~~sixty percent (60%)~~ fifty percent (50%) of this amount to each county and city on or before ~~August~~ September 30 and the remaining ~~forty percent (40%)~~ fifty percent (50%) of this amount to each county and city on or before the following April 30.

(c2) Supplemental Distribution. – On or before March 20, 1989, the Secretary shall determine, with respect to each county and city, whether the sum of (i) the amount the county or city received under subsection (c), plus (ii) the amount the county or city received under subsection (c1), plus (iii) three and four-tenths percent (3.4%) of the total distribution received by the county or city under G.S. 105-472, 105-486, 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and December 31, 1988, is less than ninety percent (90%) of the amount of taxes the county or city actually levied on inventories owned by retailers and wholesalers for the 1987-88 tax year. If that sum is less than ninety percent (90%) of the amount of taxes the county or city actually levied on those inventories for the 1987-88 tax year, the Secretary shall distribute to that county or city a supplemental amount equal to the amount by which ninety percent (90%) of the taxes it actually levied on inventories owned by retailers and wholesalers for the 1987-88 tax year exceeds the total of subdivisions (i), (ii), and (iii).

Except as provided in subsection (g) of this section, each year thereafter through April 1995, on or before April 30, the Secretary shall distribute to each county and city the amount it received the previous year under this subsection. On or before August 30, 1995, the Secretary shall determine for each county and city the amount it received in April 1995 under this subsection. ~~Beginning in August 1995 and each~~ Each year thereafter, the Secretary shall distribute ~~sixty percent (60%)~~ fifty percent (50%) of this amount to each county and city on or before ~~August~~ September 30 and the remaining ~~forty percent (40%)~~ fifty percent (50%) of this amount to each county and city on or before the following April 30.

(c3) Distribution to Special Districts. – Of the funds received by each county and city pursuant to subsections (c), (c1), and (c2) of this section, the portion that was received because the county or city was collecting taxes for a special district shall be distributed among the districts in the county or city in proportion to the amount of each special district's inventory levy, as defined in subsection (d) of this section, as soon as practicable after the city or county receives funds under this subsection. The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this paragraph. In addition, the Local Government Commission may adopt rules for the reallocation of

funds when a special district is dissolved, merged, or consolidated, or when a special district ceases to levy tax, either temporarily or permanently. ~~The Local Government Commission shall report to the 1990 General Assembly any errors it discovers in the information furnished by local governments to the Secretary as required in subsection (a) of this section.~~

(d) Definitions. – The following definitions apply in this section:

- (1) 'City' has the same meaning as in G.S. 153A-1(1).
- (2) 'City's inventory loss' means the city's average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section by the city, plus the average rate for each special district for which the city collected taxes in 1987, but whose tax rates were not included in the city's rates, multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals the lesser of five percent (5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce, minus three and four-tenths percent (3.4%) of the total distribution received by the city under G.S. 105-472, 105-486, 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and December 31, 1988.
- (3) 'County's inventory loss' means the county's average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section by the county, plus the average rate for each special district for which the county collected taxes in 1987, but whose tax rates were not included in the county's rates, multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals the lesser of five percent (5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce, minus three and four-tenths percent (3.4%) of the total distribution received by the county under G.S. 105-472, 105-486, 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and December 31, 1988.
- (4) 'Special district's inventory levy' means the special district's average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the district.

(5) 'Taxing unit' means a unit that levied a property tax or for which another unit collected a property tax for the fiscal year preceding the fiscal year a distribution is made under this section.

(e) Population Estimates. – In making the per capita calculations under this section, the Secretary shall use the most recent annual population estimates certified by the State Planning Officer.

(f) Source of Funds. – To pay for the distribution required by this section and the cost of making the distribution, the Secretary shall draw from collections received under Division I of Article 4 of this Chapter an amount equal to the amount distributed and the cost of making the distribution.

(g) Correction of Errors. – If the Secretary discovers that the amount or value of any inventories listed by a county or city pursuant to subsection (a) of this section was overstated or understated, the Secretary shall adjust the amount to be distributed under subsections (c1) and (c2) as follows. For the distribution to be made in the year following discovery of the overstatement or understatement, the Secretary shall distribute to the county or city the amount it would have received under subsections (c1) and (c2) in 1989 if it had not overstated or understated the amount or value of any inventories, plus the total amount it failed to receive in 1989 and subsequent years due to understatement of the amount or value of the inventories, or minus the total amount it received in 1989 and subsequent years due to overstatement of the amount or value of the inventories. Thereafter, each year the Secretary shall distribute to the county or city the amount it would have received under subsections (c1) and (c2) in 1989 if it had not overstated or understated the amount or value of any inventories."

Sec. 15. G.S. 105-278.7(a)(1) reads as rewritten:

"(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes as defined in subsection ~~(e)~~, (f), below; or".

Sec. 16. G.S. 105-282.1(a)(3) reads as rewritten:

"(3) After an owner of property entitled to exemption under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or exclusion under G.S. 105-275(3), (7), (8), (12), (17) through (19), (21) or (39), G.S. ~~405-277.4-105-277.1~~, or G.S. 105-278 has applied for exemption or exclusion and the exemption or exclusion has been approved, the owner is not required to file an application in subsequent years except in the following circumstances:

- a. New or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property; or
- b. There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion."

Sec. 17. G.S. 105-277.2(4)a. reads as rewritten:

- "a. A natural person. For the purpose of this section, a natural person who is an income beneficiary of a trust that owns land

may elect to treat the person's beneficial share of the land as owned by that person. If the person's beneficial interest is not an identifiable share of land but can be established as a proportional interest in the trust income, the person's beneficial share of land is a percentage of the land owned by the trust that corresponds to the beneficiary's proportional interest in the trust income. For the purpose of this section, a natural person who is a member of a business ~~entity~~ entity, ~~other than a corporation~~, that owns land may elect to treat the person's share of the land as owned by that person. The person's share is a percentage of the land owned by the business entity that corresponds to the person's percentage of ownership in the entity."

Sec. 18. G.S. 105-333 reads as rewritten:

"§ 105-333. Definitions.

~~When used~~ The following definitions apply in this Article unless the context requires a different meaning:

- (1) ~~"Airline company" means a public service~~ Airline company. – A company engaged in the business of transporting passengers and property by aircraft for hire within, into, or from this State.
- (2) ~~"Bus line company" means a public service~~ Bus line company. – A company engaged in the business of transporting passengers and property by motor vehicle for hire over the public highways of this State (but not including a bus line company operating primarily upon the public streets within a single local taxing unit), whether the transportation ~~be is~~ is within, into, or from this State.
- (3) ~~"Distributable system property" means all~~ Distributable system property. – All real property and tangible and intangible personal property owned or used by a railroad company other than nondistributable system property.
- (4) ~~"Electric membership corporation" means a public service~~ Electric membership corporation. – A company ~~which is~~ organized, reorganized, or domesticated under ~~the provisions of~~ Chapter 117 of the General Statutes and ~~which is~~ engaged in the business of supplying electricity for light, heat, or power to consumers in this State.
- (5) ~~"Electric power company" means a public service~~ Electric power company. – A company engaged in the business of supplying electricity for light, heat, or power to consumers in this State.
- (6) Repealed by Session Laws 1973, c. 783, s. 5.
- (7) ~~"Flight equipment" means aircraft~~ Flight equipment. – Aircraft fully equipped for flying and used in any operation within this State.
- (8) ~~"Gas company" means a public service~~ Gas company. – A company engaged in the business of supplying artificial or natural gas to, from, within, or through this State through pipe or tubing for light, heat, or power to consumers in this State.

- (9) ~~"Locally assigned rolling stock" means rolling~~ Locally assigned rolling stock. – Rolling stock that is owned or leased by a motor freight carrier company, specifically assigned to a terminal or other premises, and is regularly used at the premises to which assigned.
- (10) ~~"Motor freight carrier company" means a~~ Motor freight carrier company. – A company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State as provided in this subdivision:
- a. As to interstate carrier companies domiciled in North Carolina, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier outside this State or two or more terminals inside this State. For purposes of appraisal and allocation only, the term also includes a North Carolina interstate carrier that does not have a terminal outside this State but whose operations outside the State are sufficient to require the payment of ad valorem taxes on a portion of the value of the rolling stock of the carrier to taxing units in one or more other states.
 - b. As to interstate carrier companies domiciled outside this State, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier inside this State.
 - c. As to intrastate carrier companies, this term includes only those carriers that are engaged in the transportation of property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State.
- (11) ~~"Nondistributable system property" means the~~ Nondistributable system property. – The following properties owned by a railroad company: ~~Land~~ land other than right-of-way, depots, machine shops, warehouses, office buildings, other structures, and the contents of the structures listed in this subdivision.
- (12) ~~"Nonsystem property" means the~~ Nonsystem property. – The real and tangible personal property owned by a public service company but not used in its public service activities.
- (13) ~~"Pipeline company" means a public service~~ Pipeline company. – A company engaged in the business of transporting natural gas, petroleum products, or other products through pipelines to, from, within, or through this State, or having control of pipelines for such a purpose.
- (14) ~~"Public service company" means~~ Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, and any other company performing a public service that is regulated by the

Interstate Commerce Commission, the Federal Power Commission, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, a radio common carrier company as defined in G.S. 62-119(3), a cable television company, or a radio or television broadcasting company. The term also includes a motor freight carrier company. For purposes of appraisal under this Article, the term also includes a pipeline company whether or not it performs a public service and whether or not it is regulated by one of the regulatory agencies named in this subdivision.

- (15) ~~"Railroad company" means a public service~~ Railroad company. – A company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a passenger service on the lines of any railroad located wholly or partly in this State.
- (16) ~~"Rolling stock" means motor~~ Rolling stock. – Motor vehicles, railroad locomotives, and railroad cars that are propelled by mechanical or electrical power and used upon the highways or, in the case of railroad vehicles, upon tracks.
- (17) ~~"System property" means the~~ System property. – The real property and tangible and intangible personal property used by a public service company in its public service activities. ~~It also means~~ The term also includes public service company property under construction on the day as of which property is assessed which when completed will be used by the owner in its public service activities.
- (18) ~~"Telegraph company" means a public service~~ Telegraph company. – A company engaged in the business of transmitting telegraph messages to, from, within, or through the State.
- (19) ~~"Telephone company" means a public service~~ Telephone company. – A company engaged in the business of transmitting telephone messages and conversations to, from, within, or through this State.
- (20) Repealed by Session Laws 1973, c. 783, s. 5."

Sec. 19. G.S. 58-6-25(d) reads as rewritten:

"(d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

- (1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.
- (2) Money ~~money~~ appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article."

Sec. 20. G.S. 113-44.15(b) reads as rewritten:

"(b) ~~Beginning July 1, 1995, funds~~ Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

- (1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.
- (2) Thirty percent (30%) to provide matching funds to local governmental units on a dollar-for-dollar basis for local park and recreation purposes. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.
- (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

Sec. 21. G.S. 132-1.1(b) reads as rewritten:

"(b) State and Local Tax Information. – Tax information may not be disclosed except as provided in G.S. ~~405-259, 153A-148.1, and 160A-208.1.~~ 105-259. As used in this subsection, 'tax information' has the same meaning as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1."

Sec. 22. (a) The text of G.S. 160B-3 is designated as subsection (a) and G.S. 160B-4(c) is recodified as G.S. 160B-3(b).

(b) G.S. 160B-3, as amended by this section, reads as rewritten:

"§ 160B-3. Authority; ~~purpose of district.~~ purpose; administration.

(a) The governing board may define any number of urban service districts in order to finance, provide or maintain for the districts services, facilities and functions in addition to or to a greater extent than those financed, ~~provided~~ provided, or maintained for the entire consolidated city-county.

(b) The powers, duties, functions, rights, privileges, and immunities of an urban service district shall be exercised or administered by the governing board of the consolidated city-county. Any revenues, ~~distributions~~ distributions, or other funds due an urban service district shall be paid to the governing board of the consolidated city-county."

Sec. 23. (a) Section 4 of Chapter 991 of the 1983 Session Laws reads as rewritten:

"Sec. 4. District Established; Tax Levy. If a majority of the qualified voters voting in an election called under Section 1 of this act vote in favor of creating the Duck Area Beautification District and authorizing the levy and collection of an ad valorem tax in the district, the Dare County Board of Commissioners shall, upon receipt of a certified copy of the election results, adopt a resolution creating the Duck Area Beautification District and shall file a copy of the resolution with the clerk of superior court of Dare County. Upon establishing the Duck Area Beautification District, the Dare County Board of Commissioners may annually levy on behalf of the district an ad valorem tax on all taxable property in the district in an amount the board considers necessary to provide for the installation of underground power lines, not to exceed ten cents (10¢) for each one hundred dollars (\$100.00) taxable valuation of property. The proceeds of this tax shall be used only to provide for the underground installation of power lines in the district."

(b) Section 4 of Chapter 363 of the 1989 Session Laws reads as rewritten:

"Sec. 4. District Established; Tax Levy. If a majority of the qualified voters voting on an election called under Section 1 of this act vote in favor of creating the Outer Banks Beautification District and authorizing the levy and collection of an ad valorem tax in the district, the Dare County Board of Commissioners shall, upon receipt of a certified copy of the election results, adopt a resolution creating the Outer Banks Beautification District and shall file a copy of the resolution with the clerk of superior court of Dare County. Upon establishing the Outer Banks Beautification District, the Dare County Board of Commissioners may annually levy on behalf of the district an ad valorem tax on all taxable property in the district in an amount the board considers necessary to provide for the installation of underground utility lines and facilities, not to exceed five cents (5¢) for each one hundred dollars (\$100.00) taxable valuation of property. The proceeds of this tax shall be used only to provide for the underground installation of utility lines and facilities in the district."

(c) Sections 1 through 5 of Chapter 400 of the 1989 Session Laws are repealed.

(d) Section 4 of Chapter 703 of the 1989 Session Laws reads as rewritten:

"Sec. 4. District Established; Tax Levy. If a majority of the qualified voters voting in an election called under Section 1 of this act vote in favor of creating the Coinjock Canals Area Beautification District and authorizing the levy and collection of an ad valorem tax in the district, the Currituck County Board of Commissioners shall, upon receipt of a certified copy of the election results, adopt a resolution creating the Coinjock Canals Area Beautification District and shall file a copy of the resolution with the clerk of superior court of Currituck County. Upon establishing the Coinjock Canals

Area Beautification District, the Currituck County Board of Commissioners may annually levy on behalf of the district an ad valorem tax on all taxable property in the district in an amount the board considers necessary to provide for the installation of underground utility lines, not to exceed ten cents (10¢) for each one hundred dollars (\$100.00) taxable valuation of property. The proceeds of this tax shall be used only to provide for the underground installation of utility lines in the district."

(e) Section 4 of Chapter 685 of the 1991 Session Laws reads as rewritten:

"Sec. 4. District Established; Tax Levy. If a majority of the qualified voters voting in an election called under Section 1 of this act vote in favor of creating the Poplar Tent Beautification District and authorizing the levy and collection of an ad valorem tax in the district, the Cabarrus County Board of Commissioners shall, upon receipt of a certified copy of the election results, adopt a resolution creating the Poplar Tent Beautification District and shall file a copy of the resolution with the clerk of the superior court of Cabarrus County. Upon establishing the Poplar Tent Beautification District, the Cabarrus County Board of Commissioners may annually levy on behalf of the district an ad valorem tax on all taxable property in the district in an amount the board considers necessary to develop and implement the beautification plan and projects described in Section 1 of this act, that amount not to exceed five cents (5¢) for each one hundred dollars (\$100.00) taxable valuation of property. The proceeds of this tax shall be used only to develop and implement the beautification plan and projects described in Section 1 of this act."

Sec. 24. G.S. 105-330.2(a) reads as rewritten:

"(a) The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be determined as follows:

- (1) For a vehicle registered under the staggered system, the value shall be determined annually as of January 1 preceding the date a new registration is applied for or the current registration expires.
- (2) For a vehicle newly registered under the annual system, the value shall be determined as of January 1 of the year the new registration is obtained. For a vehicle whose registration is renewed under the annual system, the value shall be determined as of January 1 following the date the registration expires. If

If the value of a new motor vehicle cannot be determined as of January 1 preceding the date the new registration is applied for, date specified above, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State. The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) shall be

determined as of January 1 of the year in which the motor vehicle is required to be listed."

Sec. 25. (a) G.S. 96-12 is amended by adding a new subsection to read:

"(g) Income Tax Withholding. – When an individual files a new claim for unemployment compensation, the individual shall be advised in writing at the time of filing that:

- (1) Unemployment compensation is subject to federal and State individual income tax.
- (2) Requirements exist pertaining to estimated tax payments.
- (3) The individual may elect to have federal individual income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in section 3402 of the Code. The term 'Code' has the same meaning as defined in G.S. 105-228.90.
- (4) The individual may elect to have State individual income tax deducted and withheld from the individual's payment of unemployment compensation in an amount determined by the individual.
- (5) The individual may change a previously elected withholding status.

The Commission shall follow the procedures specified by the United States Department of Labor, the Internal Revenue Service, and the Department of Revenue pertaining to the deducting and withholding of individual income tax. The amounts deducted and withheld from unemployment compensation shall remain in the Unemployment Insurance Fund until transferred to the appropriate taxing authority as a payment of income tax. If two or more deductions are made from an individual's unemployment compensation payment, then the deductions will be deducted and withheld in accordance with priorities established by the Commission."

(b) This section becomes effective January 1, 1997, and applies to unemployment compensation payments made on or after that date.

Sec. 26. Except as otherwise provided in this act, this act is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives