

**LEGISLATIVE
RESEARCH COMMISSION**

**REPORT
TO THE
1979**

GENERAL ASSEMBLY OF NORTH CAROLINA



REVENUE LAWS

RALEIGH, NORTH CAROLINA

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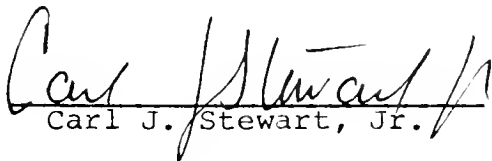


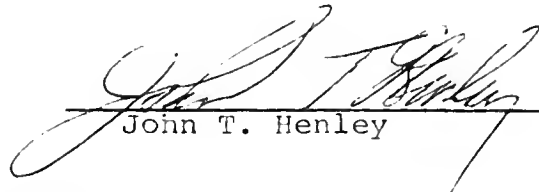
December 21, 1973

TO THE MEMBERS OF THE 1979 GENERAL ASSEMBLY:

Transmitted herewith is the report prepared by the Committee on Revenue Laws of the Legislative Research Commission. The study was conducted pursuant to Senate Joint Resolution 578 (ratified Resolution 85) of the 1977 General Assembly (First Session, 1977) and Adopted Senate Resolution 1029 of the 1977 General Assembly (Second Session, 1978). This report is submitted to the members of the General Assembly for their consideration.

Respectfully submitted,


Carl J. Stewart, Jr.


John T. Henley

Co-Chairmen

LEGISLATIVE RESEARCH COMMISSION

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PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17 (1)).

At the direction of the 1977 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of studies. The Co-Chairmen of the Legislative Research Commission, under the authority of General Statutes 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and of the public to conduct the studies. Co-Chairmen, one from each house of the General Assembly, were designated for each committee.

The study of the Revenue Laws was directed by Senate Joint Resolution 578 (ratified Resolution 85) of the 1977 General Assembly (First Session, 1977). The charge to the Committee in Section 2 of the Resolution is broad and encompasses all areas of

the Revenue Laws. By adopted Senate Resolution 1029 of the 1977 General Assembly (Second Session, 1978), the Committee on Revenue Laws was specifically directed to study income tax relief. Copies of these two Resolutions may be found in Appendix II of this report along with membership lists of the Legislative Research Commission and the Committee on Revenue Laws.

SUMMARY LIST OF RECCMMENDED LEGISLATION

This report contains, beginning on page 3, the findings and recommendations of the Legislative Research Commission's Committee on Revenue Laws. Because the Committee has developed so many legislative proposals, this list of bill titles is provided to assist the reader in determining quickly those subjects with which the Committee has dealt. Following the title of each proposed bill is the page number of this report on which the discussion of that proposal begins. A copy of each proposed bill is contained in Appendix I of this report.

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- Legislative Proposal 11 -- An Act to Repeal G.S. 105-100 Which Imposes a State License Tax on Those Engaged in Selling Patent Rights (p. 7).
- Legislative Proposal 12 -- An Act to Repeal G.S. 105-101 Which Imposes a Tax on Those Requesting Official Seals on Documents; and to Amend Those Provisions Authorizing the Secretary of State to Charge Fees for Producing Copies of Documents (p. 8).
- Legislative Proposal 13 -- An Act to Repeal G.S. 105-47 Which Imposes a State License Tax on Dealers in Horses and Mules (p. 9).
- Legislative Proposal 14 -- An Act to Repeal G.S. 105-71 Which Imposes a State License Tax on Those Who Conduct Newspaper Contests (p. 9).
- Legislative Proposal 15 -- An Act to Amend G.S. 105-37 Which Imposes a License Tax on Movie Theaters (p. 10).
- Legislative Proposal 16 -- An Act to Amend G.S. 105-51 Which Imposes a State License Tax on Those Engaged in Selling Certain Automatic Machines; to Repeal G.S. 105-52 Which Imposes a State License Tax on Those Engaged in Selling

Sewing Machines; and to Include Sewing Machines in G.S. 105-51 (p. 11).

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Legislative Proposal 19 -- An Act to Rewrite G.S. 105-113.84 to Set a Single Rate for the Annual Retail Malt Beverage State License and to Change the Rate for an "Off-Premises" Retail Unfortified Wine License (p. 13).

Legislative Proposal 20 -- An Act to Amend Certain Provisions of the Soft Drink Tax to Clarify Those Provisions and to Make Technical Amendments (p. 14).

Legislative Proposal 21 -- An Act to Provide for an Optional Method for Payment of the Soft Drink Tax by Retail Dealers and to Clarify Eligibility Under G.S. 105-113.56A (p. 15).

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Legislative Proposal 43 -- An Act to Establish the Policy and
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COMMITTEE PROCEEDINGS

Pursuant to Senate Joint Resolution 578 (ratified Resolution 85) of the 1977 General Assembly (First Session, 1977), the Co-Chairmen of the Legislative Research Commission appointed the Committee on Revenue Laws. Senator Cecil Hill was named as Legislative Research Commission member with responsibility for the study, and Senator Marshall Rauch and Representative Robert Farmer were appointed Co-Chairmen of the Committee. Following Mr. Farmer's resignation from the General Assembly, Representative Daniel Lilley was named Co-Chairman. A membership list of the Committee is contained in Appendix II.

On October 26, 1977, an organizational meeting was held attended by Senator Hill, the Co-Chairmen, the Committee staff, the Secretary of Revenue and all of the division directors of the Department of Revenue. Because the charge to the Committee was so broad (see Senate Joint Resolution 578, Appendix II), the Committee was divided into two subcommittees, and various portions of the revenue laws were assigned to each subcommittee. Appendix III contains a list of the subjects assigned to each subcommittee. Twelve committee meetings have been held, in all.

In general, all the recommendations contained in this report were developed in the subcommittees, then discussed and approved by the full Committee. The subcommittees worked very closely with the division directors of the Department of Revenue in each area taken up. Appendix IV contains a list of the persons from the Department of Revenue who worked with the Committee and the

subcommittees. A list of other persons making presentations is also contained in Appendix IV.

One significant matter was deliberated at all stages by the full Committee. Legislative Proposal 43, which is discussed later in this report, was developed upon the suggestion of Mr. James Lore, a member of the Attorney General's Office. Mr. Lore's assistance with that proposal is greatly appreciated.

By Senate Resolution 1029 of the 1977 General Assembly (Second Session, 1978), the Committee on Revenue Laws was directed to study the proposed income tax relief contained in Senate Bill 955 of the 1977 General Assembly. Recommendations on that subject are contained later in this report.

As noted above, the Committee worked closely with the staff of the Department of Revenue in developing the recommendations which make up this report. The Committee wishes to express its appreciation to Mr. Mark Lynch, Secretary of Revenue, Mr. James Senter, Deputy Secretary of Revenue, and the many other persons from the Department of Revenue whose diligent efforts were of such great assistance to the Committee in performing the task with which it was charged.

FINDINGS AND RECOMMENDATIONS

PART I. RECOMMENDATIONS ACCOMPANIED BY LEGISLATIVE PROPOSALS

(All legislative proposals are contained in Appendix I of this report. They are numbered sequentially beginning with Legislative Proposal 1, and each recommendation below refers to the legislative proposal which would implement it.)

The Legislative Research Commission's Committee on Revenue Laws, after a review of all the information and data it has gathered, and for the reasons set forth below, makes the following recommendations:

1. Certain portions of the intoxicating liquors tax should be amended to convert the measurements they contain to the metric system. (Legislative Proposal 1).

Federal legislation has mandated the labelling of containers of some products in metric quantities. Increasingly large proportions of the wine sold in North Carolina are packaged in metric containers. In applying the intoxicating liquors tax to these containers, it is necessary to use a conversion factor which often runs to many decimal places. The calculation is cumbersome and time consuming and lends itself readily to computation errors. Also, the General Assembly has already mandated conversion of the regulatory provisions to the metric system.

Legislative Proposal 1 would amend G.S. 105-113.86 and G.S. 105-113.95 to specify tax rates per liter instead of the existing tax rates per gallon. In order to preserve the tax rates at substantially the current level, it has been necessary to employ rates which are expressed to the nearest one-hundredth of a cent. These calculations will be so much simpler than the conversions currently needed, that this fractional tax rate should cause no difficulty. The tax burden on the taxpayer would be substantially unaltered and, therefore, the revenue generated will not change.

2. The State license tax on shoeshine parlors should be repealed. (Legislative Proposal 2).

G.S. 105-76 imposes a State license tax on shoeshine parlors at the rate of one dollar per chair or stool. During the fiscal year which ended on June 30, 1977, the License Tax Division of the Department of Revenue issued 434 licenses under this section. These licenses generated total revenues of \$619.00. The Committee found that the revenues generated by this tax were insufficient to warrant its retention.

Legislative Proposal 2 would repeal G.S. 105-76.

3. The State license tax on barbershops and beauty parlors should be increased. (Legislative Proposal 3).

G.S. 105-75 imposes a State license tax on barbershops and beauty parlors. For barbershops, the rate is \$2.50 per barber chair. For beauty parlors, the rate is \$2.50 per "barber, manicurist, cosmetologist, beautician, or operator." In fiscal

year 1976-77, 2,205 licenses were issued for barbershops producing \$11,453 in revenue and 8,971 licenses were issued for beauty parlors producing \$42,217.

The Committee found that the very low tax rate levied by this section resulted in revenues which did not exceed the cost of collection of the tax by enough to make collection worthwhile. Legislative Proposal 3 would increase the rate from \$2.50 to \$5.00. The average tax burden on the taxpayer would suffer a one hundred percent increase, but would still be minor in actual dollars.

4. The State license tax on amusement parks should be repealed. (Legislative Proposal 4).

G.S. 105-34 imposes a State license tax on amusement parks. The rate is graduated from \$200.00 to \$800.00 depending on the number of months per year that the park is operated. This license tax is one of a number studied by the Committee which have become obsolete. No licenses were issued and no taxes collected for the year ending June 30, 1977. As this provision is ineffective, the Committee found no reason to retain it. Legislative Proposal 4 would repeal G.S. 105-34.

5. The State license tax on traveling theatrical companies should be repealed. (Legislative Proposal 5).

G.S. 105-35 imposes a State license tax on traveling theatrical companies and other types of amusements. The tax rates vary widely depending on the type of amusement involved. The Committee found this provision to be obsolete with no licenses

issued and no revenues generated in 1976-77. Legislative Proposal 5 would repeal G.S. 105-35.

6. The State license tax on phrenologists should be repealed. (Legislative Proposal 6).

G.S. 105-48 imposes a State license tax on phrenologists. The rate is \$200.00 for each county in which phrenology is practiced. This provision was also found to be obsolete. No licenses were issued under it in 1976-77. The initial purpose for this statute seems to have been regulatory, if not restrictive. The Committee found this to be an inappropriate use of a license tax. Legislative Proposal 6 would repeal G.S. 105-48.

7. The State license tax on cotton compresses should be repealed. (Legislative Proposal 7).

G.S. 105-63 is another obsolete provision. It imposes a State license tax on anyone compressing cotton at a rate of \$300.00 per compress. No taxes were collected in 1976-77 and no licenses were issued under this provision. Legislative Proposal 7 would repeal G.S. 105-63.

8. The State license tax on persons selling certain oils should be repealed. (Legislative Proposal 8).

G.S. 105-72 imposes a State license tax on persons selling certain petroleum products. Anyone who has paid all applicable inspection fees and charges required by the Department of Agriculture is exempted from the license tax. As inspection practices became more uniform and universal, almost no persons were required to pay the license tax. The need to crosscheck

with the Department of Agriculture pushed collection costs above revenues produced by the \$2.50 tax. For these reasons the tax has not been enforced for a number of years. Legislative Proposal 8 would repeal G.S. 105-72.

9. The State license tax on news dealers on trains should be repealed. (Legislative Proposal 9).

G.S. 105-78 imposes a license tax on news dealers on trains. The rate varies from \$250.00 to \$1000.00 depending on the length of the line on which the business is carried on. Railroad companies are exempted and no licenses were issued nor revenues collected in 1976-77. The decline in passenger railways as a major means of transportation has made this provision meaningless. Legislative Proposal 9 would repeal G.S. 105-78.

10. The State process tax should be repealed. (Legislative Proposal 10).

G.S. 105-93 levies a State process tax. Subsection (g) states that the section does not apply in any county in which district court has been established. As district court now exists in all 100 counties in North Carolina, the provision is meaningless. Legislative Proposal 10 would repeal G.S. 105-93.

11. The State license tax on persons selling patent rights should be repealed. (Legislative Proposal 11).

G.S. 105-100 imposes a State license tax on persons engaged in selling patent rights and formulas. The rate is \$10.00 for each county in which such patent rights are offered for sale. As with many of these obsolete license tax provisions, no licenses have

been issued recently. Legislative Proposal 11 would repeal G.S. 105-100.

12. The State tax on official seals should be repealed and the Secretary of State should be authorized to charge reasonable fees for producing copies of documents. (Legislative Proposal 12).

G.S. 105-101 imposes a tax, usually of one dollar, on persons requesting official seals on documents. From the point of view of the Department of Revenue, the tax has not been administered for a number of years. The Office of the Secretary of State reported that one dollar of the copying charges levied for reproducing certified documents was ascribed to this tax and paid into the General Fund. The tax had become nothing but a nuisance for that office and did not truly generate any revenue. The Office of the State Treasurer was also contacted and that office indicated a complete unawareness of the law. The Committee found this provision to be obsolete. Section 1 of Legislative Proposal 12 would repeal G.S. 105-101.

In discussing this matter with the Secretary of State's Office, the Committee was asked to prepare legislation to modernize the statutes authorizing the Secretary of State to charge fees for producing copies of documents, G.S. 147-37 and G.S. 147-38. These sections are over one hundred years old; they are cumbersome and difficult to administer. As the tax on seals provided for in G.S. 105-101 had been treated as part of the copying fee, the Committee felt justified in drafting legislation to amend the copying provisions. Sections 2 and 3 of Legislative Proposal 12 repeal the existing provisions and, in their place,

authorize the Secretary of State to charge reasonable fees for copying documents on file in his office.

13. The State license tax on dealers in horses and mules should be repealed. (Legislative Proposal 13).

G.S. 105-47 imposes a State license tax on dealers in horses and mules. The rate varies depending on the number of carloads of horses or mules purchased for resale from \$25.00 to \$100.00. In addition, transient vendors must pay a tax of \$300.00. In 1976-77, there were 36 licenses issued under this section generating revenues of just over \$1100.00. The Committee found that at one time this provision provided a meaningful registration and regulation mechanism for the State. Broader livestock marketing laws administered by the Department of Agriculture have made the statute unnecessary for those purposes. As the small amount of revenue generated does not warrant retention of the requirement, Legislative Proposal 13 was prepared repealing G.S. 105-47.

14. The State license tax on newspaper contests should be repealed. (Legislative Proposal 14).

G.S. 105-71 imposes a State license tax on persons conducting contests for prizes which require the participants to solicit subscriptions to newspapers, magazines, or other periodicals. As with several other obsolete provisions, the main thrust of this section appears to have been regulatory. The rate is rather high, \$50.00 for each contest for periodicals produced no more frequently than twice per week and \$200.00 per contest for daily

periodicals. In 1976-77, no licenses were issued under this section and no revenue was collected. Legislative Proposal 14 would repeal G.S. 105-71.

15. The State license tax on movie theaters should be made more equitable. (Legislative Proposal 15).

G.S. 105-37 imposes a State license tax on movie theaters or halls where vaudeville shows are performed. The primary application is to movie theaters. The tax rate is graduated according to the population of the town or city and the seating capacity of the theater. Subsections (b) and (c) of G.S. 105-37 provide for a reduction to one-third the normal rate for theaters located away from the centers of towns. At one time, the suburban, or neighborhood theater produced far less revenue than the more popular downtown theaters. The situation has drastically changed. Many downtown theaters have gone out of business and many others are struggling to remain open. The Committee found that the reduced tax rate for suburban theaters is no longer justified. Representatives of some of the largest theater chains in the State were contacted and, although doing away with the reduced rate would increase their taxes, each admitted that the reduced rate was no longer equitable.

Section 2 of Legislative Proposal 15 would repeal subsections (b) and (c) of G.S. 105-37 thus making the general rate applicable to all movie theaters. The Committee felt that the changes needed in this statute were equitable in nature and that there was no reason to attempt to generate more tax revenue. The table of rates has therefore been adjusted in Section 1 of

Legislative Proposal 15. Approximately the same tax revenue will be generated under the new table as under the current law, but the reduction in rates should help the new burden being placed on neighborhood theaters by repealing the one-third rate currently applicable to them.

16. The State license taxes on automatic machines should be made more modern and more equitable. (Legislative Proposal 16).

G.S. 105-51 imposes a State license tax on persons selling certain automatic machines. G.S. 105-52 imposes a State license tax on persons selling sewing machines. The section dealing with sewing machines is rather complex and contains a provision allowing the dealers to pay a \$10.00 tax if the distributor has paid a \$100.00 license tax. If the distributor has not paid the \$100.00 tax, then the rate for the dealer is \$100.00.

The Committee found it inequitable to base the rates paid by one group of taxpayers on the actions of another group. Also, no sound reason appeared for treating sewing machines differently from other automatic machines. It was determined, therefore, to recommend the repeal of G.S. 105-52, and the inclusion of sewing machines in G.S. 105-51. Section 1 of Legislative Proposal 16 would repeal G.S. 105-52.

The Committee also found G.S. 105-51 to contain some outmoded terms. It refers, for example, to "kelvinators" and "frigidaire." The Committee also found little rationale behind the inclusion of some items and the exclusion of similar ones. Section 2 of Legislative Proposal 16 contains a proposed revision of G.S. 105-51. The tax would apply to persons selling three

categories of items: 1) office machines, 2) home appliances (including sewing machines), and 3) burglar alarms and protective devices. The \$10.00 rate would remain unchanged.

17. Operators of flea markets should pay the State license tax for itinerant salesmen or merchants selling items at the flea market. (Legislative Proposal 17).

G.S. 105-53 imposes a State license tax on peddlers. Subsection (d) places a tax of \$100.00 on itinerant merchants or salesmen. The Department of Revenue reported that this provision had created something of a problem with the flea markets that have become so popular in North Carolina. Many of the individuals who sell crafts at flea markets fit the definition of itinerant salesmen or merchants, yet to impose the \$100.00 tax on each of them would seriously hamper participation in flea markets. The section has been interpreted to allow payment of one tax by the operator of the flea market to cover all the itinerant merchants who participate.

The Committee found this approach to be most beneficial. In some instances, however, the operator of the flea market, already having gotten commitments from the participants, refuses to pay the tax. Legislative Proposal 17 would add a new paragraph to G.S. 105-53(d) requiring the operator of a flea market to pay for a single \$100.00 license which would cover all itinerant merchants or salesmen participating in the flea market.

18. The State license tax on gypsies should be repealed. (Legislative Proposal 18).

G.S. 105-58(a) imposes a State license tax on companies of gypsies which trade horses, mules, or other things of value. The tax is \$500.00 for each county in which such trade is undertaken. The Committee found this provision to be discriminatory and with no valid public purpose to support it. Legislative Proposal 18 would repeal G.S. 105-58(a).

19. The State license for retail sales of malt beverages should be at a flat rate and the cost of a license for the "off-premises" retail sale of unfortified wine should be changed to \$10.00. (Legislative Proposal 19).

G.S. 105-113.84 imposes an annual State license for the retail sale of malt beverages. The rate for this license is \$5.00 for the first and an additional fifty cents for each additional license. For example, the second license is \$5.50, the third is \$6.00, the fourth \$6.50, etc. Grocery store chains which have a large number of outlets may pay over \$50.00 for a license. The increasing rates make the tax very difficult for the Department of Revenue to administer. A slightly larger amount of revenue would be generated with less administrative difficulty for the Department and the taxpayer if a flat rate of \$10.00 per license were imposed. Section 1 of Legislative Proposal 19 would accomplish this change.

The Committee also found that the license for "off-premise" sales of unfortified wine should reasonably be the same as for malt beverages. Section 2 of Legislative Proposal 19 would change the rate contained in G.S. 105-113.83 from \$5.00 to \$10.00.

20. Technical amendments should be made in the soft drink license tax to clarify the provisions which impose liability. (Legislative Proposal 20).

Article 2B of Chapter 105 of the General Statutes contains the Soft Drink Tax Act. Because of some discounts available to persons liable for the tax, this tax creates the unusual situation of taxpayers desiring to be held liable for payment of the tax. The situation is made confusing because two different sections contain language which could be construed as determining liability for the tax: G.S. 105-113.43 and G.S. 105-113.51 (b). Section 1 of Legislative Proposal 20 would rewrite G.S. 105-113.43 to make it clear that the section which determines liability is G.S. 105-113.51 (b). This change would not result in any substantive changes in the law as interpreted and administered by the Department of Revenue. Hopefully, however, it would make it easier for the taxpayer to understand how this tax applies to him and his business.

Section 2 of Legislative Proposal 20 affects one of the definitions contained in G.S. 105-113.44. That section contains a definition of both "bottled" and "bottled soft drink." As "bottled" is already defined, the proposed amendment would change the definition of "bottled soft drink" to a definition of "soft drink." No substantive affect on the law would be made.

One other "house-keeping" type of amendment is contained in Legislative Proposal 20. G.S. 105-113.51 (a) requires a tax stamp or crown to be affixed to any bottled soft drink within 24 hours of its manufacture or receipt in North Carolina. Because there

are other methods available to the taxpayer for paying this tax, the Committee recommends adding the following language to the end of the sentence requiring stamps or crowns: "unless the tax has been or will be paid according to some other method available under the provisions of this Article." Section 3 of Legislative Proposal 20 would accomplish this change.

21. An optional method of paying the soft drink tax should be made available to retail dealers. (Legislative Proposal 21).

The basic method of paying the soft drink tax on bottled soft drinks is with the purchase of tax stamps or crowns. Wholesale dealers and distributors liable for the tax are permitted under G.S. 105-113.56A to report sales monthly and remit the tax with the report. The section also provides a substantial discount. Under G.S. 105-113.56B, wholesale dealers and distributors in products other than bottled soft drinks, subject to the tax (such as base products, powders, syrups, etc.) are permitted to pay the tax through the reporting method. No discount is available, but there is a significant savings in time and effort. Currently, retailers liable for the tax on any of the items taxable under the Soft Drink Tax Act are not able to use the reporting method of paying the tax.

Section 1 of Legislative Proposal 21 would create a new G.S. 105-113.56C which would give retailers an optional method of paying the tax. No discount is allowed so revenues will be unaffected. The provision should, however, be of great convenience to taxpayers.

Section 2 of Legislative Proposal 21 would add a clarifying amendment to G.S. 105-113.56A which states that only persons liable for the tax could use the alternate method of payment with its accompanying reduction in rates.

22. A mechanism should be created to enable the Department of Revenue to collect from a retailer the tax on soft drinks which he purchases without the tax having been paid on them. (Legislative Proposal 22).

Occasionally the Department of Revenue will become aware of a retailer who has come into possession of soft drinks which have not had the tax on them paid. This could happen if a distributor went out of business and liquidated all of his assets. As the retailer is normally not liable for the tax, the Department has no mechanism for requiring him to pay it in such a situation. Legislative Proposal 22 would add a new paragraph at the end of G.S. 105-113.60 making the retail dealer liable for the soft drink tax on any taxable items which come into his possession without the tax having been paid.

23. A sundries license tax should be created to reduce the number of licenses which the Department of Revenue must issue and some taxpayers must obtain. (Legislative Proposal 23).

Figures compiled by the Department of Revenue show that 49% of the licenses issued by the Department are pursuant to four provisions: G.S. 105-62(b) (prepared sandwiches); G.S. 105-65.1(b)(3) (vending machines); G.S. 105-79 (soft drinks); and G.S. 105-84 (tobacco products). Although these four provisions

account for nearly one-half of all licenses issued, they generate (according to figures compiled for 1976-77) only 8.8% of the total revenue from all license taxes. Clearly, the revenues being generated are largely offset by the collection costs involved. The Committee's recommendation (Legislative Proposal 23) would combine all four provisions into one sundries license in a new section: G.S. 105-65.2. The sundries license would cost \$16.00. At this rate, slightly more revenue will be generated than under current law. Although most of the individual licenses now required cost less than the new rate, many businesses are required to get numerous licenses. The simplicity inherent in the new approach should offset any taxpayer dissatisfaction with the increased rate.

24. The definition of "sales price" for sales tax purposes should be made more equitable with respect to certain construction or performance-type contracts. (Legislative Proposal 24).

G.S. 105-164.3(16) defines "sales price" for purposes of the North Carolina Sales and Use Tax. In one narrow situation, this definition results in an inequity. Where a contractor in performance of a construction or performance-type contract installs or applies tangible personal property, the sales price of the property is its cost to the contractor. Likewise, if a manufacturer makes an item such as a module for part of a building, and the item is manufactured for purposes of the contract and then installed or applied by the manufacturer, the sales price is still deemed to be the cost to the manufacturer of

the tangible personal property. However, if a manufacturer makes the identical module which he places in inventory for purposes of sale, then removes it from inventory and uses it in performance of a contract, the sales price is the fair market value. This will be a much higher value requiring the payment of more tax.

The Committee found this to be an inequitable situation. Legislative Proposal 24 would rewrite one sentence of G.S. 105-164.3(16) to make the sales price the cost of the property in all such situations.

25. The liability of an automobile dealer to pay the sales tax on a vehicle he sells even if he fails to collect it from the purchaser should be clarified. (Legislative Proposal 25).

The sales tax on an automobile is paid by the purchaser to the dealer who remits the tax to the Department of Revenue. This approach is applicable to the sales and use tax in general. In terms of collection by the Department, the automobile dealer is the party liable for payment of the tax. Some of the language contained in G.S. 105-164.4(1) could be interpreted to say that the automobile dealer is not liable for payment of the tax unless he collects it from the purchaser. Also, G.S. 105-164.4(1) contains some matters which should be more appropriately placed elsewhere in the Article. Legislative Proposal 25 accomplishes these changes.

Section 2 of Legislative Proposal 25 moves the definition of motor vehicle to G.S. 105-164.3, the definition section. Sections 1 and 3 declare that the separate sale of a motor vehicle chassis and body constitute a single sale for purposes of

the maximum sales tax (G.S. 105-164.4) and the use tax (G.S. 105-164.6) respectively. Finally, Section 4 of Legislative Proposal 25 clarifies the liability of the dealer to pay the tax even when not collected from the purchaser. None of these clarifying or technical changes will affect the law as currently administered by the Department, but they should make it easier for the taxpayer to understand.

26. The exemption of rent from the sales tax for resort dwellings occupied by the owner for part of the season should be clarified. (Legislative Proposal 26).

The rents from resort property are subject to the sales tax. If the taxpayer owns a single family dwelling which he occupies for a portion of the resort season, the rent from that dwelling is excluded from the sales tax. An ambiguity has arisen where a taxpayer owns several single family dwellings and occupies each of them for a portion of the season. The Department of Revenue has determined that the taxpayer may exclude from the tax the rent from any one, but only one, of the dwellings. Legislative Proposal 26 would place this interpretation into the statutory law by amending G.S. 105-164.4(3).

27. The merchants' registration fee for sales and use tax purposes should be raised to \$5.00 and a new registration certificate should be required when the taxpayer is out of business for an extended period of time and re-enters business. (Legislative Proposal 27).

A \$1.00 license fee must be paid by every person engaged in a

business subject to the sales and use tax. Currently, this license continues indefinitely, even if the taxpayer goes out of business and returns to business several years later. The filing burden placed on the Department of Revenue by this permanent registration is tremendous. The Committee found that the \$1.00 fee was insufficient to cover the necessary administrative costs required by creating a file and keeping it open indefinitely. Two changes are recommended. First, the fee for registration should be increased to \$5.00 to more adequately cover the administrative work required. Second, the license should become invalid if the taxpayer goes out of business for a period of five years or more. This latter change would enable the Department to close inactive files. Legislative Proposal 27 would accomplish these changes through amendments to G.S. 105-164.4 and G.S. 105-164.6.

28. The language exempting products of farms, forests and mines from the sales tax when sold in their original state should be amended to indicate a restriction added by the courts. (Legislative Proposal 28).

G.S. 105-164.13 contains those categories of items exempted from the sales and use tax. Subsection (3) lists as exempted the category of: "[p]roducts of farms, forests, and mines when such sales are made by the producer in their original or unmanufactured state." Three basic requirements are set forth in this subsection: 1) the product must be of a farm, forest or mine, 2) the product must be in its original or unmanufactured state, and 3) the sale must be made by the producer.

A North Carolina Supreme Court decision, Henderson v. Gill, 22 N.C. 313, has added a fourth requirement: the sale must be by the producer in his capacity of producer. This fourth requirement means that if a farmer also owns a grocery store where he sells general grocery items other than products of his farm, then the farm products he sells there are not exempt from the tax. He has not sold them in his capacity as a producer.

The Committee found that it would be useful to have the statute reflect the interpretation of the court in order to put the taxpayer on notice of this fourth requirement. Section 1 of Legislative Proposal 28 makes it clear that the sale must be made by the producer in the capacity of producer.

G.S. 105-164.13 contains a similar exemption for products of the waters when sold by the producer or fisherman. Because the language tracks that of the exemption for products of farms, forests, or mines, the Committee found that a court would probably interpret that exemption like the first. Therefore, Section 2 of Legislative Proposal 28 rewrites the exemption for products of the waters to track the rewrite of the exemption for products of farms, forests, and mines.

29. The provision allowing refunds to counties for sales tax paid for certain building materials should be clarified. (Legislative Proposal 29).

G.S. 105-164.14 authorizes refunds to certain categories of taxpayers for sales and use taxes paid by those taxpayers. In the subsection authorizing refunds to counties (subsection (c)), refunds are authorized for taxes paid on "building materials,

supplies, fixtures and equipment which shall become a part of or annexed to any building or structure being erected, altered or repaired for such counties . . ." This provision has been administered to mean that the building must be owned or leased by the county itself. Legislative Proposal 29 would clarify the language on that point.

30. Persons paying less than \$25.00 sales tax per month should be permitted to report on a quarterly basis. (Legislative Proposal 30).

G.S. 105-164.16 requires monthly reports and payments of sales and use taxes. It permits, however, quarterly reports and payments by taxpayers who consistently remit less than \$5.00 per month. By increasing this threshold amount to \$25.00 per month, both the Department of Revenue and the taxpayers will be saved time and effort. Legislative Proposal 30 would change the minimum amount for monthly reports from \$5.00 to \$25.00.

31. The Department of Revenue should have a mechanism for requiring local units of government to provide information necessary for distribution of sales tax revenues. (Legislative Proposal 31).

Sales tax revenues are distributed to counties and cities on one of two bases: either according to population or ad valorem tax levy. When the ad valorem tax levy is used, the Department of Revenue must depend on the county and cities in the county to provide information on the levy. Occasionally, one governmental unit will delay distribution to all the other involved by failing

to provide the necessary information. Legislative Proposal 31 would permit the Secretary of Revenue to exclude a governmental unit from any quarterly distribution for which the necessary information has not been provided in a timely manner. Similar authority is given the Secretary with respect to the intangibles tax.

32. The Secretary of Revenue should be empowered to authorize temporary emergency operation of vehicles without registration under Article 36B of Chapter 105 of the General Statutes for more than 10 days. (Legislative Proposal 32).

Article 36B of G.S. Chapter 105 is entitled "Tax on Carriers Using Fuel Purchased outside State." The Article requires carriers to obtain from the Secretary of Revenue a registration card and a vehicle identification marker. G.S. 105-449.49 allows the Secretary to authorize emergency operation, for not more than 10 days, of vehicles which have not received registration cards and identification markers. The staff of the Department of Revenue has pointed out that the 10-day limitation sometimes works a hardship on a carrier and that a 20-day limit would preserve the intent of the Article which relieving the taxpayer of an undue burden.

Legislative Proposal 32 would amend G.S. 105-449.49 by changing the maximum period from 10 days to 20 days for temporary emergency operation of a vehicle without a registration card or identification marker.

33. Diesel powered pick-up trucks and other light vehicles

should be excluded from the reporting requirements of the special fuels tax. (Legislative Proposal 33).

Under the special fuels tax, every person who owns or operates a diesel powered vehicle and who does not maintain storage facilities for such vehicle is a "user." These persons are not liable for payment of the special fuels tax, but must report all their purchases of diesel fuel. These reports assist the Department of Revenue in making sure that suppliers pay the appropriate amount of tax. Currently, private passenger vehicles are exempted from the reporting requirement.

Over the last few years, an increasing number of diesel powered pick-up trucks, vans, and other light vehicles have come into more common use. For purposes of the special fuels tax, no sound reason exists for requiring the operators of such vehicles to report their small fuel purchases. The Committee recommends that owners and operators of any vehicles weighing less than 6,000 pounds be excluded from the definition of "users" under the special fuels tax.

Legislative Proposal 33 would accomplish this change.

34. All gifts made within three years of the donor's death should be included in the decedent's gross estate for inheritance tax purposes. (Legislative Proposal 34).

Article 1 of Chapter 105 of the General Statutes contains the State Inheritance Tax laws. Current law (G.S. 105-2(3)) provides that certain gifts made within three years prior to the death of the grantor are presumed, subject to rebuttal, to have been made in contemplation of death and hence subject to inheritance taxes.

The Committee proposes to remove the rebuttable presumption facet of this law and substitute language that will automatically include certain transfers of property in the decedent's estate if made during the three year period preceding the death of the decedent. This change will cause the North Carolina Inheritance Tax Law and the Federal Estate Tax Law to be parallel in this area.

35. The deduction for grave monuments under the inheritance tax law should be adjusted for economic inflation. (Legislative Proposal 35).

Under North Carolina's Inheritance Tax Law (G.S. 105-9(6)), a deduction of up to \$1,000.00 is allowed for grave monuments. To make adjustment for inflation and to bring North Carolina law into alignment with Federal Estate Tax Law, the Committee proposes that the \$1,000.00 limitation be removed and "a reasonable amount" be substituted for it.

36. The deduction for funeral and burial expenses should be adjusted for economic inflation. (Legislative Proposal 36).

Present North Carolina Inheritance Tax Law (G.S. 105-9(3)) provides a deduction not to exceed the smaller of \$500.00 or 2% of the amount of the decedent's gross estate for the care and preservation of the burial lot and structures in the area where decedent is buried. To compensate for inflationary trends in the marketplace and to bring North Carolina Inheritance Tax Law into alignment with the Federal Estate Tax Law, the Committee proposes that "reasonable funeral and burial expenses" be allowed as a

deduction without the former limitation.

37. A technical amendment to allow the surviving spouse of the decedent to elect to take the dependent's inheritance tax exemptions if the spouse receives seventy-five percent or more of the decedent's property should be provided. (Legislative Proposal 37).

Present North Carolina Inheritance Tax Law (G.S. 105-4(b)) provides that where the surviving spouse of the decedent receives "all or substantially all" of the decedent's property then such surviving spouse shall be allowed to take the exemptions of minor children. The Committee proposes to remove any ambiguity from what "substantially all" means by substituting "seventy-five percent or more of" the decedent's property in its place.

38. The period of time during which an inheritance tax credit is allowed because of recurring taxes on the same property, or its equivalent value should be altered. (Legislative Proposal 38).

North Carolina Inheritance Tax Law (G.S. 105-14) allows a tax credit for Class A and Class B transferees on property which has been taxed because of the death of a person within the preceding two years. To clarify the present law as written and to partially bring North Carolina Inheritance Tax Law into alignment with the Federal Estate Tax Law, the Committee proposes the following changes:

- (a) that the present group of eligible transferees be expanded to include Class C

beneficiaries.

(b) that the "preceding two year period" be changed to three years which would give the credit on the following declining balance basis:

<u>Number of Years</u>	<u>Percent of Credit Allowable</u>
1	100%
2	50%
3	25%
3 or more	0%

(c) that the personal representative no longer be required to "trace" the property previously taxed into the estate of the decedent, but may assume as Federal Estate Tax Law allows, that such property is in the estate of the decedent.

39. The Secretary of Revenue should be able to grant an extension of time for the payment of North Carolina inheritance taxes for reasonable cause shown. (Legislative Proposal 39).

Current North Carolina Inheritance Tax Law (G.S. 105-16) provides that the time for payment and collection of inheritance taxes may be extended by the Secretary of Revenue for "good reasons shown." The Committee proposes that this language should be changed to give the Secretary authority in hardship situations to extend the non-payment period from the time the tax is determined for "reasonable cause" shown. t9|

40. The threshold estate value below which no inheritance tax return filing is required should be increased. (Legislative Proposal 40).

Present North Carolina Inheritance Tax Law (G.S. 105-23) provides that an Inheritance Tax Return does not have to be filed when the value of the gross estate is less than \$2,000.00 and the beneficiaries are husband or wife or children or grandchildren, or parent or parents of the decedent. The Committee proposes to increase this threshold amount to \$20,000.00 and to include all of the beneficiaries who belong to the Class (A) as defined in G.S. 105-4(a). This proposal is intended to remove the burden of filing an inheritance tax return for small estates and at the same time to decrease the amount of administrative workload on the Department of Revenue where these small estates produced very little revenue relatively speaking. According to rough estimates provided by the Department of Revenue, this proposal would eliminate nearly twenty-five percent of the roughly twenty-five thousand Inheritance Tax Returns being filed yearly and the cost to the State would be roughly one hundred and seventy thousand dollars. A clarifying amendment is added to G.S. 28A-21-2(a) to reduce any problems associated with the "clouding" of titles relative to property passing through small estates where no inheritance tax return is required to be filed.

41. A technical amendment to exempt the proceeds of certain annuities taxation under the North Carolina inheritance tax laws should be provided. (Legislative Proposal 41).

Present North Carolina Inheritance Tax Law (G.S. 105-3(5)) does not exempt the proceeds from annuities issued by Teachers Insurance and Annuities Association of America (TIAA) and by the College Retirement Equities Fund (CREF). Apparently an amendment to G.S. 105-3(5) in 1977 which was intended to cause North Carolina to conform with certain changes made in the federal statutes inadvertently deleted the prior State law exemption accorded TIAA and CREF plans. As a result of an Attorney General's opinion pointing out this state of the law, the Committee proposes to add a technical amendment to G.S. 105-3(5) to re-include the proceeds from these and other types of annuities.

42. The inheritance tax laws should be revised to provide for the substitution of tax credits for tax exemptions, to change the tax treatment of tenancies by the entirety, and to make other changes to the inheritance and gift tax laws. (Legislative Proposal 42).

The Committee investigated the possibility of changing North Carolina's present inheritance tax law structure and adopting an estate tax in its place. An estate tax is a tax on the transfer of the gross amount of the decedent's estate regardless of who receives it. On the other hand, North Carolina has traditionally used an inheritance tax. The inheritance tax principle maintains that the transfer bequest to each beneficiary should be taxed according to the relationship of the beneficiary to the decedent and according to the amount of property received. Basically, this principle rests on the idea that capital or property does

not belong to the decedent alone, but is in fact, family property.

Although, the State would enjoy an increased ease of administration and simplification in filing of tax returns if an estate tax were adopted (to parallel the federal estate tax law), the Committee determined that the tax credit and marital deduction features of the current federal estate tax law would dramatically reduce the number of taxable estates in North Carolina. The Committee found that in order to avoid the resultant loss of revenue, taxable estates would have to be taxed at a much higher rate. For example, South Carolina, which has imposed an estate tax on the adjusted gross estate (effectively their State law is "tied" to the federal law), is now confronted with the necessity of major changes in its State law because of the expected loss of revenue caused by recent federal law changes. Accordingly, the Committee determined that North Carolina should retain its present inheritance tax law with certain modifications which are designed to improve and streamline its administration.

The most prominent areas of change suggested by the Committee in the present inheritance tax laws are as follows: (1) that the basic federal approach relating to the tax consequences of creating a tenancy by the entirety in real property be adopted. (2) that the life insurance inheritance tax exemption be expanded as a general tax credit. (This recommendation does not cover policy proceeds that have been paid for by the United States Government for war veterans or policy proceeds that result

from the death of a serviceman from enemy action presently provided in North Carolina by law.) (3) that a tax credit of \$3,150.00 (equivalent to a \$100,000.00 exemption/present law is \$20,000.00) be provided to the surviving spouse; that a tax credit of \$100.00 (equivalent to a \$10,000.00 exemption/present law is \$5,000.00) be provided to minor and incapacitated children of the decedent; and that a tax credit of \$10.00 (equivalent to a \$5,000.00 exemption/present law is \$2,000.00) be provided to all other Class A beneficiaries.

North Carolina law presently provides that where real property is held by husband and wife as tenants by the entirety, the surviving tenant is taxed on only one-half of the value of the property at the decedent's death. The Committee proposed that the State law be changed to parallel the federal treatment of entirety property. Basically that approach measures the amount of property transferred from the decedent to the surviving spouse by determining the relative contribution of the spouse's toward the purchase or improvement of the property. The Committee proposed also, that a spouse, prior to his death, may elect to treat the creation of a tenancy by the entirety as a gift and thereby enjoy the more favorable gift tax rates (as opposed to the higher inheritance tax rates upon the spouse's death). In order to minimize revenue losses caused by the basic changes, the Committee determined that the gift election should be made retroactive back to July 1, 1969 (federal and State constitutional provisions apparently prohibit making this provision retroactive beyond July 1, 1969). Tenancies by the

entirety created before July 1, 1969, would be subject to the present rule which provides that one-half of the property is taxed to the surviving spouse and the balance passes tax-free.

Present law provides a \$20,000.00 exemption for the proceeds of life insurance policies made payable to Class A beneficiaries. Up to \$2,000.00 is provided to Class B and Class C beneficiaries as a life insurance exemption assuming that the \$20,000.00 exemption is not used for Class A beneficiaries. The Committee proposed to expand the present exemption as mentioned in Item (2) above so that a general tax credit which includes all types of property would be available for Class A beneficiaries as mentioned in Item (3) above.

43. The State should establish a policy and procedure for claimant State agencies to collect money owed them through the use of a set-off procedure against proposed income tax refunds held by the Department of Revenue. (Legislative Proposal 43).

The Committee working with the Attorney General's Office adopted a bill which would allow any State agency to collect its debts by having the North Carolina Department of Revenue withhold a debtor's State income tax refund, to which the taxpayer would otherwise be entitled, and apply the refund to a debt to a claimant State agency. The major benefits of the procedure are twofold:

(1) It enables State agencies to collect relatively small debts that cannot be collect cost-effectively through formal law suits; and (2) it enables collection of debts that as a practical matter are otherwise uncollectable.

The North Carolina Department of Revenue presently engages in the practice of using the legal remedy of common law "recouplement" or "set-off" to hold State income tax refund checks for application against debts created through a prior non-payment of taxes to the State. There is apparently no statutory basis under North Carolina law for this practice. This remedy is presently used exclusively for the debts so created for past taxes unpaid and not for the satisfaction of debts outstanding to the State that were created through other State agencies.

In simplified terms, the method by which the Department of Revenue presently accomplishes this collection procedure (without statutory authority, but with common law authority) is to circulate a notice of a proposed refund for State tax overpayment through the divisions within its own Department. Each division checks to determine whether the refundee has an outstanding obligation to the State for a particular type of unpaid tax. If a division determines that there are taxes unpaid, this amount is deducted against the outstanding account and the Treasurer's Office issues a check for any remaining balance owed to the taxpayer. The Committee determined that this internal process used by the Department of Revenue should be codified into statutory law and be made available to other State agencies in addition to the Department of Revenue. These other State agencies have numerous debts accruing in their favor for varying sums. These agencies could frequently avail themselves of the use of the collection procedure established under this legislative proposal. The Committee received information from

the Fiscal Research Division showing that the first year's collections under this procedure could range from \$225,000 to \$1,250,000. As State agencies become more accustomed to using this proposed procedure, net collections are projected to increase dramatically. For example, the State of Oregon, which is the only State which the Committee discovered using a similar procedure, collected 1.6 million dollars in 1976. Because North Carolina's population is roughly two and one-half times that of Oregon's, it is projected that North Carolina will collect more than Oregon once the procedure is smoothly incorporated into the operation of State government agencies.

The Committee determined that the cost of implementation of the bill would be initially fifteen percent of the gross collections. (If the experience of the State of Oregon is analogous, the cost will decrease slightly in the future.) Until collections are forthcoming, which will in turn make the procedure self-sufficient, the Committee has recommended in this legislative proposal a special appropriation to the Department of Revenue of \$60,000 per year for the first two years of operation to cover the initial start up cost.

Some major examples of State agencies which could use this program to collect otherwise uncollectable bad debts would be:

(1) Child Support Enforcement Program of the Division of Social Services of the Department of Human Resources (To collect from absent parents responsible for child support money which goes to reimburse the State for past public welfare payments made to a responsible parent's children);

(2) North Carolina Memorial Hospital of the University of North Carolina (To collect delinquent hospital bills owed to a State hospital);

(3) State Education Assistance Authority of the University of North Carolina (To collect delinquent State-insured student educational loans which the State has paid off);

(4) State Board of Education Scholarship Loan Fund (To collect delinquent State-insured student educational loans which the State has paid off);

(5) Medical Education Student Loan Program (To collect delinquent State-insured student educational loans which the State has paid off);

(6) Department of Transportation (To collect for damaged highway signs, bridges, etc.); and

(7) Any other State agency to which taxpayers would accrue debts and subsequently not pay those debts.

44. The Legislative Research Commission should continue its study of the Revenue Laws. (Legislative Proposal 44).

Even by dividing into subcommittees, the Committee on Revenue Laws was unable to review all areas of the revenue laws during the interim periods between the 1977 and 1979 Sessions of the General Assembly. A great deal of work remains to be done. Within some of the areas discussed, questions were raised which would have required a great deal of time to explore. The Committee was forced in some of these instances to do no more than take notice of a subject that warranted future deliberation.

The Committee recommends that the Legislative Research Commission be directed to continue its study of the Revenue Laws.

Several other factors would seem to make continuation of this study advisable in addition to the need to complete an initial review of all areas of the revenue laws. During the interim period since the 1977 General Assembly, First Session 1977, the Committee on Revenue Laws has provided an excellent forum to which both taxpayers and State officials could bring problems and questions for review. Further, the broad scope of the study permits reconciling recommendations on a variety of different taxes. Frequently, several different studies have made recommendations on individual taxes which would not have been technically compatible if enacted by the General Assembly. This situation can be avoided when a single organization undertakes to study all the various taxes. Finally, the continuous changing of federal tax laws makes constant review of related State laws a necessity.

Legislative Proposal 44 would direct the Legislative Research Commission to continue its study of the revenue laws.

45. The Tax Study Commission should be abolished.
(Legislative Proposal 45).

Chapter 1219 of the 1971 Session Laws established the Tax Study Commission. The provisions dealing with this group have been codified in Article 51A of Chapter 143 of the General Statutes. The Tax Study Commission has been inactive for a number of years. It last received funds from the Contingency and Emergency Fund near the end of the 1973-74 fiscal year. Having recommended

continuing the study of the revenue laws under the Legislative Research Commission, the Committee feels that the work of the Tax Study Commission, were it to become active again, would result in a duplication of effort and a waste of State funds. The Committee recommends that the Tax Study Commission be abolished.

Legislative Proposal 44 would repeal Article 51A of Chapter 143 of the General Statutes.

Part II.

Recommendations Not Accompanied By
Legislative Proposals

46. The exemptions and standard deduction of the North Carolina individual income tax should be increased to give tax relief to the citizens of North Carolina.

Senate Resolution 1029 of the 1977 General Assembly of Second Session 1978, directed the Committee on Revenue Laws to consider the proposal for tax relief contained in Senate Bill 955 of the 1977 General Assembly, Second Session 1978. S.B. 955 would have expanded by fifty percent each of the brackets of the individual income tax. The Committee supports the intent expressed in S.B. 955 to assist the taxpayers of North Carolina in combatting inflation.

The Committee reviewed a variety of proposals for granting tax relief. The determination to recommend increases in the exemptions and standard deduction was reached for several reasons. These items have been among the most static aspects of the personal income tax. The personal exemptions of \$2,000 and \$1,000 have been in effect since 1921; the standard deduction has been unchanged since its inception in 1953. In the face of soaring inflation, these elements of the income tax have dwindled in significance. The recommendation also has the advantage of granting some relief to every taxpayer. Because inflation affects everyone, the Committee felt that it was important to recommend broad-based relief. Recognizing, however, that the

middle and lower income families have been most severely disadvantaged by increasing costs, the Committee has tailored their recommendation to afford proportionately more relief to these families. This was accomplished by recommending no change in the tax brackets. The result of increasing the standard deduction and exemptions but leaving the brackets unchanged will be to reduce every taxpayers' taxes, but on a percentage basis, the middle and lower income taxpayers will receive the greatest benefits.

The Committee has not made any effort to determine exactly what level of funding should be committed to this tax relief. Calculations have been made for four different levels of funding. A 15% increase in exemptions and standard deduction would cost the State about \$50 million in revenue; a 23% increase, \$75 million; a 31% increase, \$100 million; a 40% increase, \$125 million. A chart showing the effect of each of these levels of funding on the dollar values of the standard deduction and some of the exemptions is contained in Appendix V along with the letter to the Governor and the Advisory Budget Commission by which they were informed of the Committee's recommendation on this subject.

The Committee feels that this recommendation for tax relief should be implemented at the highest level of funding possible consistent with the State's need to provide essential State services. \$50 million was chosen as a minimum level because the Committee felt that any lower amount would not provide significant relief to the individual taxpayer. The Committee

also felt that any recommendation higher than \$125 million would reflect an unreasonably optimistic view of the State's revenue picture.

47. The existing structure of sales tax refunds to certain governmental units should not be changed.

In reviewing a technical matter concerning the refund of sales taxes paid by counties (see Recommendation 29), questions were raised within the Committee about why local school boards did not receive refunds. Upon examination of the original rationale behind the sales tax and the very limited number of refunds allowed, it was determined that the structure is sound and should not be changed. The strongest rationale for not granting refunds to any additional types of agencies is the domino effect which could be created. It would be difficult to draw the line as to which agencies should receive refunds and which should not. With respect to local school boards, it was also noted that they are technically instrumentalities of the State, not the local units of government and, as the State does not receive a refund of sales tax paid, it would be inconsistent to give such refunds to school boards.

APPENDIX I

LEGISLATIVE PROPOSAL 1

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-113.86 AND G.S. 105-113.95 TO CONVERT TO THE METRIC SYSTEM THE INTOXICATING LIQUORS TAX AS IT APPLIES TO UNFORTIFIED AND FORTIFIED WINES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (o) of G.S. 105-113.86 is amended in the first sentence by deleting "sixty cents (60¢) per gallon" and substituting in lieu thereof "fifteen and eighty-five one-hundredths cents (15.85¢) per liter"; subsection (o) is further amended by deleting "five cents (5¢) per gallon" as it appears at the end of the first paragraph of the subsection and substituting in lieu thereof "one and thirty-two one-hundredths cents (1.32¢) per liter".

Sec. 2. G.S. 105-113.95 is amended in the first sentence by deleting "seventy cents (70¢) per gallon" and substituting in lieu thereof "eighteen and forty-nine one-hundredths cents (18.49¢) per liter"; G.S. 105-113.95 is further amended by deleting from the end of the section "five cents (5¢) per gallon" and substituting in lieu thereof "one and thirty-two one-hundredths cents (1.32¢) per liter".

Sec. 3. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 2

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-76 WHICH IMPOSES A STATE LICENSE TAX ON
SHOESHINE PARLORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-76 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 3

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-75 TO INCREASE THE STATE LICENSE TAX ON
BARBERSHOPS AND BEAUTY PARLORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-75 is amended by deleting the
amount "\$2.50" each time it appears and substituting therefor the
amount "\$5.00".

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 4

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-34 WHICH IMPOSES A STATE LICENSE TAX ON
AMUSEMENT PARKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-34 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 5

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-35 WHICH IMPOSES A STATE LICENSE TAX ON TRAVELING THEATRICAL COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-35 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 6

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-48 WHICH IMPOSES A STATE LICENSE TAX ON
PHRENOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-48 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 7

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-63 WHICH IMPOSES A STATE LICENSE TAX ON
COTTON COMPRESSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-63 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 8

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-72 WHICH IMPOSES A STATE LICENSE TAX ON
THOSE ENGAGED IN THE SELLING OF CERTAIN OILS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-72 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 9

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-78 WHICH IMPOSES A STATE LICENSE TAX ON
NEWS DEALERS ON TRAINS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-78 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 10

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-93 WHICH IMPOSES A STATE PROCESS TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-93 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL ||

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-100 WHICH IMPOSES A STATE LICENSE TAX
ON THOSE ENGAGED IN SELLING PATENT RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-100 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 12

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-10 WHICH IMPOSES A TAX ON THOSE REQUESTING OFFICIAL SEALS ON DOCUMENTS; AND TO AMEND THOSE PROVISIONS AUTHORIZING THE SECRETARY OF STATE TO CHARGE FEES FOR PRODUCING COPIES OF DOCUMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-10 is repealed.

Sec. 2. G.S. 147-37 is rewritten to read as follows:

"§ 147-37. Secretary of State; fees to be collected.--When no other charge is provided by law, the Secretary of State shall collect such fees for copying any document or record on file in his office which in his discretion bears a reasonable relation to the quantity of copies supplied and the cost of purchasing or leasing and maintaining copying equipment. These fees may be changed from time to time, but a schedule of fees shall be available on request at all times. In addition to copying charges, the Secretary of State shall collect a fee of two dollars (\$2.00) for certifying any document or record on file in his office or for issuing any certificate as to the facts shown by the records on file in his office."

Sec. 3. G.S. 147-38 is repealed.

Sec. 4. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 13

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-47 WHICH IMPOSES A STATE LICENSE TAX ON DEALERS IN HORSES AND MULES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-47 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 14

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 105-71 WHICH IMPOSES A STATE LICENSE TAX ON
THOSE WHO CONDUCT NEWSPAPER CONTESTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-71 is repealed.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 15

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-37 WHICH IMPOSES A LICENSE TAX ON MOVIE THEATERS.

The General Assembly of North Carolina enacts:

Section 1. The table of rates contained in G.S. 105-37(a) is rewritten to read as follows:

<u>Population</u>	<u>Seating Capacity</u>	<u>Seating Capacity</u>	<u>Seating Capacity</u>
<u>of</u>	<u>up to</u>	<u>of</u>	<u>over</u>
<u>Cities or Towns</u>	<u>600 Seats</u>	<u>600 to 1200 Seats</u>	<u>1200 Seats</u>
Less than 1,500	\$ 62.50	\$ 75.00	\$ 100.00
1,500 and less			
than 3,000	100.00	125.00	150.00
3,000 and less			
than 5,000	125.00	150.00	200.00
5,000 and less			
than 10,000	175.00	200.00	300.00
10,000 and less			
than 15,000	200.00	300.00	400.00
15,000 and less			
than 25,000	250.00	400.00	500.00
25,000 and less			
than 40,000	300.00	500.00	750.00
40,000 or over	400.00	750.00	1,250.00"

Sec. 2. Subsections (b) and (c) of G.S. 105-37 are repealed.

Sec. 3. Subsection (f) of G.S. 105-37 is amended by

rewriting the last sentence of that subsection to read as follows:

"On a business described in subsections (d) or (e) of this section, cities and towns may levy a license tax not in excess of one-half of the tax authorized by the schedule set forth in this subsection."

Sec. 4. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-51 WHICH IMPOSES A STATE LICENSE TAX ON THOSE ENGAGED IN SELLING CERTAIN AUTOMATIC MACHINES; TO REPEAL G.S. 105-52 WHICH IMPOSES A STATE LICENSE TAX ON THOSE ENGAGED IN SELLING SEWING MACHINES; AND TO INCLUDE SEWING MACHINES IN G.S. 105-51.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-52 is repealed.

Sec. 2. G.S. 105-51 is rewritten to read as follows:

"§ 105-51. Automatic machines.--Every person, firm, or corporation engaged in the business of selling, delivering, or renting any of the following types of automatic machines shall apply for and procure from the Secretary of Revenue a State license for each place where such business is transacted in this State, and shall pay for such license a tax of ten dollars (\$10.00):

(1) office machines including, but not limited to, cash registers, typewriters, word processing equipment, addressograph machines, adding or bookkeeping machines, calculators, billing machines, check-writing machines, copying machines, dictating equipment, and data processing equipment; and

(2) home appliances including, but not limited to, washing machines, clothes dryers, refrigerators, freezers, vacuum cleaners, air conditioning units (other than permanently installed units using internal ductwork), and sewing machines; and

(3) burglar alarms, smoke alarms, and other warning devices.

Counties, cities and towns shall not levy a license tax on the business taxed under this section."

Sec. 3. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 17

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-53 TO REQUIRE OPERATORS OF FLEA MARKETS TO PAY THE STATE LICENSE TAX FOR ITINERANT SALESMEN OR MERCHANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-53 is amended by adding a new paragraph after the first paragraph of subsection (d) to read as follows:

"Any person, firm, or corporation which operates a flea market at which any itinerant salesman or merchant exposes for sale any goods, wares, or merchandise shall apply for in advance and procure a State license from the Secretary of Revenue and shall pay for such license a tax of one hundred dollars (\$100.00) for each county in which such a flea market is operated. No itinerant salesman or merchant shall be required to procure or pay for a separate license under this section to offer merchandise for sale only at a flea market already licensed under this paragraph."

Sec. 2. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO REPEAL SUBSECTION (a) OF G.S. 105-58 WHICH IMPOSES A STATE LICENSE TAX ON GYPSIES AND TO MAKE A CONFORMING CHANGE IN SUBSECTION (b) OF THAT SECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-58(a) is repealed.

Sec. 2. G.S. 105-58(b), as it appears in the 1972 Replacement Volume 2D of the General Statutes, is amended by deleting from the first sentence thereof the following words and punctuation:

" , other than those mentioned in subsection (a) of this section,".

Sec. 3. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 19

A BILL TO BE ENTITLED

AN ACT TO REWRITE G.S. 105-113.84 TO SET A SINGLE RATE FOR THE ANNUAL RETAIL MALT BEVERAGE STATE LICENSE AND TO CHANGE THE RATE FOR AN "OFF-PREMISES" RETAIL UNFORTIFIED WINE LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.84 is rewritten to read as follows:

"§ 105-113.84. Annual retail malt beverage State license.-- Every person who intends to engage in the business of retail sales of malt beverages shall also apply for and procure an annual State license from the Secretary of Revenue. Ten dollars (\$10.00) shall be charged for the license for each location at which such business shall be engaged in."

Sec. 2. G.S. 105-113.83(2) is rewritten to read as follows:

"(2) For an 'off-premises' license, ten dollars (\$10.00)."

Sec. 3. This act shall become effective May 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN PROVISIONS OF THE SOFT DRINK TAX TO CLARIFY THOSE PROVISIONS AND MAKE TECHNICAL AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.43 is rewritten to read as follows:

"§ 105-113.43. Soft drink license and excise taxes.--(a) Every person engaging in the business of selling, manufacturing, purchasing, consigning, using, shipping or distributing, for the purpose of sale within this State, soft drinks, base products, powders, simple syrups, or any other items subject to the Soft Drink Tax Act shall, for the privilege of carrying on such business, be subject to the payment of a license tax as set forth in G.S. 105-113.50.

(b) Every person conducting any of the activities set forth in G.S. 105-113.51(b) shall be subject to the excise tax levied in G.S. 105-113.45."

Sec. 2. G.S. 105-113.44(3) is amended by deleting the word "bottled" each time it appears in that subdivision.

Sec. 3. G.S. 105-113.51(a) is amended by changing the period at the end of that subsection to a comma (,) and adding the following after the comma:

"unless the tax has been or will be paid according to some other method available under the provisions of this Article."

Sec. 4. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN OPTIONAL METHOD FOR PAYMENT OF THE SOFT DRINK TAX BY RETAIL DEALERS AND TO CLARIFY ELIGIBILITY UNDER G.S. 105-113.56A.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes following G.S. 105-113.56B to be numbered and to read as follows:

"§ 105-113.56C. Optional method of payment of tax by retail dealers.--Notwithstanding any other provision of this Article, the excise tax levied upon powders, syrups, base products, bottled soft drinks and all other items subject to the Soft Drink Tax Act, may be paid by retail dealers in the following manner:

Beginning with sales made on and after July 1, 1979, sales reports shall be made to the secretary on or before the fifteenth day of each succeeding month, accompanied by payment of the tax due. All persons paying the tax in this optional manner shall be subject to such rules and regulations as the secretary may prescribe, including the requirement that such persons furnish such bond as the secretary may deem advisable in such amount and upon such conditions as in the opinion of the secretary will adequately protect the State in the collection of the tax levied by this Article."

Sec. 2. G.S. 105-113.56A is amended by adding the following sentence at the end thereof:

"The alternate method set forth in this section shall be available only to those distributors and wholesale dealers liable

for payment of the soft drink tax under the provisions of this Article."

Sec. 3. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 22

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-113.60 TO MAKE RETAIL DEALERS LIABLE FOR THE SOFT DRINK TAX ON CERTAIN NON-TAXPAID ITEMS IN THEIR POSSESSION.

The General Assembly of North Carolina enacts:

Section 1. The caption to G.S. 105-113.60 is rewritten to read as follows:

"§ 105-113.60. Manufacturer as well as dealer subject to penalties; retail dealer liable for tax."

Sec. 2. G.S. 105-113.60 is amended by adding the following paragraph at the end of that section:

"A retail dealer shall be liable for the tax on any items, taxable under this Article, which come into his possession without the tax having been paid. The liability created under this paragraph shall not make the retail dealer eligible for the alternate method of payment of the soft drink tax provided for in G.S. 105-113.56A."

Sec. 3. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A SUNDRIES LICENSE TAX.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 2 of Chapter 105 of the General Statutes to be numbered and to read as follows:

"§ 105-65.2. Sundries license tax.-- (a) Every person, firm, or corporation engaged in any of the businesses listed in subsection (b) of this section shall apply for and procure from the Secretary of Revenue a State 'sundries license' for the transacting of such business. The tax for each license shall be sixteen dollars (\$16.00) and one license shall be obtained for each location at which any of the businesses enumerated in subsection (b) are engaged in; however, only one sundries license shall be required for any one location regardless of the number of enumerated businesses being engaged in at that location.

(b) The sundries license shall be procured and the tax paid by persons, firms, or corporations engaged in any one or more of the following business activities:

- (1) the sale of sandwiches in drug stores, service stations, or any other stands or places not licensed and taxed as a restaurant under G.S. 105-62;
- (2) operating, maintaining or placing on location any of the following types of dispensers or machines:
 - (i) dispensers of cigarettes or other tobacco products;

- (ii) dispensers of soft drinks;
 - (iii) dispensers of food or other merchandise, or
 - (iv) weighing machines;
- (3) operating a soda fountain or soft drink stand; or
- (4) retailing or jobbing cigarettes, cigars, chewing tobacco, snuff or any other tobacco products.

(c) Counties shall not levy any license tax on the businesses taxed under this section, but cities and towns may, except as provided in subsection (g) of this section, levy a license tax not in excess of one fourth the tax levied by the State.

(d) The word 'dispenser' as used in this section shall include any machine or mechanical device through the medium of which any of the merchandise referred to in this section is purchased, distributed or sold.

(e) The provisions of this section shall not apply to the sale, through dispensers or otherwise, of milk, milk drinks, dairy products, or newspapers, or to dispensers dispensing merchandise for five cents (5¢) or less.

(f) No tax shall be levied under this section, for the privilege of operating vending machines or the sale of any commodity through such machines, against any vending machine operator, licensed under G.S. 105-65.1 and required thereby to pay a gross receipts tax.

(g) In lieu of the tax of sixteen dollars (\$16.00) imposed in subsection (a) of this section, a tax of five dollars (\$5.00) shall be required for a sundries license for those persons licensed as vending machine operators under G.S. 105-65.1 but not required by that section to pay a gross receipts tax when such persons are liable for payment of the sundries tax. Cities and

towns shall not levy any license taxes on persons taxed at the five dollar (\$5.00) rate under this subsection."

Sec. 2. G.S. 105-62(b) is repealed.

Sec. 3. Subdivisions (3) and (4) of subsection (b) of G.S. 105-65.1 are repealed.

Sec. 4. G.S. 105-79 is repealed.

Sec. 5. G.S. 105-84 is repealed.

Sec. 6. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-164.3(16) TO PROVIDE FOR A MORE
EQUITABLE DEFINITION OF "SALES PRICE" WITH RESPECT TO CERTAIN
CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(16), as it appears in the
1977 Cumulative Supplement to Volume 2D of the General Statutes,
is amended by rewriting the second sentence which begins on the
ninth line of that subdivision with the phrase "Provided,
however," to read as follows:

"Provided, however, that where a manufacturer, producer or
contractor erects, installs or affixes tangible personal property
upon real property pursuant to a construction or performance-type
contract with or for the benefit of the owner of such real
property, the sales price shall be the cost of such property to
the manufacturer, producer or contractor performing the
contract."

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 25

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-164.3, 105-164.4, AND 105-164.6 TO CLARIFY THE LIABILITY OF RETAIL DEALERS OF MOTOR VEHICLES TO PAY THE USE TAX THEREON AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1), as it appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is amended by deleting the second, third and fourth paragraphs and substituting in lieu thereof the following two paragraphs:

"The separate sale of a new motor vehicle chassis and a new motor vehicle body to be installed thereon, whether by the same retailer or by different retailers shall be subject only to the tax herein prescribed with respect to a single motor vehicle. No tax shall be imposed upon a body mounted on the chassis of a motor vehicle which temporarily enters the State for the purpose of having such body mounted thereon by the manufacturer thereof.

The tax levied under this division shall not apply to the sale of a motor vehicle by some person, firm or corporation who or which is not engaged in business as a retailer of motor vehicles if the tax levied under this Article has previously been paid with respect to said motor vehicle."

Sec. 2. G.S. 105-164.3 is amended by adding a new definition to be numbered (8A), to follow the definition of "Lease or rental" and to read as follows:

"(8A) 'Motor vehicle' means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from

trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is propelled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment as defined in G.S. 20-4.01, or any vehicle designed primarily for use in work off the highway."

Sec. 3. G.S. 105-164.6 is amended by adding the following sentence at the end of subsection (1) thereof:

"The separate sale of a new motor vehicle chassis and a new motor vehicle body to be installed thereon, whether by the same retailer or by different retailers, shall be subject only to the tax herein prescribed with respect to a single motor vehicle."

Sec. 4. G.S. 105-164.6 is further amended by adding a new subsection to be numbered (3A) immediately following subsection (3) and to read as follows:

"(3A) Every person, firm or corporation that purchases or acquires a motor vehicle for use on the streets and highways of this State shall pay the tax at the rate of two percent subject to a maximum tax of one hundred twenty dollars (\$120.00) per vehicle, on the sales or purchase price of such motor vehicle and said tax shall be paid to the Secretary of Revenue at the time of applying for a certificate of title, or registration and license plate or plates for such vehicle. However, if such person shall furnish to the secretary a certificate from a retailer of motor vehicles engaged in business in this State certifying that such person has paid the tax levied thereon by this Article to the retailer, the liability of such person for the tax shall be extinguished. No certificate of title, or registration and

license plate or plates shall be issued for any motor vehicle purchased or acquired for use on the streets and highways of this State unless and until the tax provided for under this Article on motor vehicles has been paid. Nothing herein is intended to relieve any retailer of motor vehicles engaged in business in this State from his liability for collecting and remitting sales or use tax on his sales of motor vehicles for use by the purchasers thereof in this State and no retailer shall be absolved of this liability for his failure to collect the tax from such purchasers.

The tax levied under this division shall not apply to the owner of a motor vehicle who has purchased or acquired said motor vehicle from some person, firm or corporation who or which is not engaged in business as a retailer of motor vehicles if the tax levied under this Article has previously been paid with respect to said motor vehicle."

Sec. 5. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 26

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-164.4(3) REGARDING RECEIPTS FROM RENTALS OF RESORT RESIDENCES OCCUPIED FOR PORTIONS OF THE SEASON BY THE OWNER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(3) is amended by adding the following two sentences at the end thereof: "The tax shall not apply to rent derived from private residences or cottages designed for single family occupancy located in a resort area when the owner occupies the residence or cottage for part of the season. Persons owning more than one such single family dwelling and occupying each of them for a portion of the season may select one and only one of the residences so occupied to be exempt from this tax."

Sec. 2. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-164.4 AND G.S. 105-164.6 TO RAISE THE FEE FOR A MERCHANT'S CERTIFICATE OF REGISTRATION LICENSE TO FIVE DOLLARS (\$5.00) AND TO REQUIRE A NEW LICENSE WHEN A MERCHANT GOES OUT OF BUSINESS FOR FIVE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(7) is rewritten to read as follows:

"(7) Any person who shall engage or continue in any business for which a privilege tax is imposed by this Article shall immediately after July 1, 1979, apply for and obtain from the secretary upon payment of the sum of five dollars (\$5.00) a license to engage in and conduct such business upon the condition that such person shall pay the tax accruing to the State of North Carolina under the provisions of this Article and he shall thereby be duly licensed and registered to engage in and conduct such business. Except as hereinafter provided, a license issued under this subsection shall be a continuing license until revoked for failure to comply with the provisions of this Article. However, any person who has heretofore applied for and obtained such license, and such license was in force and effect as of July 1, 1979, shall not be required to apply for and obtain a new license.

Any person who shall cease to be engaged in any business for which a privilege tax is imposed by this Article, and who shall remain continuously out of business for a period of five years shall apply for and obtain a new license from the Secretary upon

the payment of a tax of five dollars (\$5.00), and any license previously issued under this section shall be null, void and of no effect. The burden of proof after such period shall be upon the taxpayer to show that he did engage in such activity within the period, and that no new license is required."

Sec. 2. G.S. 105-164.6(7) is rewritten to read as follows:

"(7) Every retailer engaged in business in this State selling or delivering tangible personal property for storage, use or consumption in this State shall immediately after July 1, 1979, apply for and obtain from the secretary upon the payment of the sum of five dollars (\$5.00) a license to engage in and conduct such business upon the condition that such person shall pay the tax accruing to the State of North Carolina under the provisions of this Article, and he shall thereby be duly licensed and registered to engage in and conduct such business. Except as hereinafter provided, a license issued under this subsection shall be a continuing license until revoked for failure to comply with the provisions of this Article. However, any person who has heretofore applied for and obtained such license, and such license was in force and effect as of July 1, 1979, shall not be required to apply for and obtain a new license.

Any person who shall cease to be engaged in any business for which a tax is imposed by this Article, and who shall remain continuously out of business for a period of five years shall apply for and obtain a new license from the secretary upon the payment of a tax of five dollars (\$5.00), and any license previously issued under this section shall be null, void and of no effect. The burden of proof after such period shall be upon

the taxpayer to show that he did engage in such activity within the period, and that no new license is required."

Sec. 3. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 28

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-164.13 REGARDING CERTAIN EXEMPTIONS FROM
THE SALES AND USE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(3) is rewritten to read as
follows:

"(3) Products of farms, forests and mines in their original or
unmanufactured state when such sales are made by the producer in
the capacity of producer."

Sec. 2. G.S. 105-164.13(7) is rewritten to read as
follows:

"(7) Sales of products of waters in their original or
unmanufactured state when such sales are made by the producer in
the capacity of producer. Fish and seafoods are likewise exempt
when sold by the fisherman in that capacity."

Sec. 3. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 29

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-164.14(c) REGARDING REFUNDS OF SALES AND
USE TAX PAID BY GOVERNMENTAL UNITS FOR CONSTRUCTION, ERECTION,
ALTERATION OR REPAIR OF BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.14(c) is amended by deleting
from the second sentence the phrase "erected, altered or repaired
for such counties," and substituting in lieu thereof the
following phrase:

"erected, altered or repaired which is owned or leased by such
counties,".

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 30

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-164.16 TO ALLOW QUARTERLY REPORTING OF SALES AND USE TAX FOR THOSE PERSONS WHO ARE CONSISTENTLY LIABLE FOR LESS THAN TWENTY-FIVE DOLLARS (\$25.00) PER MONTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16 is amended by deleting "five dollars (\$5.00)" and substituting in lieu thereof "twenty-five dollars (\$25.00)".

Sec. 2. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL UNITS OF GOVERNMENT TO PROVIDE THE DEPARTMENT OF REVENUE WITH INFORMATION NEEDED IN DISTRIBUTION OF LOCAL GOVERNMENT SALES TAX REVENUES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-472(2) is amended by adding the following sentence at the end thereof:

"Any county or municipality which fails to provide the Department of Revenue with information concerning ad valorem taxes levied by that county or municipality adequate to permit a timely determination of the 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 information was not provided in a timely manner, and such tax proceeds shall then be distributed only to the taxing county, or to the municipality or municipalities therein, whose information was provided in a timely manner."

Sec. 2. Chapter 1096 of the 1967 Session Laws is amended by adding the following sentence at the end of Section 9:

"Should Mecklenburg County or any municipality within Mecklenburg County fail to provide the Department of Revenue with information concerning ad valorem taxes levied adequate to permit a timely determination of that governmental unit's appropriate share of the tax proceeds collected under this Chapter, then that governmental unit may be excluded by the secretary from each quarterly distribution with respect to which such information was not provided in a timely manner, and such tax proceeds shall then

be distributed only to the governmental unit or units whose information was provided in a timely manner."

Sec. 3. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 32

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 105-449.49 TO EXTEND FROM 10 DAYS TO 20 DAYS THE PERIOD FOR WHICH THE SECRETARY OF REVENUE MAY AUTHORIZE TEMPORARY EMERGENCY OPERATION OF A VEHICLE BY A CARRIER UNDER ARTICLE 36B OF CHAPTER 105 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-449.49 is amended by deleting therefrom the number "10" and substituting in lieu thereof the number "20".

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 33

A BILL TO BE ENTITLED

AN ACT TO EXCLUDE DIESEL POWERED LIGHT-WEIGHT VEHICLES FROM THE REQUIREMENTS OF THE SPECIAL FUELS TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-449.2(7) is amended by adding the following words at the end thereof, after the phrase "private passenger vehicles" and before the period (.): "and other vehicles licensed under the motor vehicle laws at 6,000 pounds or less".

Sec. 2. G.S. 105-449.10 is amended by adding the following words at the end thereof, after the phrase "private passenger vehicles" and before the period (.): "and other vehicles licensed under the motor vehicle laws at 6,000 pounds or less".

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INCLUSION IN THE GROSS ESTATE FOR INHERITANCE TAX PURPOSES THE VALUE OF ALL GIFTS MADE WITHIN THREE YEARS OF THE DONOR'S DEATH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-2 is amended by:

(a) rewriting subsection (3) thereof, as the same appears in the 1977 Cumulative Supplement to Volume 2B of the General Statutes, to read as follows:

"(3) When the transfer of property made by a resident, or nonresident, is of real property within this State, or of goods, wares and merchandise within this State, or of any other property, real, personal, or mixed, tangible or intangible, over which the State of North Carolina has taxing jurisdiction, including State and municipal bonds, by deed, grant, bargain, sale, or gift, made within three years of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death, including a transfer under which the transferor has retained for his life or any period not ending before his death (i) the possession or enjoyment of, or the income from, the property or (ii) the right to designate the persons who shall possess or enjoy the property or the income therefrom. Every transfer by deed, grant, bargain, sale, or gift, made within three years prior to the death of the grantor, vendor, or donor without an adequate valuable consideration, shall be includable in the decedent's gross estate

for the purposes of this Article, except gifts excludable in computing taxable gifts under G.S. 105-188(d)."

(b) deleting from line 13 of paragraph (5)b. thereof, as the same appears in the 1972 Replacement Volume 2D of the General Statutes, the words "in contemplation", and substituting therefor the words "within three years";

(c) deleting from line 20 of paragraph (5)b. thereof, as the same appears in the 1972 Replacement Volume 2D of the General Statutes, the words "in contemplation", and substituting therefor the words "within three years".

Sec. 2. This act shall become effective with respect to decedents dying on and after July 1, 1979.

LEGISLATIVE PROPOSAL 35

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE PRESENT INHERITANCE TAX DEDUCTION FOR GRAVE MONUMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-9(6), as the same appears in the 1972 Replacement of Volume 2D of the General Statutes, is hereby rewritten to read as follows:

"(6) A reasonable amount actually expended for the purchase and installation of a grave monument."

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 36

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE PRESENT INHERITANCE TAX DEDUCTION FOR FUNERAL AND BURIAL EXPENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-9(3), as the same appears in the 1972 Replacement of Volume 2D of the General Statutes, is hereby rewritten to read as follows:

"(3) Reasonable funeral and burial expenses, which shall include bequests and devises in trust, the entire net income from which is to be applied perpetually to the care and preservation of the burial lot or burial grounds within which the decedent is buried, the enclosure thereof and the structures thereon."

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 37

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE SURVIVING SPOUSE OF A DECEDENT TO ELECT TO TAKE THE DEPENDENT'S INHERITANCE TAX EXEMPTIONS IF THE SPOUSE RECEIVES SEVENTY-FIVE PERCENT OR MORE OF THE DECEDENT'S PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-4(b), as the same appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is hereby amended by striking out the phrase "all or substantially all" in lines 20 and 21 of that subsection and substituting the phrase "seventy-five percent or more of" therefor.

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 38

A BILL TO BE ENTITLED

AN ACT TO ALTER THE PERIOD OF TIME DURING WHICH AN INHERITANCE TAX CREDIT IS ALLOWED BECAUSE OF RECURRING INHERITANCE TAXES ON THE SAME PROPERTY, OR ITS EQUIVALENT VALUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-14, as the same appears in the 1972 Replacement of Volume 2D of the General Statutes is hereby rewritten to read as follows:

"§ 105-14. Recurring taxes.-- (a) Where property transferred has been taxed under the provisions of this Article, each transferee (regardless of class) receiving such property on account of any other transfer by reason of a death occurring within three years of the date of death of the former decedent, shall be allowed a tax credit based on the amount of tax paid on such prior transfer of said property as hereinafter provided. The tax credit allowed shall be a proportion of the tax paid on such prior transfer and shall be computed as follows:

- (1) If the said death occurs within one year of the former decedent's death, then a tax credit equal to 100 percent of the amount of tax paid on the prior transfer shall be allowed for each transferee.
- (2) If the said death occurs within two years of the former decedent's death, then a tax credit equal to 50 percent of the amount of tax paid on the prior transfer shall be allowed for each transferee.
- (3) If the said death occurs within three years of the former decedent's death, then a tax credit equal to

25 percent of the amount of tax paid on the prior transfer shall be allowed for each transferee.

(4) No tax credit shall be allowed for the transferee if said death occurs after three years has elapsed from the time of the former decedent's death.

(b) The tax paid on the property in G.S. §105-14(a) shall be a fraction of the total tax paid on the prior transfer on account of all property received by the prior transferee. The numerator of this fraction shall be the former taxable value of the property being presently transferred. The denominator of this fraction shall be the former total taxable value of all the property received by the prior transferee on the prior transfer.

(c) For the purposes of this section, the personal representative shall conclusively presume that the property involved in the prior transfer or its equivalent value is a part of the present decedent's estate. The personal representative shall identify the property or its equivalent value and its taxable value in the prior transfer in a manner prescribed by the Secretary of Revenue."

Sec. 2. This act shall become effective July 1, 1979.

LEGISLATIVE PROPOSAL 39

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE SECRETARY OF REVENUE TO GRANT AN EXTENSION OF TIME FOR THE PAYMENT OF NORTH CAROLINA INHERITANCE TAXES FOR REASONABLE CAUSE SHOWN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-16, as the same appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is hereby amended by rewriting the last sentence of that section to read as follows:

"Provided, that the time for payment and collection of such tax may be extended by the Secretary of Revenue for reasonable cause shown."

Sec. 2. This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE THRESHOLD ESTATE VALUE BELOW WHICH NO INHERITANCE TAX RETURN FILING IS REQUIRED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-23 is hereby amended by:

(a) deleting all of the seventh sentence thereof, beginning with the word "Every" and ending with the word "decedent" and substituting therefor the following:

"Every executor or administrator may make a tentative settlement of the inheritance tax with the Secretary of Revenue, based on the inventory supported by oath or affirmation provided in this section."; and

(b) adding at the end of said section a new paragraph to read as follows:

"Notwithstanding any other provision of this section, no executor, administrator or other personal representative shall be required to file a return hereunder when an estate shall have a gross value of less than twenty thousand dollars (\$20,000), including any property transferred by the decedent over which he had retained any interest as described in G.S. 105-2(3), or any property transferred within three years prior to the date of the decedent's death, and all of the beneficiaries belong to the class (A) as defined in G.S. 105-4(a)."

Sec. 2. The second sentence of G.S. 105-22 which begins with the word "The" and ends with the word "decedent" is hereby

rewritten to read as follows:

"The clerk shall make no report of a death where the estate of a decedent is less than twenty thousand dollars (\$20,000) in gross value, including the value of transfers over which the decedent retained any interest as described in G.S. 105-2(3), as well as the taxable value of any gifts made within three years prior to the date of death of the decedent, as also required by G.S. 105-2(3), and all the beneficiaries belong to the class (A) as defined in G.S. 105-4(a)."

Sec. 3. G.S. 28A-21-2(a) is hereby amended by inserting the following two sentences between the first and second sentences of that subsection:

"If the total value of the decedent's property subject to inheritance or estate tax, both real and personal, including the value of transfers over which the decedent retained any interest as described in G.S. 105-2(3), as well as the taxable value of any gifts made within three years prior to the date of death of the decedent, as also required by G.S. 105-2(3), is less than twenty thousand dollars (\$20,000) and all of the beneficiaries belong to the class (A) as defined in G.S. 105-4(a), then the personal representative or collector shall certify in the final account filed with the Clerk of Superior Court that no inheritance tax return was required to be filed with the Department of Revenue pursuant to G.S. 105-23. Such certification shall list the amount and value of all of the decedent's property, and with respect to real estate, its particular location within or outside the State, including any

property transferred by the decedent over which he had retained any interest as described in G.S. 105-2(3), or any property transferred within three years prior to the date of the decedent's death, and after being filed and accepted by the Clerk of Superior Court shall be prima facie evidence that such property is free of any State inheritance or State estate tax liability."

Sec. 4. This act shall become effective on July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE PROCEEDS OF CERTAIN ANNUITIES FROM TAXATION UNDER THE NORTH CAROLINA INHERITANCE TAX LAWS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 105-3(5), as the same appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is hereby rewritten to read as follows:

"(5) The value of an annuity or other payment (other than a lump sum distribution described in section 402(e)(4) of the United States Internal Revenue Code, determined without regard to the next to the last sentence of section 402(e)(4)(A) of such Code) receivable by any beneficiary (other than the executor) under (a) an employees' trust (or under a contract or insurance policy purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan, which at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 401(a) of the United States Internal Revenue Code; or (b) a retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan, which at the time of decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 403(a) or 403(b) of such Code."

Sec. 2. This act shall become effective with respect to

decedent dying on and after July 1, 1979.

LEGISLATIVE PROPOSAL 42

A BILL TO BE ENTITLED

AN ACT TO REWRITE PORTIONS OF THE INHERITANCE TAX LAWS TO PROVIDE FOR THE SUBSTITUTION OF TAX CREDITS FOR TAX EXEMPTIONS, TO CHANGE THE TAX TREATMENT OF TENANCIES BY THE ENTIRETY, AND TO MAKE OTHER CHANGES TO THE INHERITANCE AND GIFT TAX LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-2(7) is amended by rewriting as follows:

"a. Where real property is held by husband and wife as tenants by the entirety and passes by survivorship, the surviving tenant shall be subject to taxation on the value of the portion of the property interest received by the surviving tenant which shall be calculated by multiplying a fraction times the date-of-death valuation of such real property. The numerator of the fraction shall be the total amount of consideration furnished by the deceased tenant prior to his or her death for the purchase of or improvement of such real property. The denominator of the fraction shall be the total consideration furnished by both tenants towards the purchase or improvement of such real property. Provided, however, if an election to treat the creation of such tenancy by the entirety in real property as a gift has been made pursuant to G.S. 105-188.2, the surviving tenant shall be taxable on one-half of the value of such property. This subdivision shall be applicable to tenancies by the entirety created on or after July 1, 1969.

b. Where a tenancy by the entirety was created prior to July 1, 1969, in real property and such property passes by right of survivorship to the surviving tenant, such tenant shall be taxed on one-half of the value of such property."

Sec. 2. G.S. 105-3(4) is amended by rewriting as follows:

"(4) The proceeds of all life insurance policies payable to beneficiaries named in subdivisions (1), (2) and (3) of this section. And also proceeds of all policies of insurance and the proceeds of all adjusted service certificates that have been or may be paid by the United States government, or that have been or may be paid on account of policies required to be carried by the United States government or any agency thereof, to the estate, beneficiary, or beneficiaries of any person who has served in the armed forces of the United States or in the merchant marine during the first or second World War or any subsequent military engagement; and proceeds, not exceeding the sum of twenty thousand dollars (\$20,000), of all policies of insurance paid to the estate, beneficiary or beneficiaries of any person whose death was caused by enemy action during the second World War or any subsequent military engagement involving the United States. This provision will be operative only when satisfactory proof that the death was caused by enemy action is filed by the executor, administrator, or beneficiary with the Secretary of Revenue."

Sec. 3. G.S. 105-4(b) is hereby rewritten to read as follows:

"(b) The persons mentioned in this class shall be entitled to the following credits against the tax imposed pursuant to this Article: surviving spouse, three thousand one hundred and fifty dollars (\$3,150.00); each child under 18 years of age and each child 18 years of age, or older, who is mentally incapacitated, or by reason of physical disability is unable to support himself, is unmarried and residing with the decedent in his home at the time of such decedent's death, or who is then institutionalized on account of such mental incapacity or physical disability one hundred dollars (\$100.00); all other beneficiaries mentioned in this section, fifty dollars (\$50.00) each: Provided that where one or more children predecease their parent (the parent in such instance being the person who died possessed of the property referred to in subsection (a) above), the total credit which would otherwise have been applicable if such child or children had survived their parent shall be divided per capita among the surviving children of the predeceased child or children; provided further that a grandchild or grandchildren shall be allowed the single credit or so much thereof as is not applied to the share of the parent, or a pro rata part thereof, when the parent is living and does not share in the estate to the full extent of said credit. The same rule shall apply to the taking under a will, and also in the case of a specific legacy or devise. When a person shall die, testate or intestate, leaving a spouse and child or children, and such surviving spouse receives, whether under a will or otherwise than by will, seventy-five percent or more of the decedent's property, such surviving spouse shall be

allowed at his or her option an additional credit of one hundred dollars (\$100.00) for each child under 18 years of age, and each child 18 years of age, or older, who is mentally incapacitated, or by reason of physical disability is unable to support himself, is unmarried and residing with the decedent in his or her home at the time of such decedent's death, or who is then institutionalized by reason of such mental incapacity or physical disability; provided that whenever such spouse elects to claim such additional credit, the child or children shall not be allowed the credit of one hundred dollars (\$100.00) for each child hereinabove provided for. Nothing in this Subsection shall be construed to entitle a taxpayer to a refund, rebate, or any other compensation (from the State) for any unused portion of tax credit herein provided."

Sec. 4. G.S. 105-7(b) is hereby rewritten to read as follows:

"(b) Where no tax is imposed by this schedule because of the exemptions or credits herein or otherwise, and a tax is due to the United States under the Federal Estate Tax Act, then a tax shall be due this State equal to the maximum amount of the credit allowed under said Federal Estate Tax Act."

Sec. 5. G.S. 105-2(9) is hereby rewritten to read as follows:

"(9) Whenever any person or corporation comes into possession or enjoyment of any real or personal property, including bonds of the United States and bonds of a state or subdivision or agency thereof, at or after the death of an individual and by reason of

said individual's having entered into a contract or other arrangement with the United States, a state or any person or corporation to pay, transfer or deliver said real or personal property, including bonds of the United States and bonds of a state, to the person or corporation receiving the same, whether said person or corporation is named in the contract or other arrangement or not: Provided, that no tax shall be due or collected on that portion of the real or personal property received under the conditions outlined herein which the person or corporation receiving the same purchased or otherwise acquired by funds or property of the person or corporation receiving the same, or had acquired by a completed inter vivos gift.

Nothing in subdivision (9) shall apply to the proceeds of life insurance policies."

Sec. 6. Article 6 of Chapter 105 of the General Statutes entitled Schedule G. Gift Taxes is hereby amended by adding a new section immediately following G.S. 105-188.1, and immediately preceding G.S. 105-189, to be numbered as G.S. 105-188.2, and to read as follows:

"§ 105-188.2. Tenancies by the entirety.--(a) The creation of a tenancy by the entirety either by one spouse alone or by both spouses, and additions to the value thereof in the form of improvement, reductions in the indebtedness thereon, or otherwise, shall not be deemed gifts for the purposes of this Article, regardless of the proportion of the consideration furnished by each spouse, unless the donor elects to have creation of a tenancy by the entirety treated as a gift, as

provided in subsection (c).

(b) In the case of the termination of a tenancy by the entirety, other than by reason of the death of a spouse, the creation of which, or additions to which, were not deemed to be gifts by reason of subsection (a), a spouse shall be deemed to have made a gift to the extent that the proportion of the total consideration furnished by such spouse multiplied by the proceeds of such termination (whether in form of cash, property, or interests in property) exceeds the value of such proceeds of termination received by such spouse.

(c) The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety as a transfer by gift, to the extent such transfer constitutes a gift (determined in accordance with G.S. 105-189), in the gift tax return of the donor for the calendar year in which such tenancy by the entirety was created, filed within the period prescribed by law, or during the period specified in subsection (f) of this section if appropriate, irrespective of whether or not the gift exceeds the exclusion provided by G.S. 105-188(d).

(d) If the election provided by subsection (a) has been made with respect to the creation of any tenancy by the entirety, such election shall also be made with respect to each addition made to the value of such tenancy by the entirety.

(e) In the case of any election under subsection (a) with respect to any real property, the retained interest of each spouse shall be treated as one-half of the value of their joint interest.

(f) In addition to all tenancies by the entirety created after the enactment of this section, the provisions of this section shall apply to tenancies by the entirety created on or after July 1, 1969 and in existence prior to the enactment of this section. Taxpayers in this category may elect to treat the creation of such tenancy by the entirety as a gift. Such election shall be made by including the creation of the tenancy by the entirety as a transfer by gift, if such transfer constitutes a gift under G.S. 105-189 to the extent that a prior gift tax return has not been filed and a gift tax paid, on a timely filed gift tax return for the calendar year in which this Section is enacted or for the calendar year following the year in which this Section is enacted; provided, however, the value of the property used for determining the amount of said gift shall be its value on the date the tenancy by the entirety was created. Provided further that the annual exclusion provided by G.S. 105-188(d) and the exemption (in the amount effective when the gift was made) provided in G.S. 105-188(j) shall be applicable to the gift elections made pursuant to this subsection.

(g) Taxpayers who do not elect to treat the creation of a tenancy by the entirety in real property as a gift (assuming the contributions of the spouses are unequal) will be subject to the provisions of G.S. 105-2(7)(a) and the other provisions of Article 1 of Chapter 105 at the death of either tenant.

(h) In the case of property, the basis of which has been adjusted by reason of the non-recognition of gain or loss realized in an exchange, involuntary conversion, or sale of

principal residence, the date on which the tenancy by the entirety was created shall be deemed to be the date on which the tenancy by entirety was created in the property exchanged, involuntarily converted, or, in the case of a principal residence, sold."

Sec. 7. Article 6 of Chapter 105 of the General Statutes entitled Schedule G. Gift Taxes, is hereby amended by adding a new section immediately following G.S. 105-189, and immediately preceding G.S. 105-190, to be numbered as G.S. 105-189.1, and to read as follows:

"§ 105-189.1. Certain property settlements.--Where husband and wife enter into a written agreement relative to their marital and property rights and divorce occurs within two years thereafter (whether or not such agreement is approved by the divorce decree), any transfers of property or interests in property made pursuant to such agreement: (1) to either spouse in settlement of his or her marital or property rights, or (2) to provide a reasonable allowance for the support of issue of the marriage during minority, shall be deemed to be transfers made for a full and adequate consideration in money or money's worth."

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9 This act shall become effective July 1, 1979.

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE POLICY AND PROCEDURE FOR CLAIMANT AGENCIES TO COLLECT MONEY OWED THEM THROUGH USE OF A SET-OFF PROCEDURE AGAINST PROPOSED REFUNDS HELD BY THE DEPARTMENT OF REVENUE.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are hereby amended by inserting therein immediately following Chapter 105 of the General Statutes a new Chapter 105A entitled "Set-Off Debt Collection Act" to read as follows:

"CHAPTER 105A.

"SET-OFF DEBT COLLECTION ACT.

"Article 1.

"§ 105A-1. Purposes.--The purpose of this Article is to establish as policy that all claimant agencies and the Department of Revenue shall cooperate in identifying debtors who owe money to the State through its various claimant agencies and who qualify for refunds from the Department of Revenue. It is also the intent of this Article that procedures be established for setting off against any such refund the sum of any debt owed to the State. Furthermore, it is the legislative intent that this Article be liberally construed so as to effectuate these purposes as far as legally and practically possible.

"§ 105A-2. Definitions.--As used in this Article:

(1) 'Claimant agency' means and includes any existing State

department, institution, commission, committee, board, division, bureau, authority, officer, or official as specified in G.S. 143B-3 of the Executive Organization Act of 1973, or any county or county designee operating the North Carolina Child Support Enforcement Program under G.S. Article 9, Chapter 110, only when the county or county designee is engaged in the performance of the duty under that Article to obtain indemnification to the State for past public assistance paid.

(2) 'Debtor' means any individual owing money to or having a delinquent account with any claimant agency which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.

(3) 'Debt' means any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum.

(4) 'Department' means the North Carolina Department of Revenue.

(5) 'Refund' means any individual's North Carolina income tax refund.

(6) 'Net proceeds collected' means gross proceeds collected through final set-off against a debtor's refund minus any collection assistance fee charged by the Department.

"§ 105A-3. Remedies additional to those now existing.--The collection remedy under this Article is in addition to and not in substitution for any other remedy available by law.

"§ 105A-4. Minimum sum collectible.--A claimant agency shall

not be allowed to effect final set-off and collect debts through use of the remedy established under this Article unless both the debt and the refund, if any, are at least fifty dollars (\$50.00).

"§ 105A-5. Collection of sums due claimant agencies through set-off.--Subject to the limitations contained in this Article, the Department of Revenue shall upon request render assistance in the collection of any delinquent account or debt owing to any claimant agency. This assistance shall be provided by setting off any refunds due the debtor from the Department by the sum certified by claimant agency as due and owing.

"§ 105A-6. Procedure for set-off.--(a) A claimant agency seeking to attempt collection of a debt through set-off shall notify in writing the Department and supply information necessary to identify the debtor whose refund is sought to be set-off. Notification to the Department and the furnishing of identifying information must occur on or before a date specified by the Department in the year preceding the calendar year during which the refund would be paid. Additionally, subject to the notification deadline specified above, the notification shall be effective only to initiate set-off for claims against refunds that would be made in the calendar year subsequent to the year in which notification is made to the Department.

(b) The Department, upon receipt of notification, shall determine whether the debtor to the claimant agency is entitled to a refund from the Department. Upon determination by the Department that a debtor specified by a claimant agency qualifies for a refund, the Department shall notify in writing the claimant

agency that a refund is pending and specify its sum.

(c) Unless stayed by court order, the Department shall, upon certification as hereinafter provided in this Article, set off the certified debt against the refund to which the debtor would otherwise be entitled.

"§ 105A-7. Notification of intention to set-off and right to hearing.--(a) The claimant agency, upon receipt of notification from the Department that a debtor is entitled to a refund, shall within 10 days send a written notification to the debtor and a copy of same to the Department of its assertion of rights to the refund or any part thereof. Such notification shall inform the debtor of the claimant agency's intention to direct the Department to apply the refund or any portion thereof against the debt certified as due and owing. For the Department to be obligated to continue holding refunds until receipt of certification of the debt, if any, pursuant to G.S. 105A-10, the copy of the notification to the debtor by the claimant agency of its intention to set-off must be received by the Department within 15 days of the date of the Department's mailing to the respective claimant agency the notification of the debtor's entitlement to a refund.

(b) The contents of the written notification to the debtor (and the Department's copy) of the set-off claim shall clearly set forth the basis for the claim to the refund, the intention to apply the refund against the debt to the claimant agency, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the claimant agency within 30

days of the date of the mailing of the notice, the mailing address to which the application for a hearing must be sent, and the fact that failure to apply for a hearing in writing within the 30-day period will be deemed a waiver of the opportunity to contest the claim causing final set-off by default.

(c) The written application by the debtor for a hearing shall be effective upon mailing the application postage pre-paid and properly addressed to the claimant agency.

"§ 105A-8. Hearing procedure.--(a) If a claimant agency receives written application of the debtor's intention to contest at hearing the claim upon which the intended set-off is based, it shall grant a hearing according to procedures established under Chapter 150A, the Administrative Procedure Act, to determine whether the claim is valid. Additionally, it shall be determined at the hearing whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made.

(b) Pending final determination at hearing of the validity of the debt asserted by the claimant agency, no action shall be taken in furtherance of collection through the set-off procedure allowed under this Article.

(c) No issues may be considered at the hearing which have been previously litigated.

"§ 105A-9. Appeals from hearings.--Appeals from action taken at hearings allowed under this Article shall be in accordance with the provisions of Chapter 150A, the Administrative Procedure Act.

"§ 105A-10. Certification of debt by claimant agency;

finalization of set-off.--(a) Upon final determination through hearing provided by G.S. 105A-8 of the debt due and owing the claimant agency or upon the debtor's default for failure to comply with G.S. 105A-7 mandating timely request for review of the asserted basis for set-off, the claimant agency shall within 20 days certify the debt to the Department and in default thereof, the Department shall no longer be obligated to hold the refund for set-off.

(b) Upon receipt by the Department of a certified debt from the claimant agency, the Department shall finalize the set-off by transferring the net proceeds collected for credit or payment in accordance with the provisions of G.S. 105A-15 and by refunding any remaining balance to the debtor as if set-off had not occurred.

"§ 105A-11. Notice of final set-off.--Upon the finalization of set-off under the provisions of this Article, the Department shall notify the debtor in writing of the action taken along with an accounting of the action taken on any refund. If there is an outstanding balance after set-off, the notice under this section shall accompany the balance when disbursed.

"§ 105A-12. Combined refund collection.--If set-off is sought pursuant to the provisions of this Article against the combined refund of taxpayers who have previously filed a combined return, the entire refund is subject to set-off unless there is a timely defense raised by a co-refundee who is not a debtor as defined in this Article. If a timely defense is raised that the refund is based on a combined application of a debtor and a non-debtor,

then set-off shall only be effected against the debtor's share of the refund.

"§ 105A-13. Priorities in claims to set-off.--Priority in multiple claims to refunds allowed to be set-off under the provisions of this Article shall be in the order in time which a claimant agency has filed a written notice with the Department of its intention to effect collection through set-off under this Article. Notwithstanding the priority set forth above according to time of filing, the Department has priority over all other claimant agencies for collection by set-off whenever it is a competing agency for a refund.

"§ 105A-14. Disposition of proceeds collected; collection assistance fees.--(a) Upon effecting final set-offs, the Department shall periodically write checks to the respective claimant agencies for the net proceeds collected on their behalf.

(b) For purposes of this Article, fifteen percent (15%) of the gross proceeds collected by the Department through set-off shall represent the Department's cost of effecting set-off and such cost shall be charged to the respective claimant agency as a collection assistance fee. The collection assistance fees retained by the Department shall be deposited into the State Treasury for credit to the General Fund.

"§ 105A-15. Accounting to the claimant agency; credit to debtor's obligation.--(a) Simultaneously with the transmittal of a check for net proceeds collected to a claimant agency, the Department shall provide the agency with an accounting of the set-offs finalized for which payment is being made. The

accounting shall, whenever possible, include the full names of the debtors, the debtors' social security numbers, the gross proceeds collected per individual set-off, the net proceeds collected per set-off, and the collection assistance fee charged per set-off.

(b) Upon receipt by a claimant agency of a check representing net proceeds collected on a claimant agency's behalf by the Department and an accounting of the proceeds as specified under this section, the claimant agency shall credit the debtor's obligation with the gross proceeds collected.

"§ 105A-16. Confidentiality exemption.--Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure by the Department of the contents of taxpayer records or information, all information exchange among the Department, claimant agency, and the debtor necessary to accomplish and effectuate the intent of this Article is lawful.

"§ 105A-17. Rules and regulations.--The Secretary of Revenue is hereby authorized to prescribe forms and make all rules and regulations which he deems necessary in order to effectuate the intent of this Article."

Sec. 2. G.S. 105-163.16(c), as it appears in the 1977 Supplement to the 1972 Replacement of Volume 2D, is amended by deleting the period in line 6 and adding thereto the following:

"and except that there shall be no refund to the taxpayer of any sum set off under the provisions of Chapter 105A, the Set-off Debt Collection Act."

Sec. 3. G.S. 105-266, as it appears in the 1977

Supplement to the 1972 Replacement of Volume 2D, is amended by deleting the period in line 8 and substituting therefor a semicolon and thereafter adding the following:

"except that there shall be no refund to the taxpayer of any sum set off under the provisions of Chapter 105A, the Set-off Debt Collection Act."

Sec. 4. G.S. 105-266.1(a), as it appears in the 1972 Replacement of Volume 2D, is amended by deleting the period in line 11 and substituting therefor a semicolon and thereafter adding the following:

"except that there shall be no refund to the taxpayer of any sum set off under the provisions of Chapter 105A, the Set-off Debt Collection Act."

Sec. 5. There is hereby appropriated to the Department of Revenue from the General Fund sixty thousand dollars (\$60,000) for the 1979-80 fiscal year and sixty thousand dollars (\$60,000) for the 1980-81 fiscal year for purposes of effectuating the provisions of this Act.

Sec. 6. This act shall become effective July 1, 1979 and shall apply to refunds due after January 1, 1980.

A JOINT RESOLUTION

DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY THE REVENUE LAWS OF THE STATE OF NORTH CAROLINA.

Whereas, the Legislative Research Commission was directed by the 1977 General Assembly in ratified Resolution 85 to conduct a study of the revenue laws of North Carolina; and

Whereas, pursuant to Resolution 85 a Committee on Revenue Laws was appointed and held 11 meetings before reporting its recommendations to the Legislative Research Commission and the 1979 General Assembly; and

Whereas, the Committee on Revenue Laws reviewed many areas of the revenue laws and prepared more than 40 legislative proposals to modernize, improve, and delete obsolete sections from the revenue laws; and

Whereas, the scope of the subject matter assigned to the Committee on Revenue Laws was so broad that not all areas could be addressed within the time and budget limits placed on the Committee; and

Whereas, in the course of its deliberations the Committee on Revenue Laws discovered several matters which warranted further investigation; and

Whereas, changes in federal tax laws often make review of related State laws advisable; and

Whereas, the Committee on Revenue Laws has proved to be an excellent forum to which both taxpayers and State officials

can turn with problems and complaints about the revenue laws; Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission shall continue to study the revenue laws and their administration in North Carolina.

Sec. 2. The commission shall continue to review the revenue laws of the State of North Carolina to determine which laws need clarification, technical amendment, repeal, or other change to make the revenue laws as concise, intelligible, administratively responsive, and efficient as is reasonably practicable. Where the recommendations of the Commission, if enacted, would result in an increase or decrease in State tax revenues, the final report of the Commission shall include an estimate of the amount of such increase or decrease.

Sec. 3. The Commission may call upon the Department of Revenue to cooperate with it in its study, and the Secretary of Revenue shall insure that its employees and staff provide full and timely assistance to the Commission in the performance of its duties.

Sec. 4. The Commission shall produce a final report with its recommendations for improvement of the revenue laws to the 1981 General Assembly and may produce an interim report to the 1979 General Assembly, Second Session 1980.

Sec. 5. This resolution is effective upon ratification.

LEGISLATIVE PROPOSAL 45

A BILL TO BE ENTITLED

AN ACT TO ABOLISH THE TAX STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 51A of Chapter 143 of the General Statutes of North Carolina is repealed.

Sec. 2. This act is effective upon ratification.

APPENDIX II

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1977
RATIFIED BILL

RESOLUTION 85

SENATE JOINT RESOLUTION 578

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE REVENUE LAWS OF THE STATE OF NORTH CAROLINA, AND TO MAKE RECOMMENDATIONS FOR UPDATING THESE LAWS.

Whereas, many of the revenue laws of the State of North Carolina administered by the Department of Revenue were first promulgated in 1939 and have since remained in their original basic form without specific amendment or revision; and

Whereas, since 1939 the number of professions and occupations, individuals and corporations, subject to said revenue laws has increased dramatically, with an attendant increase in filing and reporting requirements which requirements may vary in manner and content as to each particular taxing schedule; and

Whereas, in 1969 and 1976 Tax Reform Acts enacted substantial amendments to the federal Internal Revenue Code necessitating possibly specific revisions of the North Carolina Revenue Act;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission shall study the revenue laws and their administration in North Carolina.

Sec. 2. The commission shall make a thorough and comprehensive study and review of the revenue laws of the State of North Carolina to determine whether these laws need clarification, technical amendment, or recodification. The commission shall focus upon any unnecessary burdens or inconvenience, if any, to the taxpayers of North Carolina, existing by virtue of substantive law or agency regulation, and shall furnish where applicable recommendations alleviating unnecessary or duplicative record keeping, reporting, or return filing. The thrust of the commission's activities shall be to insure that the Revenue Act of North Carolina is as concise, intelligible, and administratively responsive, as is reasonably practicable, and to this end, to provide where necessary internal consistency in regard to the act's general administrative and penal provisions. By means of illustration, but not by way of limitation, the commission shall study and make recommendations regarding the following specific areas of the Revenue Act:

(a) reconciling the fiscal year, taxable period reporting requirements of Article 2 (Privilege License Taxes) with the taxable period, calendar year reporting requirements imposed by the income tax laws upon individuals, partnerships, and corporations;

(b) combining the intangibles tax return and its reporting, disclosure requirements, with those imposed by the individual income, and corporate income, or other, schedules;

(c) authorizing an overpayment of estimated income tax liability to be carried forward and applied against that arising

in the succeeding income tax year;

(d) constancy and consistency in the imposition, determination and calculation of penal amounts;

(e) effects of the recent federal Tax Reform Acts upon the revenue laws of the State.

The commission shall conduct studies in the areas of inheritance and gift tax and income tax, and recommend such changes as it may deem advisable to the ends that the State revenue laws may be as productive as possible, consistent with equity, stability and efficient administration.

Sec. 3. The commission may call upon the Department of Revenue to cooperate with it in its study, and the Secretary of Revenue shall insure that its employees and staff provide full and timely assistance to the commission in the execution of its duties. All reports, evaluations, and other support services supplied in preparing and gathering data shall be done at the direction of and in conjunction with the commission.

Sec. 4. The commission shall produce an interim report to the 1977 General Assembly, Second Session 1978, and a final report to the 1979 General Assembly.

Sec. 5. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

JAMES C. GREEN, SR.

James C. Green

President of the Senate

CARL J STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1977

ADOPTED
SIMPLE
RESOLUTION

SENATE RESOLUTION 1029
Resolution Adopted June 15, 1978

S

Sponsors. Senator Davis.

Referred to:

June 15, 1978

A SENATE RESOLUTION CALLING FOR CONSIDERATION BY THE LEGISLATIVE RESEARCH COMMISSION'S SUBCOMMITTEE ON REVENUE LAWS OF INCOME TAX REDUCTION BY UPWARD REVISION OF TAX BRACKETS.

Whereas, the income tax rates and brackets in North Carolina have not been revised since they were adopted in 1939; and

Whereas, inflation has created automatic tax increases each year for North Carolinians who receive pay increases without substantial increases in purchasing power, yet find themselves in a higher tax bracket; and

Whereas, inflation during the past eight years alone at six percent (6%) per year amounts to some forty-eight percent (48%), and whereas an increase by fifty percent (50%) in each of the income tax brackets would have the effect of offsetting the higher tax rates resulting from inflation during the past eight years; and

Whereas, the Senate Finance Committee has considered Senate Bill 955, An Act to Amend the Income Levels Against Which the Individual Income Tax Rates are Applied, and considers the bill to have considerable merit for future enactment; and

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Whereas, a major revision of North Carolina's tax laws is being considered by the Legislative Research Commission's Subcommittee on Revenue Laws to give consideration to S. B. 955 as a desirable approach toward income tax reform;

Now, therefore, be it resolved by the Senate:

Section 1. That S. B. 955, An Act to Amend the Income Levels Against Which the Individual Income Tax Rates Are Applied should be and is hereby transmitted to the Legislative Research Commission's Subcommittee on Revenue Laws for its consideration in recommending income tax reform measures to be recommended to the 1979 General Assembly.

Sec. 2. This resolution is effective upon adoption.

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP LIST

er Carl J. Stewart Chairman	211 West Third Avenue Gastonia, N. C. 28052	(704) 864-4578
John T. Henley Chairman	200 S. Main Street Hope Mills, N. C. 28348	(919) 424-0261
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LEGISLATIVE RESEARCH COMMISSION

Committee on

REVENUE LAWS

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Mr. William J. Reese, Jr.
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First Union National Bank, Charlotte, N. C. 28288

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* Senator Hill will serve on both subcommittees.

APPENDIX III

LEGISLATIVE RESEARCH COMMISSION

Committee on

REVENUE LAWS

SUBCOMMITTEE A, SUBJECT AREAS:

Administration
Cigarette Tax
Gasoline Tax
Intoxicating Liquors Tax
License Tax
Sales and Use Tax
Soft Drink Tax

SUBCOMMITTEE B, SUBJECT AREAS:

Administration
Corporate Income & Franchise Tax
Estate and Inheritance Taxes
Individual Income Tax
Intangible Personal Property Tax

APPENDIX IV

Witnesses Appearing Before the
Legislative Research Commission
Committee on
Revenue Laws

Personnel from the Department of Revenue
who Assisted the Committee

- Mr. Keith Goodson
Assistant Secretary for Revenue
- Mr. Eric L. Gooch
Director, License and Excise Tax Division
- Mr. Mike Hodges
Auditor Supervisor, Individual Income
- Mr. Fred London
Director, Gasoline Tax Division
- Mr. Mark Lynch
Secretary of Revenue
- Mr. B. E. Rogers
Director, Inheritance and Gift Tax Division
- Mr. Larry D. Rogers
Director, License and Excise Tax Division
- Mr. James Senter
Deputy Secretary of Revenue
- Mr. H. C. Stansbury
Director, Tax Research Division

Persons Appearing Before the Committee

Mr. William D. Beaty
Connecticut Mutual Life
CLU - General Agent

Mr. William Billings
Office of the State Auditor

Mr. Stan C. Broadway
Executive Director
N. C. State Education Assistance Authority

Mr. Micou F. Browne
Executive Vice President of Marketing
Durham Life Insurance Company

Mr. David Crotts
Fiscal Research Division

Mr. Emanuel Erzy
New York State Tax Department

Mr. Ken Flynt
Economic Advisor to the Governor

Mr. Bernard A. Harrell
Attorney, Life Underwriters Association

Mr. Jim Lore
Associate Attorney General
Human Resources Section

Mr. John Mullins
New York State Tax Department

Ms. Pam Whigham
Fiscal Research Division

Mr. Sam Whitehurst
Executive Director, N. C. Soft Drink Association

APPENDIX V

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



November 17, 1978

The Honorable James B. Hunt, Jr.
Director of Budget
and Members of Advisory Budget Commission
Raleigh, North Carolina

Dear Governor Hunt and
Members of Advisory Budget Commission:

The Legislative Research Commission Committee on Revenue Laws was organized in October, 1977, pursuant to Resolution 85 of the 1977 General Assembly, First Session 1977, and directed to study "the revenue laws and their administration in North Carolina." Senate Resolution 1029 of the 1977 General Assembly, Second Session 1978, referred to the Committee for its consideration Senate Bill 955 which would have, had it been enacted, expanded by fifty percent each bracket of the North Carolina individual income tax.

The Committee on Revenue Laws has given consideration to the proposed tax relief embodied in Senate Bill 955 and to many other proposals aimed at relieving the taxpayer of part of the burden imposed on him by inflation during recent years. The Committee supports fully the intent of Senate Bill 955. North Carolina taxpayers deserve the most tax relief that the State can grant while maintaining essential services. The Committee has formulated the recommendations on this subject which will be contained in its report to be submitted to the Legislative Research Commission at its next meeting scheduled for December 21, 1978.

The Committee recognizes that the Advisory Budget Commission has been directed by the 1977 General Assembly, Second Session 1978, in Resolution 131, to "give primary consideration to the inclusion in its recommendations a State income tax cut of as much as one hundred million dollars (\$100,000,000), should the size of the 1978-79 State Budget surplus warrant such a reduction." Because the directions to the Advisory Budget Commission and the Committee on Revenue Laws are so closely related, the Committee has taken this earliest op-

The Honorable James B. Hunt, Jr.
and Members of Advisory Commission
Page Two
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portunity to apprise the Governor and the Advisory Budget Commission of the recommendations for tax relief proposed by the Committee on Revenue Laws.

At its meeting held on November 15, 1978, the Committee on Revenue Laws unanimously adopted the following recommendation:

That all exemptions and the standard deduction of the North Carolina personal income tax be increased by approximately the same percentage (rounded off to even dollar amounts) to provide the maximum amount of tax relief possible to the taxpayers of North Carolina within the constraints imposed on the budget by the need to provide essential State services.

The Committee has identified a number of factors which make this proposal more attractive than others considered by the Committee. Once the adjustments have been made in the standard deduction and the exemptions, the taxpayer will find the process of filing his tax return substantially unchanged. No new calculations would be required. It would be easy to understand. The proposal would offer some relief to all taxpayers, but the effect of leaving the brackets unchanged will be to place the greatest percentage benefits upon middle and lower income taxpayers. The exemptions and standard deduction have been some of the most static elements of the personal income tax. The personal exemptions of \$2,000 and \$1,000 have not been changed since 1921. The standard deduction has not been changed since its inception in 1953. The dependency exemption of \$600 was last changed in 1968. The increased standard deduction could provide an incentive to taxpayers to take the standard deduction, substantially reducing record-keeping requirements of the taxpayer and the Department of Revenue.

One of the most appealing aspects of this proposal is its permanent nature. The Committee feels it is exceedingly important that the State respond to the economic pressures of inflation being felt by all citizens of North Carolina. The problem should be given the highest priority. This recommendation will provide only limited financial relief from the inflation which troubles every taxpayer, but it also, by its very form, expresses the commitment of the State to assist its citizens in the fight against inflation to the greatest extent possible.


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Page Three
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The Committee on Revenue Laws has not presumed to determine the level at which the State can afford to fund this recommendation. That decision more appropriately belongs in the first instance to the Advisory Budget Commission and, ultimately to the General Assembly. The Committee has, however, developed the figures for four levels of revenue loss to the State: levels of approximately \$50,000,000, \$75,000,000, \$100,000,000, and \$125,000,000. Total relief of less than fifty million dollars would provide little recognizable impact for the individual taxpayer. The Committee felt that any recommendation above one hundred twenty-five million dollars would be unrealistically optimistic. Therefore, these two figures were chosen as the recommended upper and lower limits.

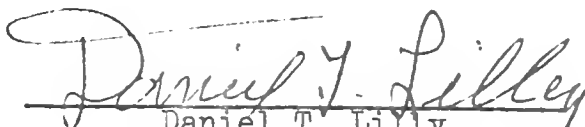
The attached table has been developed to show the relationship between the various levels of funding and the approximate percentage of increase in the standard deduction and the exemptions. The percentage will not be exactly the same for each exemption as it appears desirable to use round figures which will not complicate the calculations required of the taxpayer. The first column of the table shows the various levels of revenue loss ranging from \$50,000,000 to \$125,000,000. The second column shows the corresponding percentage increase to be applied to the exemptions and standard deduction. Finally, the third column contains examples of what the new standard deduction, personal exemptions, and dependency exemption would be at each level of funding.

The Committee recognizes the difficult task faced by the Advisory Budget Commission in allocating State revenues. It is hoped that the recommendation discussed above will assist in carrying out the direction of the General Assembly to the Advisory Budget Commission contained in Resolution 131.

Sincerely,


Cecil J. Hill

Legislative Research Commission
Member


Daniel T. Lilly

Chairman, Subcommittee A

Legislative Research Commission
Committee on Revenue Laws

cc: Senator John T. Henley
Speaker Carl J. Stewart, Jr.
Co-Chairmen
Legislative Research Commission

TABLE OF VARIOUS FUNDING LEVELS FOR INCOME TAX RELIEF
 RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION
 COMMITTEE ON REVENUE LAWS

NEW LEVELS OF:

<u>REVENUE LOSS</u>	<u>% INCREASE IN EXEMPTIONS AND STANDARD DEDUCTION</u>	<u>STANDARD DEDUCTION</u>	<u>PERSONAL EXEMPTION (\$2,000)</u>	<u>PERSONAL EXEMPTION (\$1,000)</u>	<u>DEPENDENTS EXEMPTION</u>
\$50 million	1%	\$575	\$2300	\$1150	\$690
\$75 million	2%	\$615	\$2460	\$1230	\$740
\$100 million	3%	\$655	\$2620	\$1310	\$790
\$125 million	4%	\$700	\$2800	\$1400	\$840

